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**DEPARTMENT OF JUSTICE**

**Bureau of Alcohol, Tobacco, Firearms, and Explosives**

**27 CFR Part 555**

**[Docket No. ATF No. 2026-0365; ATF No. 2025-46P]**

**RIN 1140-AA86**

# Revising Requirements and Exceptions for Storing Explosives

**AGENCY:** Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF") proposes amending Department of Justice regulations listing exceptions to the requirement that explosive materials must be stored in locked magazines. Specifically, ATF proposes adding a testing exception; removing restrictions limiting existing exceptions to materials being physically handled or transported to a site for storing or using; excepting materials to be imminently used or transported; and adopting a perforating gun exception. These changes would streamline on-site operations, acknowledge developments in industry practices, increase safety during these activities by reducing how often explosives are moved, and eliminate the requirement for type 3 magazines.

**DATES:** Comments must be submitted in writing, and must be submitted on or before (or, if mailed, must be postmarked on or before) [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Commenters should be aware that the federal e-rulemaking portal comment system will not accept comments after midnight Eastern Time on the last day of the comment period.

**ADDRESSES:** You may submit comments, identified by RIN 1140-AA86, by either of the following methods —

- *Federal e-rulemaking portal: https://www.regulations.gov*. Follow the instructions for

submitting comments.

- *Mail:* ATF Rulemaking Comments; Mail Stop 6N-518, Office of Regulatory Affairs; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave, NE; Washington, DC 20226; *ATTN: RIN 1140-AA86*.

*Instructions:* All submissions must include the agency name and number (RIN 1140-AA86) for this notice of proposed rulemaking ("NPRM" or "proposed rule"). In addition, comments must be submitted in English or accompanied by an English translation. ATF may post all properly completed comments it receives from either of the methods described above, without change, to the federal e-rulemaking portal, *https://www.regulations.gov*. This includes any personally identifying information ("PII") or business proprietary information ("PROPIN") submitted in the body of the comment or as part of a related attachment they want posted. Commenters who submit through the federal e-rulemaking portal and do not want any of their PII posted on the internet should omit PII from the body of their comment or in any uploaded attachments they want posted. If online commenters wish to submit PII with their comment, they should place it in a separate attachment and mark it at the top with the marking "CUI//PRVCY." Commenters who submit through mail should likewise omit their PII or PROPIN from the body of the comment and provide any such information on the cover sheet only, marking it at the top as "CUI//PRVCY" for PII, or as "CUI//PROPIN" for PROPIN. Commenters must submit comments by using one of the methods described above, not by emailing the email address set forth in the following paragraph.

For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Participation" heading of the SUPPLEMENTARY INFORMATION section of this document. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at *https://www.regulations.gov*. Commenters must submit comments by using one of the methods described above, not by emailing the address set forth in the following paragraph.

**FOR FURTHER INFORMATION CONTACT:** Office of Regulatory Affairs, by email at ORA@atf.gov, by mail at Office of Regulatory Affairs; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave, NE; Washington, DC 20226, or by telephone at 202-648-7070.

**SUPPLEMENTARY INFORMATION:**

## I. Background

Title XI of the Organized Crime Control Act of 1970 ("OCCA"), Pub. L. 91–452, 84 Stat. 922 (1970), added 18 U.S.C. chapter 40 (Importation, Manufacture, Distribution, and Storage of Explosive Materials).[1] One of the stated purposes for title XI was to reduce the "hazard to persons and property arising from misuse and unsafe or insecure storage of explosive materials." Pub. L. 91–452, sec. 1101, 84 Stat. at 952. The Attorney General is responsible for implementing title XI. *See* 18 U.S.C. 847. The Attorney General has delegated that responsibility to the Director of ATF ("Director"), subject to the direction of the Attorney General and the Deputy Attorney General.[2] *See* 28 U.S.C. 599A(b)(1), (c)(1); 28 CFR 0.130(a)(1)–(2); Treas. Order No. 221(2)(a), (d), 37 FR 11696–97 (June 10, 1972). Regulations in 27 CFR part 555 implement title XI.

Currently, 27 CFR 555.205 requires that licensees/permittees store explosive materials in locked magazines at all times unless specific exceptions apply. These exceptions are limited to explosive materials "[i]n the process of manufacture," "[b]eing physically handled in the operating process," "[b]eing used," or "[b]eing transported to a place of storage or use."

There are three types of magazines in which federal explosives licensees/permittees may

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[1] Some provisions of 18 U.S.C. chapter 40 still refer to the "Secretary of the Treasury." However, the Homeland Security Act of 2002, Pub. L. 107–296, 116 Stat. 2135, transferred the functions of ATF from the Department of the Treasury to the Department of Justice, under the general authority of the Attorney General. 26 U.S.C. 7801(a)(2); 28 U.S.C. 599A(c)(1). Thus, for ease of reference, this notice of proposed rulemaking refers to the Attorney General where relevant.

[2] In Attorney General Order Number 6353–2025, the Attorney General delegated authority to the Director to issue regulations pertaining to matters within ATF's jurisdiction, including under OCCA, the National Firearms Act, and the Gun Control Act. ATF's jurisdiction also includes the Arms Export Control Act and the Contraband Cigarette Trafficking Act.

store high explosives under ATF's regulations. High explosives (for example, dynamite, flash powders, and bulk salutes) are one of three classes of explosive materials and can detonate by means of a blasting cap when unconfined. § 555.202(a). They may be stored in type 1 magazines, which are permanent magazines; type 2 magazines, which are mobile and portable indoor or outdoor magazines; or type 3 magazines, which are portable outdoor magazines for temporarily storing explosives while attended. § 555.203.

In relevant part, type 1 and 2 magazines both must have a robust, bullet-resistant construction and must be theft-resistant through a variety of approved locking systems (e.g., two hooded padlocks). §§ 555.207, 555.208. The two types differ from each other mainly in terms of portability. Unlike type 3 magazines, they do not have to be attended because of the listed extra security features. Type 3 magazines are portable and must be secured with at least one unhooded padlock, but they do not have to be bullet-resistant and may have only one lock, which does not have to be as tamper-resistant. § 555.209. They also must be attended because they are not as secure by virtue of being thinner and using less theft-resistant locks. *Id.* Type 3 magazines are also typically quite small, and thus usually cannot hold large amounts of explosive materials or large explosive items.

Generally, licensees/permittees have magazines suitable for unattended storage (e.g., type 1 or type 2 magazines) at their premises and therefore do not need a type 3 magazine on their premises. While some licensees/permittees manufacture, assemble, and use explosives at their business premises where they have type 1 or 2 magazines, most use them at places such as mines, construction sites, quarries, trenches, pipelines, roads and railways, oil fields, ski slopes, automotive sites, fireworks display sites, and avalanche sites. These sites (especially smaller sites) typically do not have type 1 or 2 magazines, so licensees/permittees typically use type 3 magazines to temporarily store explosives during operations at such sites, and transport the explosive materials back and forth at the beginning and end of each day to their business premises to store them overnight in type 1 or 2 magazines.

## II. Proposed Rule

*A. Changes to exceptions*

ATF regulations at § 555.205 require licensees/permittees to store explosive materials in one of the aforementioned types of storage magazines at all times (or in one of the types for low explosives or blasting agents, if applicable). However, although explosive materials can be highly sensitive to various stimuli — including movement — and therefore require safety and security measures at all times, such materials obviously cannot be stored while the licensee/permittee is using them. Therefore, § 555.205 also includes a set of exceptions to the storage requirement, related to using and transporting explosives.

The current regulations recognize exceptions for explosives involved in four different activities: (1) *explosives involved in the manufacturing process*, which includes activities like making the explosives or using explosive materials to make other explosives; (2) *explosives being physically handled during an operational process*, such as when physically handling explosive components to assemble them into a larger device; (3) *using explosives*, which includes activities that use up the explosives, such as initiating them or consuming them; and (4) *transporting explosives*, which includes activities involved in moving explosives to another location. Under the current regulations, transporting explosives is only an exception if the explosives are being transported to a site where they will be stored or used.

ATF recognizes that there are other circumstances not listed as exceptions in § 555.205 in which the explosives industry is not reasonably able to store explosive materials in a magazine. There are many operating processes where a licensee/permittee does not physically handle the explosive materials but cannot store them in a magazine that meets the prescribed construction and locking requirements. For example, explosive materials undergoing temperature sensitivity testing cannot be stored in a traditional magazine because the testing must be conducted in a temperature-controlled test chamber. In these instances, the licensee/permittee is not physically handling the explosive materials during the testing, nor is the testing part of manufacturing,

using, or transporting the explosive materials, so none of the existing exceptions would apply.

Currently, licensees/permittees must either request a variance to allow the explosives in this scenario to be in the testing chamber or must ensure the testing chamber meets the requirements to be a magazine, both of which are significantly burdensome options. ATF believes that including an exception for testing — which can often involve situations that need to continue uninterrupted or take place under other conditions not possible in a storage magazine — is appropriate and reasonable. Relatedly, removing the condition that licensees/permittees must be physically handling the explosives during operational processes to qualify for the exception is appropriate due to the modern variety of explosives that do not need to be physically handled during such operations.

Further, a licensee/permittee transporting explosive materials to a site where they will be used may not immediately start using them once at the site. In such cases, several hours can elapse until operations commence (due to weather, for example). During those hours, the explosives do not fall under the exceptions in § 555.205 and must be moved to a type 3 magazine on site. Later, when operations commence, the explosives must be moved back out of the type 3 magazine to the place where they need to be used. These steps unnecessarily add extra moves for the explosives, which increases the chances that they might accidentally initiate. In addition, getting a type 3 magazine to the site, especially one large enough to store all the explosives, is costly. ATF believes it is more impractical and riskier to require transferring explosive materials on site from the delivery vehicle to a magazine and then from the magazine to where they will be used than it is to leave them in a delivery vehicle that is locked, stable, and attended, if the explosives will be used shortly after arriving on site.

In addition, licensees/permittees often need to transport explosive materials to locations for reasons other than using or storing them, such as when they transport the materials to distribute them to another licensee/permittee. They are unable to do this under the current transporting exception.

ATF therefore proposes to remove the restriction that explosive materials in transit must be going to or from a site where they will be stored or used. Removing this restriction would allow both of the transportation scenarios discussed in the two paragraphs above to be covered by the exception, as well as other situations one might expect to occur occasionally, such as when explosives are securely packed on a pallet for transporting but, due to a traffic or other delay, must wait on the loading dock for a few hours, or when the licensee/permittee brings extra explosives in case they are needed and those remain on the secured truck the entire day.

ATF informal guidance on the transporting exception currently permits explosives to remain in the delivery vehicle overnight when the driver must stop to sleep during transit and during other similar temporary stops because the Department of Transportation ("DOT") defines such stops as part of transporting the materials, meaning they fall under DOT regulations for transporting, not ATF regulations for storing explosive materials. This proposed rule would not change this guidance. Explosives on a delivery vehicle must meet DOT requirements to ensure they are secure during transit, so keeping them in the vehicle until needed, instead of moving them to a magazine and back, presents no additional risk to public safety. Also, since DOT and ATF regulations have been in place, ATF is aware of no delivery vehicles containing explosive materials having been stolen, supporting ATF's view that explosives on such vehicles are at little risk of being diverted to illegal or unsafe uses.

Allowing explosive materials to remain in the delivery vehicle is also safer and less burdensome compared to the alternative currently in effect. Each time explosive materials are moved or handled, the risk of accident increases, and the cost of transporting a type 3 magazine of sufficient size to temporarily store explosive materials is quite high. Additionally, licensees/permittees (which includes their employees) typically remain with the explosive materials while they are waiting to be used or delivered, which reduces the risk of accident or theft.

For these reasons, ATF believes that expanding the activities excepted under § 555.205

would recognize industry challenges under the current rules and provide licensees/permittees with the ability to conduct their operations without costly and unnecessary storage requirements, while still reasonably ensuring safety. Specifically, the proposed rule would require explosive materials to be stored in a locked magazine unless they are: (1) in a manufacturing, operating, or testing process; (2) being used or designated for imminent use; or (3) being transported or awaiting imminent transport. This proposed change would add a new exception for explosives in the testing process and would expand the using and transporting exceptions by including items designated for or awaiting imminent use or transport. It would also remove the existing limitation that the materials must be transported to a place where they will be stored or used and the limitation that employees must be physically handling the materials in the operating process unless the materials are immediately stored in a magazine. Making these changes would allow ATF's regulations to accommodate operational or logistical needs without negatively affecting public safety.

*B. Incorporating perforating gun exception from Ruling 2010-7*

In addition, ATF proposes incorporating the exception for perforating guns that is in ATF Ruling 2010-7, with slight modifications.[3] Licensees/permittees use perforating guns primarily to pierce oil and gas wells to prepare them for oil and gas operations. In November 2010, ATF issued Ruling 2010-7, which authorizes licensees/permittees, as a variance from the regulatory requirements, to store loaded perforating guns in areas outside locked magazines, provided certain conditions were met. At that time, the length and weight of loaded perforating guns often made it difficult or impossible to store them within an explosives magazine as prescribed under the regulations. The ruling, in part, limited storing loaded perforating guns outside a magazine but inside a building to 50 pounds of total net explosives weight and limited storing them outside to 2,500 pounds of total net explosives weight across no more than 200 perforating guns.

Industry members who use perforating guns assemble each perforating gun to meet a

[3] ATF Ruling 2010-7, *Perforating Gun Storage*, (Nov. 24, 2010), https://www.atf.gov/media/19091/download.

specific purpose and function depending on oil or gas well conditions. Currently, most perforating guns used within the United States are approximately three inches in diameter and range between one to four feet long. Perforating guns are commonly housed within hollow thick-walled steel tubes and contain shaped charges that explode to pierce the well. Each individual shaped charge typically contains between 15 and 25 grams of high explosives and is initiated by using a detonating cord and a detonator. Although detonators are commonly attached to the assembly immediately prior to down-hole loading at the job site, perforating guns are sometimes armed with detonators when the gun is assembled, which requires detonator interrupter devices to be placed between the detonators and detonating cord to prevent unintended initiation.

Because an oil or gas well operation may urgently need perforating guns due to the varying conditions within the well operations, assembling them at the worksite, often under unsafe or adverse conditions, can significantly delay operations and place workers at risk. In addition, waiting until perforating guns are needed before beginning the assembly operation results in costly delays for the well operator. To facilitate perforating operations and meet job demands, many perforating gun operators must maintain a fixed amount of preloaded perforating guns that can be used on short notice. As a result, they need to be able to efficiently stockpile and store perforating guns until they are needed.

Since ATF issued Ruling 2010-7, the oil and gas industry has seen a significant shift toward horizontal perforating operations, which require a greater number of shorter perforating guns. The shift to smaller perforating guns has caused many licensees/permittees to request variances to exceed the current 200-gun limit for outside storage to accommodate their business operations. Limiting the number of perforating guns, regardless of size, restricts the total net explosives weight for outside storage. When perforating guns were significantly larger, the 200-gun limit was an important restriction for safety purposes because each gun added more to the total explosive volume. However, for those licensees/permittees who acquire and store smaller perforating guns, limiting the number of guns limits the volume of explosives they can store even

more, putting the limit well below the allowed 2,500-pound threshold for outside storage because smaller perforating guns contain less explosive material than the larger guns considered in the 2010 ruling.

Although the smaller perforating guns contain less explosive material, they are also more susceptible to theft because of their size. Many licensees/permittees therefore store their loaded perforating guns inside shipping containers or other buildings to increase theft resistance and to better protect them from inclement weather conditions. Although these structures and buildings store the explosives indoors, they do not meet the requirements to constitute magazines. Often, drilling locations, such as well sites, are not conducive to storing smaller perforating guns inside magazines, in part because of the remote or temporary site locations. Typically, perforating guns are not transported in a magazine, so the magazines are shipped separately, frequently on very large trucks that are not easy to navigate on narrow remote roads, at significant additional cost. The perforating guns remain in their transport configuration (e.g., banded and palletized, or crated) until they are needed for the day's operations whether they are stored within a magazine or another location. If the perforating guns are left outside, licensees/permittees can store up to 2,500 pounds of explosive materials.

ATF regulations restrict the total net explosives weight for storing explosive materials indoors (but not in a magazine) to 50 pounds. This means that indoor storage can be close to other buildings, highways, vehicles, etc., if the explosives total less than 50 pounds. The 2010 ruling retained this 50-pound limitation for storing perforating guns indoors but not in a magazine. As a result, in situations when licensees/permittees wish to increase security for 2,500 pounds of perforating guns by moving them indoors, they must transport a magazine in difficult conditions instead of using existing structures or obtain separate approval via another variance request.

When ATF grants such a variance, it requires licensees/permittees to meet the applicable quantity and distance requirements for storing these explosives outside, typically those set out in

§ 555.218. This table of distances still sets a weight limit for explosives, though it is higher than for indoor storage, and it also establishes a minimum distance between the explosives and inhabited buildings, highways, etc., to ensure public safety if there should be an accident. The applicable distance depends on the explosive impact of the weight being stored. In addition, ATF grants these variances only if the building is solely occupied by the licensee's/permittee's operations so that only the licensee/permittee would be impacted, and requires licensees/permittees to continue to meet all the other requirements for indoor storage, such as prohibiting spark-producing devices within the room, as well as maintaining the required security measures for outside storage. No security or safety issues have arisen in operations under these variances during the past 15 years.

As a result of both changes in common perforating gun size and theft concerns, ATF proposes to incorporate Ruling 2010-7, with slight modifications, to allow licensees/permittees to store perforating guns outside explosives magazines without having to request a variance, provided they meet the specified safety and security conditions. ATF is also proposing to update and streamline the conditions that are necessary to store perforated guns safely outside a storage magazine to account for changes in these devices and in security options since the ruling was published. Specifically, this rule proposes to remove the 200-gun limitation currently in ATF Ruling 2010-7 and to allow licensees/permittees to store more than 50 pounds of perforating guns inside buildings and structures, provided they meet the requirements described in the preceding paragraph. ATF believes changing the perforating-gun indoor storage focus from a maximum weight — that is still close to other structures and people and thus can still pose substantial risk to the public — to a requirement that such storage must comply with the applicable established table of distances, regardless of its weight, increases public safety. These changes from the current requirements in the 2010 ruling would therefore provide licensees/permittees greater operational flexibility without negatively affecting public safety.

*C. Changes to type 3 magazine requirement*

ATF also believes that it is unnecessary for ATF to continue requiring licensees/permittees to use type 3 magazines for temporary, attended storage during the kinds of activities discussed above. Explosives operational processes (such as loading blast holes and assembling perforating guns) or manufacturing processes (such as combining explosive components to create a new explosives device) during which licensees/permittees currently temporarily store explosive materials inside a type 3 magazine are already excepted under the regulations at § 555.205, and the proposed changes discussed above would expand those exceptions. In addition, licensees/permittees typically immediately start unloading, handling, and using the explosive materials once they have been transported to the site, and under the proposed changes above, would be able to continue storing them in the delivery vehicle when they will be used imminently, though not immediately.

Further, under the current regulations, licensees/permittees transporting their explosive materials to a place where they will be used do not have to store them in a locked magazine while the materials are being transported. § 555.205. Most explosives licensees/permittees transport explosive materials to work sites in delivery vehicles that generally have not been designed to meet the construction requirements needed for unattended or attended magazines. However, the delivery vehicles are locked, and the licensees/permittees typically remain with the vehicle and explosive materials while they unload, handle, and use the explosive materials. In addition, the delivery vehicles must meet DOT standards (during land transportation) or Department of Homeland Security ("DHS") standards (during sea transportation). Explosive materials are exempt from ATF's explosives regulations while under DOT or DHS transporting authority and standards. *See* § 555.141(a)(1).

For these reasons, ATF believes that most explosives that might be candidates for storing in a type 3 magazine are already excepted from being in a locked magazine under § 555.205; would be excepted under § 555.205 as amended by this proposed rule; or are excepted under § 555.141. Therefore, ATF believes there is no need to continue requiring that licensees/permittees

lock explosives in attended type 3 temporary storage magazines. Accordingly, ATF proposes to remove the regulation at § 555.203(c), which establishes the current requirement to use type 3 magazines, and to remove and reserve the regulations at § 555.209, which establish the construction and locking standards for type 3 magazines.

This proposed rule would not prohibit licensees/permittees from continuing to use type 3 magazines if they wish. In some cases, it may be useful to use a type 3 magazine to comply with state or other storage requirements, for example, and licensees/permittees also frequently use type 3 magazines to keep detonators separate from other explosives. Licensees/permittees would still be able to use type 3 magazines for these and other similar purposes.

*D. Benefits from the proposed changes*

ATF anticipates that the proposed changes discussed in sections A, B, and C of this part would reduce regulatory burdens on the explosives industry by providing greater operational flexibility. Licensees/permittees would save costs associated with unnecessary magazine infrastructure or inefficiently moving materials in and out of magazines during short periods in which the materials might not be physically handled but are still in the operating process. Public safety would not be at risk because the excepted activities typically occur at secure locations or are overseen by responsible persons or employee possessors. In fact, public safety would benefit because the proposed changes would reduce how often explosives would need to be moved, thereby reducing both the risk of accident and the risk that explosive materials would be stolen or diverted. When explosives do not fall within the excepted activities, licensees/permittees would still be required to secure them in locked magazines.

By clarifying and broadening the storage exceptions, these proposed changes would allow licensees/permittees to more practically and efficiently manage explosive materials while maintaining appropriate security measures. Currently, licensees/permittees need to move explosives into magazines and then return them to the place where they are operating or testing, thereby moving the explosives more often, which greatly increases the risk of accident. Such

movement may also disrupt longer testing situations. Allowing explosives to remain in a secure or monitored building or area reduces those moves and thus decreases the risk.

Finally, these proposed changes would permit licensees/permittees to be more efficient by reducing the time necessary to move explosives back and forth while also reducing the risk of accident from moving explosives more frequently. The intent is to except situations where explosive materials are under a licensee's/permittee's direct control and supervision but are not actively being handled or immediately stored in a fixed magazine due to operational necessity.

## III. Statutory and Executive Order Review

### *A. Executive Orders 12866 and 13563*

Executive Order 12866 (Regulatory Planning and Review) directs agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits.

Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting public flexibility.

This proposed rule would amend 27 CFR part 555's exceptions to the requirement that licensees/permittees must store explosives in secure magazines at all times. This rule proposes to add testing processes to existing exceptions for manufacturing and operating processes; to expand the using exception by adding explosives designated for imminent use and the transporting exception by adding explosives awaiting imminent transport; and to remove the restriction on the operating exception that limits it to explosives being physically handled, as well as the restriction on the transporting exception that limits it to explosives being transported to sites where they will be used or stored. In addition, this rule proposes to incorporate a slightly modified version of an existing exception for perforating guns, recognized in an ATF ruling since 2010. The proposed rule would be a deregulatory action easing burdens on the explosives industry by easing magazine storage requirements during testing, when explosives are designated

for imminent use or awaiting imminent transport, and under circumstances where the explosives would be subject to a licensee's/permittee's direct control and supervision but are not actively being handled or immediately stored in a fixed magazine due to operational necessity.

The Office of Management and Budget ("OMB") has determined that this rule would not be a "significant regulatory action" under Executive Order 12866. Therefore, it did not review this rule. ATF provides the following analysis to comply with Executive Orders 12866 and 13563.

***1. Need statement***

This proposed rule would be a deregulatory action to amend requirements for storing explosives to adjust to changes in industry operations, security practices, and ways in which explosives are used. The changes are not being proposed to address a particular market failure or delivery of government services. ATF is, however, modernizing its explosives regulations to better account for changes that have occurred over the decades since the regulations were drafted and to streamline them so they provide more flexibility and reduce burdens on the regulated industry while updating requirements for public safety. The proposed expanded exceptions to the storage requirements would better account for modern explosives handling and would eliminate the need for type 3 storage magazines. At the same time, the revised exceptions would maintain public safety because on-site and transporting operations already incorporate public safety requirements and standards.

***2. Benefits***

The proposed rule offers both quantitative and qualitative benefits. The proposed rule's qualitative benefits include reduced burdens for industry that would arise from easing magazine storage requirements for explosives during testing; when the explosives are designated for imminent use or awaiting imminent transport; and in circumstances in which the explosives would be under a licensee's/permittee's direct control and supervision but would not be actively handled or immediately stored in a fixed magazine due to operational necessity.

By clarifying and broadening storage exceptions, the proposed rule would allow licensees/permittees to more practically and efficiently manage explosive materials while maintaining appropriate security measures. Moreover, the proposed changes would reduce the need for on-site coordination among explosives and ordinance workers across the various sectors within the explosives industry.

The rule would reduce other burdens on industry as well, such as avoiding unnecessary expenditures, maintenance, and inspection time for required type 3 magazines. Another benefit is that moving the explosive materials less often (such as back and forth between the operating or manufacturing area and the magazine) would reduce the risk of accident and explosion. ATF estimates that the potential qualitative benefits of reduced inconvenience, compliance burdens, and risk of accident would be realized by approximately 9,100 explosives licensees/permittees engaged in commercial explosives use.

The proposed rule would also quantitatively decrease costs on the industry for acquiring and transporting type 3 magazines to the operational site by essentially eliminating the requirement for temporary onsite storage. Most current industry operators have already purchased and currently own magazines, and the proposed rule would thus not result in immediate cost savings. However, industry newcomers would no longer be required to purchase and maintain type 3 magazines. And both current and future industry participants would receive relief from compliance burdens and risks arising from moving explosives more often.

According to ATF records, there were 1,035 new licensees/permittees in 2022, 868 in 2023, and 1,036 in 2024. These figures show an annual average of 980 new entrants per year. That volume of explosives licensees/permittees has been required to incur costs to procure, utilize, and maintain type 3 magazines for their commercial explosive activities on sites other than their business premises. As a result, approximately 980 new entrants each year would no

longer have to expend these costs. ATF estimates that an average IME 22-compliant[4] type 3 magazine costs around $500.[5] If the average estimated new license/permit application rate continues in future as it has the past three years, the quantitative industry cost savings would be approximately $490,000 a year. This assumed savings rate is projected over ten years in Table 1.

**Table 1. Estimated cost savings for new licenses/permits over ten years***

| Year | Cost savings undiscounted | Discounted 3% | Discounted 7% |
|---|---|---|---|
| 1 | $490,000 | $475,728 | $457,944 |
| 2 | $490,000 | $461,872 | $427,985 |
| 3 | $490,000 | $448,419 | $399,986 |
| 4 | $490,000 | $435,359 | $373,819 |
| 5 | $490,000 | $422,678 | $349,363 |
| 6 | $490,000 | $410,367 | $326,508 |
| 7 | $490,000 | $398,415 | $305,147 |
| 8 | $490,000 | $386,811 | $285,184 |
| 9 | $490,000 | $375,544 | $266,528 |
| 10 | $490,000 | $364,606 | $249,091 |
| **Total** | **$4,900,000** | **$4,179,799** | **$3,441,555** |
| **Annualized** | | **$490,000** | **$490,000** |

* The "undiscounted" column represents totals from the underlying costs. Consistent with guidance provided by OMB in Circular A-4, the "Discounted 3%" and "Discounted 7%" columns result from applying an economic formula to the number in each row of the "undiscounted" column to show how these future costs over time would be valued today; they do not contain totals from other tables.

In addition to the qualitative benefits accrued for approximately 9,100 explosives licensees/permittees outlined above, the quantitative benefits from the proposed rule would be approximately $4.90 million in cost savings over ten years, discounted to $4.18 million and $3.44 million at 3 percent and 7 percent, respectively. The total annualized quantitative savings for the proposed rule would equal $490,000 each year.

***3. Costs***

[4] For details on what this industry standard entails, see Inst. of Makers of Explosives, Recommendations for the Safe Transportation of Detonators in a Vehicle with Certain Other Explosive Materials, at 22 (Oct. 2019), https://www.ime.org/aws/IME/pt/sd/product/32566/_PARENT/layout_details/false.

[5] Based on average estimates provided by ATF subject matter experts. Additional examples of pricing are online, such as at https://www.justrite.com/dynaloc-explosive-storage-magazine-type-3-daybox-el510?srsltid=AfmBOoo9xMnfhYIZm5EMh6dNN00oXTJU9kmQzlr76bfkwGVQR4N118Rt [https://perma.cc/UZW5-84ZB].

The proposed rule would not create costs for the regulated industry. This is because the proposed changes would be deregulatory in nature and primarily simplify and streamline the protocols requiring licensees/permittees to store explosives in magazines. The proposed rule is also unlikely to increase risks to public safety, which is a key objective for both ATF and industry partners alike. The excepted activities already typically occur at secure locations or are overseen by responsible persons or employee possessors, and explosives industry operators are already subject to other regulations requiring them to store unattended explosives and to use more secure storage magazines for explosives not in use for longer periods.

The current regulations relating to type 3 magazines, which the proposed rule would eliminate, are only applicable when storing explosives for a temporary period while they are attended by qualified personnel. However, during the kinds of activities when such temporary storage on another site is relevant, the explosives are, as a practical matter, being handled, unloaded, and otherwise attended as part of the operational or transportation environments where they are being used. Consequently, storing explosives in type 3 magazines is largely redundant. Licensees/permittees typically begin using the explosives once they arrive on site or they remain in the delivery vehicle, which is secure, still, and attended. Sites at which licensees/permittees use explosive materials are secure facilities, thereby making the light security characteristics of type 3 magazines redundant as well.

Furthermore, ATF estimates that the proposed changes would qualitatively increase public safety by decreasing how often the explosives would need to be stored and thus moved back and forth. Permitting explosives to stay on site while they are being actively used and during temporary breaks or preparatory stages (such as awaiting pick-up or in the delivery vehicle until work begins) decreases movement of these often-volatile materials, thereby reducing both the risk of accident and the risk that explosive materials might be stolen or diverted. When explosives do not fall within the excepted activities, licensees/permittees would still be required to secure them in locked magazines, reducing the public safety risks otherwise

associated with removing or relaxing magazine storage requirements for explosives. But, as this is an existing requirement, it would not give rise to any additional costs. The quantitative and qualitative benefits above are therefore not counterbalanced by material costs or increased public safety risks.

***4. Regulatory alternatives***

ATF considered not modifying the regulations in § 555.205, an alternative known as the no-action alternative. The no-action alternative would not create any benefits or reduce any burdens. Specifically, the no-action alternative would leave undisturbed a qualitative risk to public safety by continuing to require unnecessary movement and disruption of explosives while using and testing them. This alternative would maintain onerous storage requirements during times that the explosives are already attended and within secure facilities. Retaining these regulations in their present form would require licensees/permittees to store explosives in type 3 magazines and attend such magazines during brief periods, such as breaks and operational and other activities involving use of the explosives, despite the fact that the explosives are already attended anyway and within secure facilities during such activities. It would also continue to cause the explosives to be moved back and forth more often, thereby maintaining increased risk of accidental detonations. Thus, the no-action alternative would provide no benefits, in addition to increasing the safety risk for licensees/permittees, the larger public, and property, relative to the proposed rule. As a result, ATF rejected this alternative and instead elected to propose revising the regulations.

*B. Executive Order 14192*

Executive Order 14192 (Unleashing Prosperity through Deregulation) requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed or revised when the agency publicly proposes for notice-and-comment or otherwise promulgates a new regulation that qualifies as an Executive Order 14192 regulatory action (defined in OMB Memorandum M-25-20 as a final significant regulatory action under section 3(f) of Executive

Order 12866 that imposes total costs greater than zero). In furtherance of this requirement, section 3(c) of Executive Order 14192 requires that any new incremental costs associated with such new regulations must, to the extent permitted by law, also be offset by eliminating existing costs associated with at least ten prior regulations. However, this proposed rule would not be an Executive Order 14192 regulatory action because it is not a significant regulatory action as defined by Executive Order 12866 and it would not impose total costs greater than zero. This proposed rule would reduce burdens on the explosives industry by easing magazine storage requirements for explosives, thereby reducing licensees'/permittees' magazine costs and providing significant qualitative benefits from not having to move explosives in and out of storage as often, along with other similar benefits. The proposed rule is also deregulatory in nature as it would remove requirements for storing explosives in type 3 temporary, portable magazines. These proposed changes would result in qualitative benefits that would accrue for approximately 9,100 explosives licensees/permittees, and quantitative benefits for all new licensees/permittees and small businesses, totaling $4.90 million in savings over ten years. ATF estimates that no costs or increased risks to public safety would arise from this proposed rule, so the benefits would not be counterbalanced by material costs or increased public safety risks. Therefore, ATF expects this rule, if finalized as proposed, to qualify as an Executive Order 14192 deregulatory action (defined by OMB Memorandum M-25-20 as a final action that imposes total costs less than zero).

*C. Executive Order 14294*

Executive Order 14294 (Fighting Overcriminalization in Federal Regulations) requires agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the mens rea standard applicable to each element of those offenses. This proposed rule would not create a criminal regulatory offense and is thus exempt from Executive Order 14294 requirements.

*D. Executive Order 13132*

This proposed rule would not have substantial direct effects on the states, the relationship between the federal government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132 (Federalism), the Director has determined that this proposed rule would not impose substantial direct compliance costs on state and local governments, preempt state law, or meaningfully implicate federalism. It thus does not warrant preparing a federalism summary impact statement.

*E. Executive Order 12988*

This proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform).

*F. Regulatory Flexibility Act*

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, agencies are required to conduct a regulatory flexibility analysis of any proposed rule subject to notice-and-comment rulemaking requirements unless the agency head certifies, including a statement of the factual basis, that the proposed rule would not have a significant economic impact on a substantial number of small entities. Small entities include certain small businesses, small not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Director certifies, after consideration, that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would be deregulatory because it would reduce burdens on the explosives industry by easing magazine storage requirements and reducing the time and cost burdens of moving the explosives back and forth to storage and of acquiring and transporting type 3 storage magazines to operational sites for that purpose. The proposed rule thereby reduces the risk that explosives will accidentally detonate. ATF estimates the rule would result in qualitative benefits for approximately 9,100

explosives licensees/permittees, the majority of which are small businesses, with additional quantitative benefits from cost savings approximating $4.90 million over ten years. ATF estimates these cost savings would benefit the annual average of 980 new entrants, again, a majority of which are small entities, as they would no longer be required to procure, utilize, and maintain type 3 magazines for their commercial explosives activities on sites other than their business premises. Although these businesses would realize certain cost savings, ATF has determined that, based on the average revenue of licensees/permittees, the costs savings would be small enough that any savings would not constitute a significant economic impact on the licensees/permittees, and thus, the Director certifies that this rule would not have a significant economic impact on a substantial number of small entities.

*G. Unfunded Mandates Reform Act of 1995*

This proposed rule does not include a federal mandate that might result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it would not significantly or uniquely affect small governments. Therefore, the ATF has determined that no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

*H. Paperwork Reduction Act of 1995*

Under the Paperwork Reduction Act of 1995 ("PRA"), 44 U.S.C. 3501–3521, agencies are required to submit to OMB, for review and approval, any information collection requirements a rule creates or any impacts it has on existing information collections. An information collection includes any reporting, record-keeping, monitoring, posting, labeling, or other similar actions an agency requires of the public. *See* 5 CFR 1320.3(c). This proposed rule would not create any new information collection requirements or impact any existing ones covered by the PRA.

*I. Congressional Review Act*

This proposed rule would not be a major rule as defined by the Congressional Review

Act, 5 U.S.C. 804.

## IV. Public Participation

### *A. Comments sought*

ATF requests comments on the proposed rule from all interested persons. ATF specifically requests comments on the clarity of this proposed rule and how it may be made easier to understand. In addition, ATF requests comments on the costs or benefits of the proposed rule and on the appropriate methodology and data for calculating those costs and benefits.

All comments must reference this document's RIN 1140-AA86 and, if handwritten, must be legible. In addition, comments must be submitted in English or accompanied by an English translation. If submitting by mail, you must also include your complete first and last name and contact information. If submitting a comment through the federal e-rulemaking portal, as described in section IV.C of this preamble, you should carefully review and follow the website's instructions on submitting comments. Whether you submit comments online or by mail, ATF will post them online. If submitting online as an individual, any information you provide in the online fields for city, state, zip code, and phone will not be publicly viewable when the comment is published on *https://www.regulations.gov* by ATF. However, if you include such personally identifiable information ("PII") in the body of your online comment, it may be posted and viewable online. Similarly, if you submit a written comment with PII in the body of the comment, it may be posted and viewable online. Therefore, all commenters should review section IV.B of this preamble, "Confidentiality," regarding how to submit PII if you do not want it published online. ATF may not consider, or respond to, comments that do not meet these requirements or comments containing excessive profanity. ATF will retain comments containing excessive profanity as part of this rulemaking's administrative record, but will not publish such documents on *https://www.regulations.gov*. ATF will treat all comments as originals and will not acknowledge receipt of comments. In addition, if ATF cannot read your comment due to

handwriting or technical difficulties and cannot contact you for clarification, ATF may not be able to consider your comment.

ATF will carefully consider all comments, as appropriate, received on or before the closing date.

*B. Confidentiality*

ATF will make all comments meeting the requirements of this section, whether submitted electronically or on paper, and except as provided below, available for public viewing on the internet through the federal e-rulemaking portal, and subject to the Freedom of Information Act ("FOIA"), at 5 U.S.C. 552. Commenters who submit by mail and who do not want their name or other PII posted on the internet should submit their comments with a separate cover sheet containing their PII. The separate cover sheet should be marked with "CUI//PRVCY" at the top to identify it as protected PII under the Privacy Act. Both the cover sheet and comment must reference RIN 1140-AA86. For comments submitted by mail, information contained on the cover sheet will not appear when posted on the internet, but any PII that appears within the body of a comment will not be redacted by ATF and may appear on the internet. Similarly, commenters who submit through the federal e-rulemaking portal and who do not want any of their PII posted on the internet should omit such PII from the body of their comment or in any uploaded attachments. However, PII entered into the online fields designated for name, email, and other contact information will not be posted or viewable online.

A commenter may submit to ATF information identified as proprietary or confidential business information by mail. To request that ATF handle this information as controlled unclassified information ("CUI"), the commenter must place any portion of a comment that is proprietary or confidential business information under law or regulation on pages separate from the balance of the comment, with each page prominently marked "CUI//PROPIN" at the top of the page.

ATF will not make proprietary or confidential business information submitted in

compliance with these instructions available when disclosing the comments that it receives, but will disclose that the commenter provided proprietary or confidential business information that ATF is holding in a separate file to which the public does not have access. If ATF receives a request to examine or copy this information, it will treat it as any other request under FOIA. In addition, ATF will disclose such proprietary or confidential business information to the extent required by other legal process.

*C. Submitting comments*

Submit comments using either of the two methods described below (but do not submit the same comment multiple times or by more than one method). Hand-delivered comments will not be accepted.

- *Federal e-rulemaking portal*: ATF recommends that you submit your comments to ATF via the federal e-rulemaking portal at *https://www.regulations.gov* and follow the instructions. Comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that is provided after you have successfully uploaded your comment.
- *Mail*: Send written comments to the address listed in the ADDRESSES section of this document. Written comments must appear in minimum 12-point font size, include the commenter's first and last name and full mailing address, and may be of any length. See also section IV.B of this preamble, "Confidentiality."

**Disclosure**

Copies of this proposed rule and the comments received in response to it are available through the federal e-rulemaking portal, at *https://www.regulations.gov* (search for RIN 1140-AA86).

**List of subjects in 27 CFR Part 555**

Administrative practice and procedure, Explosives, Freight, Hazardous substances,

Imports, Penalties, Reporting and record-keeping requirements, Safety, Security measures, Seizures and forfeitures, Transportation, Warehouses.

For the reasons discussed in the preamble, ATF proposes to amend 27 CFR part 555 as follows:

**PART 555 – COMMERCE IN EXPLOSIVES**

1. The authority citation for 27 CFR part 555 continues to read as follows:

**Authority:** 18 U.S.C. 847.

**§ 555.203 [Amended]**

2. Amend § 555.203 by removing paragraph (c) and redesignating paragraphs (d) and (e) as paragraphs (c) and (d).

3. Revise § 555.205, including its heading, to read as follows:

**§ 555.205 Explosives storing requirement and exceptions.**

(a) *Storing requirement*. All explosive materials must be kept in locked magazines meeting the standards in this subpart except when they fall under one of the exceptions in this section.

(b) *General exceptions*. Explosives are excepted from paragraph (a) of this section's storing requirement when they are:

(1) in a manufacturing, operating, or testing process;

(2) being used or are designated for imminent use; or

(3) being transported or awaiting imminent transport.

(c) *Perforating guns exception*. Licensees/permittees may store perforating guns in locations outside locked magazines, whether indoors or outdoors, under the conditions below.

(1) *Conditions applying in all cases*. Licensees/permittees storing perforating guns outside a locked magazine must:

(i) Include a detonator interrupter device in perforating guns armed with detonators or initiating devices;

(ii) Install a handling cap, plug, or other closing device on both ends of hollow-type carrier guns;

(iii) Secure perforating guns with exposed explosive components (e.g., those that consist of sealed charges mounted on strips or wires) that are not mounted in a carrier assembly in a way that prevents the components from being removed without authorization (e.g., store them within a locked room inside a building, or within a transportation carrier or other protective housing assembly);

(iv) Store perforating guns with exposed explosives that are not contained within a secure tube (e.g., tube-less strips or wire guns) only in an indoor location;

(v) Visually inspect all buildings, areas, or vehicles containing perforating guns at least once every three calendar days to ensure no one has entered or attempted to enter without authority and that no one has removed the perforating guns;

(vi) Maintain a daily summary of magazine transactions, as prescribed in § 555.127, for each building, area, or vehicle that contains perforating guns. Express the quantity as the number of individual perforating guns stored within each separate building, area, or vehicle. Provide to any ATF official the quantity and description of explosive products contained within each individual perforating gun on request;

(vii) Store all perforating guns in a manner that prevents them from accidentally moving or discharging;

(viii) Notify the authority having jurisdiction over fire safety where the stored perforating guns are located, in accordance with requirements in § 555.201(f); and

(ix) Notify ATF in writing at EIPB@atf.gov that the licensee/permittee will be storing perforating guns outside a locked magazine, at least three business days prior to storing them at a given location.

(2) *Additional indoor conditions*. Licensees/permittees storing perforating guns in an indoor location must also:

(i) Store no more than 50 pounds of explosives inside any building or structure unless the building or structure meets the quantity and distance requirements in § 555.218 and the building or structure is occupied solely by the licensee/permittee to support their explosives operations; and

(ii) Lock the building or structure housing the loaded perforating guns or have a responsible person or employee possessor attend it, at all times, to prevent unauthorized access.

(3) *Additional outdoor conditions*. Licensees/permittees storing perforating guns in an outdoor location must also:

(i) Secure the perimeter of the area(s) containing loaded perforating guns using a security fence with a locked gate or enclose the entire facility with a security fence that has a locked gate at each entrance point. The security fence must be at least six feet high and have firmly anchored posts to ensure its structural stability. The gates must be locked at all times securely enough to prevent unauthorized access;

(ii) Lock the doors on vehicles or trailers containing perforating guns and immobilize the vehicle or trailer to prevent it from moving, being moved, or being accessed without authority (e.g., using a kingpin locking device, steering wheel locking device, lockable disconnect, etc.). Remove the ignition key and secure it away from the vehicle;

(iii) Park all vehicles or trailers loaded with perforating guns in an area not susceptible to fire propagation (e.g., on bare dirt, gravel, rock, paving, or closely mowed grass); and

(iv) Comply with the quantity and distance requirements in § 555.218 for each outdoor area or vehicle containing perforating guns, but store no more than 2,500 pounds of net explosives weight in each outdoor area or vehicle containing perforating guns.

**§ 555.209 [Removed and reserved]**

4. Remove and reserve § 555.209.

Robert Cekada
Director.

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