

DEPARTMENT OF THE TREASURY**Bureau of Alcohol, Tobacco and Firearms****27 CFR Part 55****[Notice No. 906]****RIN 1512-AC25****Identification Markings Placed on Imported Explosive Materials (2000R-238P)**

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering amending the regulations to require licensed importers to legibly identify by marking all imported explosive materials. Based on a petition we have received, we wish to gather information by inviting comments from the public and industry whether the regulations should be amended.

DATES: Comments must be received on or before January 12, 2001.

ADDRESSES: Send written comments to: Chief, Regulations Division; Bureau of Alcohol, Tobacco and Firearms; P.O. Box 50221; Washington, DC 20091-0221; *ATTN: Notice No. 906*. Written comments must be signed. Submit e-mail comments to: nprm@atfhq.atf.treas.gov. E-mail comments must contain your name, mailing address, and e-mail address. They must also reference this notice number and be legible when printed on not more than three pages 8½" × 11" in size. We will treat e-mail as originals and we will not acknowledge receipt of e-mail. See the Public Participation section of this document for alternative means of submitting written comments.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202-927-8210).

SUPPLEMENTARY INFORMATION:**Background**

The Bureau of Alcohol, Tobacco and Firearms (ATF) is responsible for implementing Title XI, Regulation of Explosives (18 U.S.C. Chapter 40), of the Organized Crime Control Act of 1970. One of the stated purposes of the Act is to reduce the hazards to persons and property arising from the misuse of explosive materials. Under section 847 of title 18, United States Code, the

Secretary of the Treasury "may prescribe such rules and regulations as he deems reasonably necessary to carry out the provisions of this chapter." Regulations that implement the provisions of chapter 40 are contained in title 27, Code of Federal Regulations (CFR), part 55.

Section 55.109 requires licensed manufacturers of explosive materials to legibly identify by marking all explosive materials manufactured for sale or distribution. The term "explosive materials," as defined in section 55.11, means explosives, blasting agents, water gels and detonators. The term includes, but is not limited to, all items in the "List of Explosive Materials" provided for in section 55.23. Section 55.202 provides that there are three classes of explosive materials: (1) high explosives (e.g., dynamite, flash powders, and bulk salutes), (2) low explosives (e.g., black powder, safety fuses, igniters, igniter cords, fuse lighters, and display fireworks (except bulk salutes)), and (3) blasting agents (e.g., ammonium nitrate-fuel oil and certain water-gels).

The marks required by section 55.109 include the identity of the manufacturer and the location, date, and shift of manufacture. This section also provides that licensed manufacturers must place the required marks on each cartridge, bag, or other immediate container of explosive materials for sale or distribution, as well as on the outside container, if any, used for their packaging.

Exceptions to the marking requirements are provided in section 55.109(b). Licensed manufacturers of blasting caps are only required to place the required identification marks on the containers used for the packaging of blasting caps. In addition, the Director may authorize other means of identifying explosive materials upon receipt of a letter application from the licensed manufacturer showing that other identification is reasonable and will not hinder the effective administration of part 55. Finally, section 55.109(b) provides that the Director may authorize the use of other means of identification on fireworks instead of the required markings specified above.

Petition

The Institute of Makers of Explosives (IME) filed a petition with ATF, dated March 7, 2000, requesting an amendment of the regulations to require licensed importers to place the same identification marks on imported explosive materials that are currently required for explosive materials manufactured in the United States. As

stated in the petition, the IME is the safety association of the commercial explosives industry. Its mission is to promote safety and the protection of employees, users, the public and the environment, and to encourage the adoption of uniform rules and regulations in the manufacture, transportation, storage, handling, use, and disposal of explosive materials used in blasting and other essential operations.

According to the petitioner, the commerce of explosives is a global enterprise and it expects the quantity of imports to increase over time. For example, the petitioner states that between 1994 and 1997, imports of cast boosters (high explosives) increased 14-fold to account for approximately 17 percent of all high explosives used annually in the U.S. The IME further states that while unmarked high explosives may have entered the United States over the years, it was not until last year that the association became aware of significant quantities of unmarked high explosives being imported into the country. The IME contends that by the end of 1999 about two million unmarked units had been distributed in the United States. The petitioner further states that many more thousands of tons of these high explosives are expected to be imported into the U.S. in the near future. Without a change in the regulations, the IME is concerned that these explosives will be entered into commerce in the U.S. without marks of identification, posing significant safety and security risks to the public. Although the IME has informed ATF that many of its member companies importing explosives into the U.S. mark their imported explosive materials in an effort to ensure traceability and accountability of the materials, it believes that all imported explosive materials should be appropriately identified. Therefore, it petitioned that the Federal explosives regulations be amended.

By letter dated August 2, 2000, the IME amended its petition to narrow the scope to importers of high explosives and blasting agents. The IME stated that it did not understand that the scope of its initial petition would apply to importers of products other than high explosives and blasting agents, i.e., low explosives. The IME noted that it has a specific standard that high explosives and blasting agents be marked with a date/plant/shift code.

Discussion

In an effort to protect the public from the misuse of explosive materials, ATF generally requires that explosives

manufacturers mark all explosive materials manufactured with specific information, including the name of manufacturer, and the location, date, and shift of manufacture. Generally, licensees and permittees must record the manufacturer's marks of identification on all explosives they receive. These requirements help ensure that explosive materials can be effectively traced for criminal enforcement purposes, i.e., the explosives can be tracked through the records kept by licensees and permittees. This process often provides valuable information in explosion and bombing investigations and is useful for inspection purposes in verifying inventory and proper conduct of business practices. However, the regulations do not require that imported explosive materials be marked. Therefore, we are requesting information and comments from interested persons on the desirability and feasibility of marking imported explosive materials.

Although ATF is soliciting comments on the following specific questions, we are also requesting any relevant information on the subject. 1. Should explosive materials imported into the United States contain identification markings?

2. Should all imported explosive materials be marked, or should certain classes of explosive materials, such as low explosives, be exempt? If you believe certain classes of explosives should be exempt from marking, please provide the reason(s) why such an exemption is consistent with public safety.

3. What identification marks, if any, are currently being placed on imported explosive materials?

4. What information should appear on imported explosive materials? ATF believes that the name and address of the importer, the name of the country in which the explosive materials were manufactured, and the date that the explosive materials were manufactured would be sufficient.

5. Assuming that any required identification marks must be placed on each cartridge, bag, or other immediate container of explosive materials that are imported, as well as on any outside container used for their packaging, is it feasible for a U.S. importer to place the required marks on foreign explosive materials?

6. How many importers would be affected by a requirement to place identification markings on foreign explosive materials?

7. Of those importers that would be affected by such a requirement, how

many would be considered a "small business concern" as provided in the Small Business Act (15 U.S.C. 631, *et seq.*)?

8. What would be the cost burden imposed on importers for purchasing or leasing equipment for marking foreign explosive materials, including installation and operation?

9. What would the cost be for importers to contract with a foreign manufacturer to place the required marks on explosive materials on behalf of the importer?

Executive Order 12866

It has been determined that this advance notice is not a significant regulatory action as defined by Executive Order 12866. Accordingly, this advance notice is not subject to the analysis required by this Executive Order.

Public Participation

We are requesting comments on the petition from all interested persons. We are specifically requesting comments on the clarity of this advance notice and how it may be made easier to understand.

Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

ATF will not recognize any material in comments as confidential. Comments may be disclosed to the public. Any material that the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

You may submit written comments by facsimile transmission to (202) 927-8602. Facsimile comments must:

- Be legible;
- Reference this notice number;
- Be 8½" × 11" in size;
- Contain a legible written signature; and
- Be not more than three pages long.

We will not acknowledge receipt of facsimile transmissions. We will treat facsimile transmissions as originals.

Disclosure

Copies of the petition, this advance notice, and the comments received will be available for public inspection during normal business hours at: ATF Public Reading Room, Room 6480, 650 Massachusetts Avenue NW., Washington, DC.

Drafting Information

The author of this document is James P. Ficaretta, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in Part 55

Administrative practice and procedure, Authority delegations, Customs duties and inspection, Explosives, Hazardous materials, Imports, Penalties, Reporting and recordkeeping requirements, Safety, Security measures, Seizures and forfeitures, Transportation, and Warehouses.

Authority and Issuance. This notice is issued under the authority of 18 U.S.C. 846 and 847.

Signed: September 8, 2000.

Bradley A. Buckles,
Director.

Approved: October 11, 2000.

John P. Simpson,
Deputy Assistant Secretary, Regulatory, Tariff and Trade Enforcement.

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DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 552

[BOP-1107-P]

RIN 1120-AB06

Suicide Prevention Program

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rule.

SUMMARY: In this document, the Bureau of Prisons proposes to revise its regulations on the suicide prevention program for clarity and to remove agency management procedures which do not need to be stated in regulations. We intend the revised regulations to provide for the health and safety of inmates.

DATES: Comments due by January 12, 2001.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 514-6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons (Bureau) proposes to revise its regulations on the suicide prevention program (28 CFR part 552,