

§ 555.82

§ 555.82 Provisions of part 200 made applicable.

The provisions of subpart G of part 200 of this chapter, as well as those provisions of part 71 relative to failure to appear, withdrawal of an application or surrender of a permit, the conduct of hearings before an administrative law judge, and record of testimony, are hereby made applicable to application, license, and permit proceedings under this subpart to the extent that they are not contrary to or incompatible with this subpart.

§ 555.83 Operations by licensees or permittees after notice of denial or revocation.

In any case where a notice of revocation has been issued and a request for a stay of the effective date of the revocation has not been granted, the licensee or permittee shall not engage in the activities covered by the license or permit pending the outcome of proceedings under this subpart. In any case where notice of revocation has been issued but a stay of the effective date of the revocation has been granted, the licensee or permittee may continue to engage in the activities covered by his license or permit unless, or until, formally notified to the contrary: *Provided*, That in the event the license or permit would have expired before proceedings under this subpart are completed, timely renewal application must have been filed to continue the license or permit beyond its expiration date. In any case where a notice of denial of a renewal application has been issued, the licensee or permittee may continue to engage in the activities covered by the existing license or permit after the date of expiration of the license or permit until proceedings under this subpart are completed.

Subpart F—Conduct of Business or Operations

§ 555.101 Posting of license or user permit.

A license or user permit issued under this part, or a copy of a license or user permit, will be posted and available for inspection on the business premises at each place where explosive materials

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are manufactured, imported, or distributed.

[T.D. ATF-87, 46 FR 40384, Aug. 7, 1981. Re-designated by T.D. ATF-487, 68 FR 3748, Jan. 24, 2003. ATF No. 1, 68 FR 13786, Mar. 20, 2003]

§ 555.102 Authorized operations by permittees.

(a) *In general.* A permit issued under this part does not authorize the permittee to engage in the business of manufacturing, importing, or dealing in explosive materials. Accordingly, if a permittee's operations bring him within the definition of manufacturer, importer, or dealer under this part, he shall qualify for the appropriate license.

(b) *Distributions of surplus stocks*—(1) *Distributions of surplus stocks prior to May 24, 2003.* Permittees are not authorized to engage in the business of sale or distribution of explosive materials. However, permittees may dispose of surplus stocks of explosive materials to other licensees or permittees in accordance with § 555.103, and to non-licensees or to nonpermittees in accordance with § 555.105(a)(4).

(2) *Distributions of surplus stocks on and after May 24, 2003.* Permittees are not authorized to engage in the business of sale or distribution of explosive materials. However, permittees may dispose of surplus stocks of explosive materials to other licensees or permittees in accordance with § 555.103 and § 555.105.

[T.D. ATF-400, 63 FR 45002, Aug. 24, 1998, as amended by ATF No. 1, 68 FR 13787, Mar. 20, 2003]

§ 555.103 Transactions among licensees/permittees and transactions among licensees and holders of user permits.

(a) *Transactions among licensees/permittees prior to May 24, 2003*—(1) *General.*

(i) A licensed importer, licensed manufacturer or licensed dealer selling or otherwise distributing explosive materials (or a permittee disposing of surplus stock to a licensee or another permittee) who has the certified information required by this section may sell or distribute explosive materials to a licensee or permittee for not more than 45 days following the expiration date of

the distributee's license or permit, unless the distributor knows or has reason to believe that the distributee's authority to continue business or operations under this part has been terminated.

(ii) A licensed importer, licensed manufacturer or licensed dealer selling or otherwise distributing explosive materials (or a permittee disposing of surplus stock to another licensee or permittee) must verify the license or permit status of the distributee prior to the release of explosive materials ordered, as required by this section.

(iii) Licensees or permittees desiring to return explosive materials to a licensed manufacturer may do so without obtaining a certified copy of the manufacturer's license.

(iv) Where possession of explosive materials is transferred at the distributor's premises, the distributor must in all instances verify the identity of the person accepting possession on behalf of the distributee before relinquishing possession. Before the delivery at the distributor's premises of explosive materials to an employee of a licensee or permittee, or to an employee of a common or contract carrier transporting explosive materials to a licensee or permittee, the distributor delivering explosive materials must obtain an executed ATF F 5400.8, Explosives Delivery Record, from the employee before releasing the explosive materials. The ATF F 5400.8 must contain all of the information required on the form and required by this part.

Example 1. An ATF F 5400.8 is required when:

a. An employee of the purchaser takes possession at the distributor's premises.

b. An employee of a common or contract carrier hired by the purchaser takes possession at the distributor's premises.

Example 2. An ATF F 5400.8 is not required when:

a. An employee of the distributor takes possession of the explosives for the purpose of transport to the purchaser.

b. An employee of a common or contract carrier hired by the distributor takes possession of the explosives for the purpose of transport to the purchaser.

(2) *License/permit verification of individuals.* (i) The distributee must furnish a certified copy (or, in the case of a user-limited, the original) of the li-

cence or permit. The certified copy need be furnished only once during the current term of the license or permit. Also, a licensee need not furnish certified copies of licenses to other licensed locations operated by such licensee.

(ii) The distributor may obtain any additional verification as the distributor deems necessary.

(3) *License/permit verification of business organizations.* (i) A business organization may (in lieu of furnishing a certified copy of a license) furnish the distributor a certified list which contains the name, address, license number and date of license expiration of each licensed location. The certified list need be furnished only once during the current term of the license or permit. Also, a business organization need not furnish a certified list to other licensed locations operated by such business organization.

(ii) A business organization must, prior to ordering explosive materials, furnish the licensee or permittee a current certified list of the representatives or agents authorized to order explosive materials on behalf of the business organization showing the name, address, and date and place of birth of each representative or agent. A licensee or permittee may not distribute explosive materials to a business organization on the order of a person who does not appear on the certified list of representatives or agents and, if the person does appear on the certified list, the licensee or permittee must verify the identity of such person.

(4) *Licensee/permittee certified statement.* (i) A licensee or permittee ordering explosive materials from another licensee or permittee must furnish a current, certified statement of the intended use of the explosive materials, e.g., resale, mining, quarrying, agriculture, construction, sport rocketry, road building, oil well drilling, seismographic research, to the distributor.

(ii) For individuals, the certified statement of intended use must specify the name, address, date and place of birth, and social security number of the distributee.

(iii) For business organizations, the certified statement of intended use

must specify the taxpayer identification number, the identity and the principal and local places of business.

(iv) The licensee or permittee purchasing explosive materials must revise the furnished copy of the certified statement only when the information is no longer current.

(5) *User-limited permit transactions.* A user-limited permit issued under the provisions of this part is valid for only a single purchase transaction and is not renewable (see § 555.51). Accordingly, at the time a user-limited permittee orders explosive materials, the licensed distributor must write on the front of the user-limited permit the transaction date, his signature, and the distributor's license number prior to returning the permit to the user-limited permittee.

(b) *Transactions among licensees/permittees on and after May 24, 2003—(1) General.* (i) A licensed importer, licensed manufacturer or licensed dealer selling or otherwise distributing explosive materials (or a holder of a user permit disposing of surplus stock to a licensee; a holder of a user permit; or a holder of a limited permit who is within the same State as the distributor) who has the certified information required by this section may sell or distribute explosive materials to a licensee or permittee for not more than 45 days following the expiration date of the distributee's license or permit, unless the distributor knows or has reason to believe that the distributee's authority to continue business or operations under this part has been terminated.

(ii) A licensed importer, licensed manufacturer or licensed dealer selling or otherwise distributing explosive materials (or a holder of a user permit disposing of surplus stock to another licensee or permittee) must verify the license or permit status of the distributee prior to the release of explosive materials ordered, as required by this section.

(iii) Licensees or permittees desiring to return explosive materials to a licensed manufacturer may do so without obtaining a certified copy of the manufacturer's license.

(2) *Verification of license/user permit.*

(i) Prior to or with the first order of ex-

plosive materials, the distributee must provide the distributor a certified copy (or, in the case of a user-limited, the original) of the distributee's license or user permit. However, licensees or holders of user permits that are business organizations may (in lieu of a certified copy of a license or user permit) provide the distributor with a certified list that contains the name, address, license or user permit number, and date of the license or user permit expiration of each location.

(ii) The distributee must also provide the distributor with a current list of the names of persons authorized to accept delivery of explosive materials on behalf of the distributee. The distributee ordering explosive materials must keep the list current and provide updated lists to licensees and holders of user permits on a timely basis. A distributor may not transfer possession of explosive materials to any person whose name does not appear on the current list of names of persons authorized to accept delivery of explosive materials on behalf of the distributee. Except as provided in paragraph (b)(3) of this section, in all instances the distributor must verify the identity of the distributee, or the employee of the distributee accepting possession of explosive materials on behalf of the distributee, by examining an identification document (as defined in § 555.11) before relinquishing possession.

(iii) A licensee or holder of a user permit ordering explosive materials from another licensee or permittee must provide to the distributor a current, certified statement of the intended use of the explosive materials, *e.g.*, resale, mining, quarrying, agriculture, construction, sport rocketry, road building, oil well drilling, seismographic research, etc.

(A) For individuals, the certified statement of intended use must specify the name, address, date and place of birth, and social security number of the distributee.

(B) For business organizations, the certified statement of intended use must specify the taxpayer identification number, the identity and the principal and local places of business.

(C) The licensee or holder of a user permit purchasing explosive materials

must revise the furnished copy of the certified statement only when the information is no longer current.

(3) *Delivery of explosive materials by common or contract carrier.* When a common or contract carrier will transport explosive materials from a distributor to a distributee who is a licensee or holder of a user permit, the distributor must take the following actions before relinquishing possession of the explosive materials:

(i) Verify the identity of the person accepting possession for the common or contract carrier by examining such person's valid, unexpired driver's license issued by any State, Canada, or Mexico; and

(ii) Record the name of the common or contract carrier (*i.e.*, the name of the driver's employer) and the full name of the driver. This information must be maintained in the distributor's permanent records in accordance with § 555.121.

(4) *User-limited permit transactions.* A user-limited permit issued under the provisions of this part is valid for only a single purchase transaction and is not renewable (see § 555.51). Accordingly, at the time a user-limited permittee orders explosive materials, the licensed distributor must write on the front of the user-limited permit the transaction date, his signature, and the distributor's license number prior to returning the permit to the user-limited permittee.

(Approved by the Office of Management and Budget under control number 1140-0079)

[ATF No. 1, 68 FR 13787, Mar. 20, 2003, as amended by ATF No. 2, 68 FR 53512, Sept. 11, 2003]

§ 555.104 Certified copy of license or permit.

Except as provided in § 555.49(a), each person issued a license or permit under this part shall be furnished together with his license or permit a copy for his certification. If a person desires an additional copy of his license or permit for certification and for use under § 555.103, he shall:

(a) Make a reproduction of the copy of his license or permit and execute the certification on it;

(b) Make a reproduction of his license or permit, enter on the reproduction

the statement: "I certify that this is a true copy of a (*insert the word license or permit*) issued to me to engage in the specified business or operations", and sign his name next to the statement; or

(c) Submit a request, in writing, for certified copies of his license or permit to the Chief, Federal Explosives Licensing Center. The request will show the name, trade name (if any), and address of the licensee or permittee and the number of copies of the license or permit desired. There is a fee of \$1 for each copy of a license or permit issued by the Chief, Federal Explosives Licensing Center under this paragraph. Fee payment must accompany each request for additional copies of a license or permit. The fee must be paid by (1) cash, or (2) money order or check made payable to the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

[T.D. ATF-87, 46 FR 40384, Aug. 7, 1981, as amended by T.D. ATF-290, 54 FR 53054, Dec. 27, 1989; T.D. ATF 2013R-9F, 79 FR 46694, Aug. 11, 2014]

§ 555.105 Distributions to nonlicensees, nonpermittees, and limited permittees.

(a) *Distributions to nonlicensees and nonpermittees prior to May 24, 2003.* (1) This section will apply in any case where distribution of explosive materials to the distributee is not otherwise prohibited by the Act or this part.

(2) Except as provided in paragraph (a)(3) of this section, a licensed importer, licensed manufacturer, or licensed dealer may distribute explosive materials to a nonlicensee or nonpermittee if the nonlicensee or nonpermittee is a resident of the same State in which the licensee's business premises are located, and the nonlicensee or nonpermittee furnishes to the licensee the explosives transaction record, ATF F 5400.4, required by § 555.126. Disposition of ATF F 5400.4 will be made in accordance with § 555.126.

(3) A licensed importer, licensed manufacturer, or licensed dealer may sell or distribute explosive materials to a resident of a State contiguous to the State in which the licensee's place of business is located if the purchaser's State of residence has enacted legislation, currently in force, specifically authorizing a resident of that State to