

## VI. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

### Drafting Information

The principal author of these regulations is Juli Ro Kim of the Office of the Associate Chief Counsel (Passthroughs, Trusts, and Estates). Other personnel from the Treasury Department and the IRS participated in the development of the regulations.

### List of Subjects in 26 CFR Part 300

Estate taxes, Reporting and recordkeeping requirements.

### Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 300 is amended as follows:

#### PART 300—USER FEES

■ **Paragraph 1.** The authority citation for part 300 continues to read as follows:

**Authority:** 31 U.S.C. 9701.

■ **Par. 2.** Section 300.12 is amended by revising paragraphs (b) and (d) to read as follows:

#### § 300.12 Fee for estate tax closing letter.

\* \* \* \* \*

(b) *Fee.* The fee for issuing an estate tax closing letter is \$76.

\* \* \* \* \*

(d) *Applicability date.* This section applies to requests for estate tax closing letters received by the IRS after October 26, 2026.

**Frank J. Bisignano,**  
*Chief Executive Officer.*

Approved: September 2, 2026.

**Kevin M. Salinger,**  
*Acting Assistant Secretary of the Treasury (Tax Policy).*

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## DEPARTMENT OF JUSTICE

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

#### 27 CFR Part 555

[Docket No. ATF-2023-0001; ATF 2013R-15P]

RIN 1140-AA51

#### Annual Notices on Explosive Materials Storage Facilities to Local Fire Authority

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

**ACTION:** Final rule.

**SUMMARY:** The Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”) is amending Department of Justice (“Department”) regulations on reporting explosive materials storage. Currently, any person who stores explosive materials subject to ATF’s explosives regulations must notify the authority having jurisdiction for fire safety in that locality when they begin storing explosives at that site. This rule adds a requirement to also submit written notices every 12 months thereafter and when the person ceases storing explosives at that location and to retain copies of the notices for five years. These changes are intended to increase public safety, particularly for first responders.

**DATES:** This rule is effective October 26, 2026.

**FOR FURTHER INFORMATION CONTACT:** Office of Regulatory Affairs; by email at [ORA@atf.gov](mailto: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”), Public Law 91-452, 84 Stat. 922 (1970) added 18 U.S.C. chapter 40 (Importation, Manufacture, Distribution, and Storage of Explosive Materials) to part I, on crimes. 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.” Public Law 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.<sup>1</sup> *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.

On August 24, 1998, ATF published in the **Federal Register** a final rule to implement a storage notification requirement for manufacturers and other persons who store explosives.<sup>2</sup> ATF amended the regulations in 27 CFR part 55 (now part 555)<sup>3</sup> to require that any person who begins storing explosive materials must notify the authority having jurisdiction for fire safety in the locality in which the explosive materials are being stored of the storage type, magazine capacity, and location of each site where such explosives are stored (the structure storing the explosive materials is hereinafter referred to as a “magazine”).<sup>4</sup> The 1998 final rule was issued in response to numerous deaths and injuries sustained by emergency response personnel responding to fires and other emergencies at sites where explosives were stored without the knowledge of state and local officials.<sup>5</sup>

ATF is concerned with the safety of emergency response personnel

<sup>1</sup> 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.

<sup>2</sup> Commerce in Explosives, final rule, RIN 1512-AB55, 63 FR 44999 (August 24, 1998). In this rule, ATF amended the regulations in 27 CFR part 55 (now part 555) to require that any person who begins storing explosive materials must notify the authority having jurisdiction for fire safety in the locality in which the explosive materials are being stored of the storage type, magazine capacity, and location of each site where such explosives are stored. The rule was issued in response to numerous deaths and injuries sustained by emergency response personnel responding to fires and other emergencies at sites where explosives were stored without the knowledge of state and local officials. *See* Commerce in Explosives proposed rule, RIN 1545-AU09, 61 FR 53688 (Oct. 15, 1996).

<sup>3</sup> On January 24, 2003, ATF issued a final rule titled “Reorganization of Title 27, Code of Federal Regulations,” which, among other things, removed part 55 from chapter I and recodified it as part 555 in the new chapter II. 68 FR 3744.

<sup>4</sup> Although the reporting requirement is per site or location, ATF defines “magazine” as “Any building or structure, other than an explosives manufacturing building, used for storage of explosive materials.” *See* 27 CFR 555.11. As a result, for easier reference, ATF is referring in this rule to all structures storing explosive materials as “magazines.”

<sup>5</sup> Commerce in Explosives, notice of proposed rulemaking, RIN 1545-AU09, 61 FR 53688 (Oct. 15, 1996).

responding to fires on sites where explosives are stored, and the safety of the public around such areas. It is important that first responders are aware of explosives storage when responding to a fire site so they can take action that accounts for the explosives. For example, firefighters and other fire safety officials generally do not attempt to fight a fire that involves explosive materials because of the significant danger an explosion poses to such responders. If they know of the existence of explosives in such close proximity to a fire before they arrive, officials often evacuate the facility and the surrounding area to ensure the safety of the first responders and the public, rather than fighting the fire as they would if explosives were not present.<sup>6</sup>

The regulation at 27 CFR 555.201(f) requires that all persons storing explosives report certain information when they begin storing the explosive materials but does not specifically require subsequent reporting that might reflect changes in storage types and

magazine capacity. Executive Order 13650, “Improving Chemical Facility Safety and Security,” signed August 1, 2013, discussed the need to implement safety measures for handling and storing chemicals, to include explosive materials. In addition, it established a working group co-chaired by the heads of the Environmental Protection Agency (“EPA”) and the Departments of Labor and Homeland Security. Membership included the heads of the Departments of Justice, Agriculture, and Transportation, who would work with the co-chairs to carry out the responsibilities of the executive order. A final report, submitted by the Chemical Facility Safety and Security Working Group to the President in May 2014, noted that ATF would work closely with explosives industry associations to develop best practices, procedures, or regulations to improve communication with fire authorities, including more frequent notification of significant changes to storage facilities.<sup>7</sup>

Explosives industry association representatives provided input on these topics during discussions with ATF conducted in connection with implementing Executive Order 13650. These representatives recommended that ATF amend the notice requirement in § 555.201(f) to require annual notices.<sup>8</sup> They stated that this would increase communication between industry members and their local emergency responders, mitigate the negative effects of turnover in the emergency response community, and increase training opportunities for the local responders. Based on additional discussions with industry representatives over time, the Department and ATF consider annual notices necessary as a means to increase public safety by fostering more communication between persons who store explosives and fire authorities, increasing and updating first responder knowledge about explosives stored in the area, and enabling them to better plan and respond to fires that occur in locations where explosives are stored.

## II. Notice of Proposed Rulemaking

On August 23, 2023, the Department published in the **Federal Register** a notice of proposed rulemaking (“NPRM”) entitled “Annual Reporting

of Explosive Materials Storage Facilities to the Local Fire Authority,” 88 FR 57370, proposing changes to 27 CFR 555.201(f). The comment period closed November 21, 2023.

The Department issued this NPRM as a result of ATF’s consultations with explosives industry associations. The proposed rule explained that ATF believes that a requirement for annual notices would: (a) lead to more frequent contact between persons storing explosive materials and local fire authorities; (b) ensure that explosives storage information would be provided in a timely manner to new first responder staff members; and (c) reinforce the importance of the information to fire response organizations. The proposed rule expressed ATF’s belief that a recurring 12-month notice timeframe would best balance the need for these results against the burden of more frequent notices.

For these reasons, the Department proposed to amend 27 CFR 555.201(f) to require that, every 12 months after initial notification, any person who is storing explosive materials must notify the authority having jurisdiction for fire safety (in the locality in which the explosive materials are being stored) that they are continuing to store explosive materials, and to notify the same authority when the person ceases storing explosive materials at that location. The proposed amendment further required that the notice must include the type of explosives, magazine capacity, and location of each site where such materials are stored. In addition, the NPRM proposed a requirement that the person providing these notices must retain a copy of each notice for five years from the date of the notice, and make these records available for ATF inspection at all reasonable times.

## III. Analysis of Comments and Agency Responses

In response to the proposed rule, ATF received approximately 500 comments. The commenters included industry associations, firearms owners, state marshals, county officials, firefighters, hazardous material specialists, and the public.

### A. Supporting Comments

#### 1. Enhances Safety

#### Comments Received

Several commenters expressed support for the proposed rule because they felt explosives in a facility represent an obvious safety issue for the public and those who put their lives on the line every day, such as first

<sup>6</sup> See, e.g., Centers for Disease Control and Prevention, *National Institute for Occupational Safety and Health (NIOSH) Report # F2013-11, Recommendation #1*, pg. 23 (finding that a detailed pre-plan that included thorough assessment of characteristics of material stored at high-risk facility could have identified potential for risks of fighting the fire, including explosion) and Appendix Three, pg. 48 (recommending that owners of storage facilities coordinate with local first responders as part of a site emergency plan, and that firefighters, before responding to a fire involving explosive materials, know the quantity, storage types, and locations of explosive materials in their communities and include in their procedures a decision process to determine whether such a fire should be fought or focus should be on moving themselves to safe location and evacuating nearby residents); National Fire Protection Association (“NFPA”), *NFPA 1500 Standard on fire department occupational safety and health program*, 2013 ed., section 8.3.2 (stating that, in situations in which the risk to fire department members are excessive, activities shall be limited to defensive operations); Institute of Makers of Explosives (IME) guidance *Safety and Security Guidelines for Ammonium Nitrate* (recommending that when any oxidizer fire is involved, firefighters should avoid trying to extinguish the fire; instead, concentrate on evacuating the area, including all civilians, and withdraw to a safe location); Department of Transportation, *2016 Emergency Response Handbook*, (containing entire sections on isolation and evacuation distances when responding to hazardous materials transportation incidents); Environmental Protection Agency, Occupational Safety and Health Administration, Bureau of Alcohol, Tobacco, Firearms, and Explosives, Joint Safety Advisory: *Chemical Advisory: Safe Storage, Handling, and Management of Solid Ammonium Nitrate Prills*, EPA 550-F-15-001 (June 2015) (when responding to a fire at a facility with hazardous materials, have an up-to-date pre-incident plan including information on the materials’ storage location and quantities, and first consider whether the fire can be fought or if the explosive material makes the approach too hazardous, at which point move to a safe location and focus on evacuating).

<sup>7</sup> “Executive Order 13650, Actions to Improve Chemical Facility Safety and Security—A Shared Commitment, Report for the President,” at 51 (May 2014) [https://www.osha.gov/chemical/executiveorder/final\\_chemical\\_eo\\_status\\_report.pdf](https://www.osha.gov/chemical/executiveorder/final_chemical_eo_status_report.pdf).

<sup>8</sup> Notice of Public Listening Sessions, DHS-2013-0075, 78 FR 69433 (November 19, 2013). See also, e.g., DHS-2013-0075-0056 at 6 (minutes from December 11, 2013, Public Listening Session).

responders. Some of these commenters focused on safety for first responders. For example, one commenter stated anything that helps first responders come home alive at the end of the day requires the utmost attention. Another commenter added that this proposed rule would enhance the safety and security of first responders through increased awareness of where explosive materials are located.

Other commenters focused on public safety or safety to both public and first responders. For example, one commenter emphasized that “having updated information on the locations and amounts of explosives stored in the jurisdiction will provide transparency and facilitate better preparation in advance of an incident.” Another commenter similarly expressed that ensuring fire authorities are aware of location, type, and quantity of explosive materials in their jurisdiction would enhance not only their safety but that of the public as well. They also stated the proposed rule would help ATF enforce the federal explosives laws and regulations more effectively. Another commenter also added that the safety benefits of this rule would outweigh the costs and burdens of the notice requirement.

#### ATF Response

ATF agrees the rule would increase safety for first responders, who might be required to respond to incidents at sites where explosives are stored, as well as the public generally. First responders would be better prepared to respond to incidents at sites where explosives are stored if they receive annual notification regarding explosives being stored at a given location. The federal explosives regulations currently require all persons who store explosive materials subject to ATF's explosives regulations in 27 CFR part 555 to notify the authority having jurisdiction for fire safety in the locality in which the person is storing explosive materials of the type of explosive materials, the magazine capacity, and the location of each site where they are storing explosive materials. The existing regulations require this notification when the person begins storing explosives at a site. The rule would add a requirement that the person storing explosive materials must also notify the same authority of the same information (updated as applicable) every 12 months thereafter and when they cease storing explosive materials.

#### 2. Increases Communication With Emergency Responders and Aids Emergency Responder Risk Assessment Comments Received

Some commenters felt the proposed rule would aid law enforcement and communities in preparing for and adapting to potential explosives issues by providing important information and enhancing communications. For example, one industry association stated that the notice requirement would ensure: (1) information is accurate; (2) current information is available to local responders as well as the community; and (3) local responders could make adjustments to local response plans based on this information, if needed. Another commenter suggested the proposed notice requirements should become a requirement to inform the local fire department if explosives are in a particular location. One commenter added that this rule change could help the industry educate first responders about the risks and dangers of responding to fires that involve explosives and assist in “familiarizing responders with the facilities’ risk assessments and emergency response and evacuation plans.” They also added that annual notices would increase communication and provide transparency among industry members and local responders in their jurisdiction. A final commenter stated that the rule would not impose any new requirements but only clarify and streamline the notification process.

#### ATF Response

ATF agrees that increased communication between persons storing explosive materials and fire-safety authorities would better prepare first responders in the event of an incident at a site where covered explosive materials are stored. Knowing about the type of explosives, capacity of any magazine(s) at a site, and the location of each site where explosives are stored is vital for first responders to prepare an effective plan when responding to an emergency at a given location. As stated previously, all persons are already required to report explosives storage type, magazine, and location information when they begin storing explosive materials covered by ATF regulations. The rule would not change that requirement but would add a requirement that such persons must then submit notices with the same information (updated as applicable) every 12 months thereafter and when they cease storing explosive materials. This would ensure emergency responders have current and accurate

information regarding the presence, and potential amount (magazine capacity), of explosive materials if called to respond to a location where covered explosives are being stored.

#### 3. Reasonable Notice Requirements Comments Received

In addition to expressing support for the proposed notice requirement, some commenters also stated that the record-keeping requirement was supportable because it did not impose an undue burden on industry. For example, one commenter emphasized that annual notices as proposed in the rule would not be an inconvenience. They also stated that the proposed rule would not be an invasion of privacy because the notices would be sent only to local authorities, rather than to a centralized national organization. Another commenter did not believe the proposed changes would infringe on Constitutional rights because it is already a requirement to notify local officials of explosives storage in the area and this rule just adds a requirement to update that notice periodically. This commenter also said the proposed rule is not burdensome because it just improves the notice process of explosive materials storage. Another commenter agreed that annual notices will reinforce the importance of the information to local responders. And one commenter indicated that 30 minutes as an estimate of the time it would take to notify annually is a reasonable time and would not be a burden.

#### ATF Response

ATF agrees that the rule would not place an undue burden on industry. Most explosives industry members established a system to notify their local fire authority under the current regulations when they began storing explosives at a given site, and a system to notify their local fire authority in the event of an explosives incident. The subsequent annual notices could be in the same format as the first one, and if the person has made no changes that year to the existing explosives storage, the next annual notice would not need to change. If there is a change to the explosives storage, making an update to the previous notice would require only minimal effort.

The regulations currently require that the notification include the storage type, magazine capacity, and location of each site where such materials are stored. The rule would not impose any new additions to what is already included in the notice requirement. The only change would be the annual nature of the notice

requirement. As a result, notifying annually would not require new processes or more than minimal additional work. Once the person storing covered explosives notifies the locality in writing, they need only retain a copy (which may be in digital form) of that notice for five years. ATF therefore does not believe the additional requirement as stated in the rule would impose a significant burden on the explosives industry. ATF does believe, however, that it would significantly increase the safety to first responders who are responsible for responding to incidents at sites where explosives are stored.

ATF also agrees that this rule does not infringe on any Constitutional rights for the reasons discussed in section III.B.3 of this preamble.

### *B. Opposing Comments*

#### *1. Rule Is Unnecessary*

##### *Comments Received*

Some commenters disagreed with the proposed rule and thought the Department should not finalize it because they considered it unnecessary, invalid, not factual or reasonable, or even foolish, ridiculous, or recklessly irresponsible, without providing further explanation. A few commenters stated that not only did they think the Department was imposing an unnecessary and unjustified regulation on the public, they thought the proposed rule also did not provide a benefit to the public.

A few commenters provided additional explanation on the subject. One commenter stated that there has been no evidence that “ordinary citizens” possessing explosive materials present a widespread problem. A couple of other commenters stated that the proposed rule was confusing and needed to clarify how notifying authorities about magazine locations would help local fire departments. Another commenter remarked that first responders need to know what is being stored only during an emergency. One commenter who thought the proposed rule was unnecessary said there is no guarantee that the notice process would be accurate. A couple of other commenters questioned ATF’s evidence supporting the need for this rule and stated that there were no problems with the current situation, so there is no need for a rule.

One commenter believed the proposed rule was unnecessary as, the commenter stated, there are already mechanisms in place to keep first responders safe when responding to major residential or structural fires.

Other commenters elaborated on this topic by specifying that the proposed rule would be duplicative of other, already-existing, government agency or organization requirements, such as EPA Tier II Inventory Form, Occupational Safety and Health Administration’s (“OSHA’s”) “right to know” requirements, and hazmat placards under Department of Transportation (“DOT”), the International Fire Code, or the National Fire Protection Association’s (“NFPA”) codes and standards. Similarly, a couple of other commenters added that hazmat permits already provide adequate notification to fire responders about the presence of dangerous materials.

Some commenters considered the proposed rule to be unnecessary or inappropriate due to concerns about the type of explosives they believe would have to be reported, and tracking or registry aspects they believed were involved in the notice requirements. For example, regarding the type of explosives, two commenters stated that gunpowder up to 50 pounds has never had a registration requirement, and there is no need for one now. Another added that the proposed rule was unnecessary because black powder notice requirements are already mandated by federal and state regulations. By contrast, a third commenter said they supported the proposed rule because it applied only to certain explosives, such as dynamite or similar explosives used for construction, demolition, and mining.

On the subject of tracking or creating a registry, one commenter stated that ATF failed to provide any evidence that a national database is a necessary or an appropriate way to maintain a list that is useful to volunteer fire departments, whereas another commenter stated that they considered the changes in the proposed rule to be crucial because they would be a form of keeping track of weapons in our country.

##### *ATF Response*

ATF agrees that the rule should not apply to all materials that can explode because some of them (including small amounts of gunpowder) are already exempt from ATF’s explosives regulations. While the rule requires all persons storing explosives to submit notices about those explosives annually, that requirement would apply only to explosive materials that are subject to ATF’s explosives regulations in 27 CFR part 555. The rule would not apply to explosive materials that are specifically exempt from ATF’s explosives regulations, such as consumer fireworks, small-arms ammunition, and

components of small-arms ammunition (e.g. primers, propellant, etc.). *See* 18 U.S.C. 845(a); 27 CFR 555.141. In addition, the exempt explosive materials include commercially manufactured black powder in quantities not exceeding 50 pounds (as well as percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers) intended to be used solely for sporting, recreational, or cultural purposes in antique firearms as defined in 18 U.S.C. 921(a)(16), or in antique devices exempted from the term “destructive device” in 18 U.S.C. 921(a)(4). *See* 18 U.S.C. 845(a) and the 2025 Annual List of Explosive Materials, 90 FR 25077 (June 13, 2025). *See also* ATF’s response in section III.B.7 of this preamble.

Therefore, the annual notice requirement applies to the same people who are already required to submit a notice when they begin storing explosives covered by ATF’s regulations.

ATF disagrees that the rule is unnecessary. The rule is designed to protect the safety of emergency response personnel responding to fires on sites where explosives are stored. It is important that first responders are aware of explosives storage prior to responding to a fire site so they can take remedial action that accounts for the explosives. While the rule covers only the types of explosive materials that are regulated by ATF, those materials pose a risk to emergency response personnel, including when possessed by unlicensed “ordinary citizens.” The rule therefore applies to all “persons,” as defined by 18 U.S.C. 841 and 27 CFR 555.11, not just federal explosives licensees/permittees. Federal regulations generally require that a person have a license/permit to obtain explosive materials covered by ATF regulations, but all persons, even those without a license/permit, must store explosives in conformity with part 555. 18 U.S.C. 842(j), 27 CFR 555.26 and 555.29. A person with a license/permit could acquire explosives regulated under part 555, subsequently not renew that license/permit, and legally retain those explosive materials. This would result in an “ordinary citizen” who is not a licensee/permittee retaining explosives inventory of a type regulated by ATF that could pose a risk to the public and emergency response personnel. Federal law and regulations currently require any person possessing federally regulated explosive materials to store those explosives in accordance with part 555, which includes a requirement to report those explosives to local fire authorities. The rule merely

requires any person storing such explosives to notify local authorities of such storage every 12 months and when they cease storing such materials. Again, the rule does not cover explosives not regulated by ATF pursuant to part 555.

Additionally, in response to the comments that stated the rule is unnecessary because ATF provided no evidence that a national database was needed, or that asserted the notice requirement involves tracking or registry aspects, ATF notes that it is not proposing a national database or registry of explosive materials stored by individuals. In fact, the rule requires only that the individual provide notification of the type of explosive, the magazine capacity, and the location of the magazine to their local fire safety authority, not to ATF. The notification would not require persons storing explosive materials to report on specific amounts or changes in the amounts of explosives stored; only the magazine capacity, which alerts first responders to the potential danger for which they should prepare and dictates the distance the magazine must be from other structures, etc., for safety purposes.

Licensees/permittees already inform ATF of magazine capacity and their magazines are inspected periodically by ATF to ensure they meet distance and other safety requirements. This rule does not extend that oversight; it simply requires persons to report magazine capacity to local fire authorities, who then can prepare to respond and who would know only the magazine capacity for magazines in their jurisdiction. Nor would local fire authorities submit these notices to ATF. Rather, the person making the notification would have to retain a copy of the written notice (which may be in digital form) for five years. Copies retained by licensees/permittees would be subject to inspection by ATF, while copies retained by non-licensees/permittees would verify compliance with the storage provisions of part 555.

ATF does not believe that the rule would duplicate existing government agency requirements, including those provided as examples by commenters. ATF is not aware of any other existing federal requirement to notify local fire authorities about explosives storage locations. In addition, ATF is the primary federal agency responsible for ensuring that explosive materials are safely and securely stored. ATF believes that requiring annual notification to the local fire authority will benefit public safety by ensuring that first responders are better prepared to respond to incidents at explosives storage sites.

## 2. Scope of Authority

### Comments Received

Many commenters described the proposed rule as an overreach of ATF's authority. Commenters stating that the proposed rule was an overreach articulated different reasons for their belief. Several commenters characterized the proposed rule as an attempt to circumvent the rule of law and the congressional lawmaking process. For example, many commenters stated that ATF does not have authority to make laws; only Congress can, and some commenters believed the rule and its changes to the law had to be passed by an act of Congress. Some commenters stated that the proposed rule overstepped the Department's authority by bypassing checks and balances and introducing laws. In a similar vein, other commenters asked what authority or law gives ATF the ability to make rules that end up having the weight of law. A couple of commenters implored ATF to "consider the implications of yet another revision of law done outside the purview of Congress. While this proposal sounds exceedingly logical on the surface, I am concerned about the possibility of future overreach by [ATF] . . . . Today's 'common-sense' rules become tomorrow's 'loopholes' that need to be closed, and I believe this is a wide-open back door to future restrictions." Two commenters cited to *West Virginia v. Environmental Protection Agency*, 597 U.S. 697 (2022). One of them stated that, according to the case, an act of Congress is needed to change how powders have been recorded. The other commenter referred to the case in support of the contention that ATF must, and can only, enforce the laws that Congress creates.

A few other commenters more generally stated that the proposed rule was an overreach into a realm that should be reserved to localities and States. Another believed the proposed rule raised several concerns that impact individuals on their own private property in ways that were overreaching and heavy-handed. And another commenter believed the overreach was predicated on assumptions that were not true, although they did not state what those assumptions were.

A small number of commenters described the proposed rule as arbitrary. One commenter opposed the rule based on the Administrative Procedure Act, stating the proposed rule did not fall within ATF's mandated purview and burdened intrastate agencies, without further clarification.

Multiple commenters stated the proposed rule should not be finalized because it would be challenged in court. Other commenters stated that rulemaking procedures from ATF have repeatedly been struck down by federal courts as an overreach of authority, so the Department should not proceed with this rule; and it would be a "moot point." Other commenters expressed the opinion that the rule would do nothing but create expensive federal lawsuits and would be a waste of government resources and taxpayer dollars. Another commenter stated that, instead of focusing on creating new rules that are likely to be challenged and struck down in federal court, it would be more prudent for ATF to concentrate its efforts on enforcing existing laws and regulations. By directing its attention toward individuals who are breaking the current laws, the commenter added, ATF could better ensure public safety and uphold the principles of justice.

### ATF Response

In response to all the comments on this topic, which in various ways indicate an underlying perception that the rule would overreach and invade privacy because its scope would cover powder and involve invading peoples' homes, ATF notes that the rule applies only to explosive materials that are subject to ATF's explosives storage regulations at 27 CFR part 555, subpart K, which sets out explosives storage requirements. It does not apply to those explosive materials that are specifically exempt from ATF's regulations, such as consumer fireworks, small-arms ammunition, components of small-arms ammunition (e.g., primers, propellants), and commercially manufactured black powder in quantities not exceeding 50 pounds (as well as percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers) intended to be used solely for sporting, recreational, or cultural purposes in antique firearms as defined in 18 U.S.C. 921(a)(16), or in antique devices exempted from the term "destructive device" in 18 U.S.C. 921(a)(4). See 18 U.S.C. 845; 27 CFR 555.141.

ATF's explosives storage regulations already require that persons storing covered explosive materials must report the stated information to authorities having local jurisdiction for fire safety when the person begins storing covered explosive materials. The rule would simply require annual notices thereafter. Nothing else, including the kinds of explosive materials subject to this requirement, would change. ATF believes that the rule would provide

first responders with information vital to ensure their safety should an incident occur at an explosives storage site.

*West Virginia v. Environmental Protection Agency* is inapplicable because there is no “extraordinary grant of regulatory authority.” *West Virginia* involved the “major questions doctrine,” or “cases in which the ‘history and breadth of the authority that [the agency] has asserted’ and the ‘economic and political significance’ of that assertion, provide a ‘reason to hesitate before concluding that Congress’ meant to confer such authority.” *Id.* at 721. The Court found that EPA’s interpretation of a statute would “substantially restructure the American energy market.” *Id.* at 724. Having the same regulated community report to their local fire safety authority the same information they provide upon initial storage every 12 months and when they cease storing the materials does not approach a “major question” or a “substantial[ ] restructure” of anything.

ATF disagrees that it lacks the legal authority to promulgate this rule as proposed and finalized. 18 U.S.C. 847 authorizes the Attorney General to prescribe rules and regulations that are reasonably necessary to carry out the provisions of Title XI of the OCCA, 18 U.S.C. chapter 40. Congress enacted chapter 40, which tasks the Attorney General with the responsibility, delegated to ATF, for investigating and enforcing criminal and regulatory violations of federal explosives laws. 28 U.S.C. 599A; 28 CFR 0.130(a)(1). The OCCA, as amended by the Safe Explosives Act (“SEA”), regulates explosives as defined, including safeguards for storing such explosives. As such, the regulations set forth requirements that implement the federal explosives laws, which include storing explosive materials regulated by the agency. Further, the rule is directly within the agency’s purview as delegated by Congress and the Attorney General. Federal law makes it unlawful for any person to store explosive materials in a manner not in conformity with regulations promulgated by the Attorney General under 18 U.S.C. 842(j). This provision also states, in relevant part, that “[i]n promulgating such regulations, the Attorney General shall take into consideration the class, type, and quantity of explosive materials to be stored, as well as the standards of safety and security recognized in the explosives industry.” The rule establishes certain standards that are necessary for the safety and security of stored explosive materials, as recommended by explosives industry

members, and is therefore consistent with the Department’s and ATF’s statutory authority to implement section 842(j). It is also consistent with the legislative purpose of the OCCA, which “is to protect interstate and foreign commerce against interference and interruption by reducing the hazard to persons and property arising from misuse and unsafe or insecure storage of explosive materials.” OCCA sec. 1101.

### 3. Rule Is Unconstitutional

A significant number of commenters felt that the proposed rule was unconstitutional, illegal, or infringed upon or violated individual rights. The sections below discuss the specific parts of the Constitution commenters believed the rule violated.

#### a. Violates the Second Amendment Comments Received

Numerous commenters stated the proposed rule would infringe on the Second Amendment’s right to bear arms, with several describing it as a “blatant” violation of the Second Amendment or stating that it would put a “chokehold” on their rights. One commenter stated that the proposed rule would have too broad of an application because it was not limited to businesses and individuals who hold explosive licenses, and it was therefore a dystopian abandonment of the Second Amendment. Many commenters likened the proposed rule to actions taken by British soldiers that the commenters stated initiated the American Revolutionary War by attempting to control possession of gunpowder. One commenter stated that the proposed rule was a direct attack on Second Amendment rights and had nothing to do with public safety. Another commenter stated that anyone violating the proposed rule would likely be stripped of their Second Amendment rights.

Additionally, many commenters supported the contention that the proposed rule violated the Second Amendment by pointing to Supreme Court cases, particularly *New York State Rifle and Pistol Association v. Bruen*, 597 U.S. 1 (2022), because, they stated, the proposed rule did not meet the text, history, and tradition test established by that case. One commenter stated that, per their interpretation of the *Bruen* decision, all gun laws are unconstitutional.

Several commenters raised more specific concerns that the rule infringed on their rights in relation to personal ammunition and firearms. Some of these commenters expressed concern because,

they stated, the proposed rule applied to ammunition and gun powder, and they expressed that the proposed notice requirement would violate their Second Amendment protections. Another commenter stated that people have the right to make their own ammunition, and it has been that way since 1791. Some commenters believed the proposed rule was a push to limit or take away the ability to own and fire guns or characterized it as illegal gun control, while another commenter asked if they would be subject to the proposed rule for having deer hunting ammunition, and another believed having a single bullet would require reporting to the fire department.

#### ATF Response

ATF disagrees with commenters that the rule would regulate possessing or using firearms and ammunition or that it would violate the Second Amendment. The rule continues to apply only to explosive materials that are subject to ATF regulations. Contrary to concerns raised by commenters, that does not include firearms, commercially manufactured black powder in quantities not to exceed 50 pounds, or small-arms ammunition. In addition, the rule does not apply to or restrict possessing or using firearms and ammunition. *See* 18 U.S.C. 845(a); 27 CFR 555.141.

The Second Amendment recognizes an individual’s right to keep and bear arms in common use for lawful purposes. *District of Columbia v. Heller*, 554 U.S. 570, 595, 625 (2008); *Bruen*, 597 U.S. at 17. The rule, however, does not regulate such arms. *Heller*, 554 U.S. at 625. Instead, it implements 18 U.S.C. 842(j), which requires any person to store explosive materials in a manner that conforms with regulations prescribed by the Attorney General. Federal law defines the term “explosive materials” to mean “explosives, blasting agents, and detonators,” 18 U.S.C. 841(c), and the term “explosives” to mean, in relevant part, “any chemical compound mixture, or device, the primary or common purpose of which is to function by explosion; the term includes, but is not limited to, dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters,” *id.* 841(d).

ATF also acknowledges that the Second Amendment right to keep and bear arms “implicitly protect[s] those closely related acts necessary to” the right’s exercise. *Luis v. United States*, 578 U.S. 5, 26 (2016) (Thomas, J., concurring in judgment). But the rule

specifically exempts “small arms ammunition and components of small arms ammunition,” 27 CFR 555.141(a)(4), including “cartridge cases, primers, bullets, or smokeless propellants designed for use in small arms, including percussion caps, and 3/32 inch and other external burning pyrotechnic hobby fuses,” *id.* 555.11. The rule likewise exempts “commercially manufactured black powder in quantities not to exceed 50 pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, if the black powder is intended to be used solely for sporting, recreational, or cultural purposes in antique firearms as defined in 18 U.S.C. 921(a)(16), or antique devices as exempted from the term “destructive device” in 18 U.S.C. 921(a)(4). *Id.* 555.141(b).

Even if the rule were interpreted as sweeping in some conduct covered by the Second Amendment’s ancillary protections, the rule “is consistent with the Nation’s historical tradition of firearm regulation,” *Bruen*, 597 U.S. at 684–85. Indeed, the nation has a long history of fire-safety laws regulating storing explosive materials such as gunpowder. *See, e.g., Heller*, 554 U.S. at 631–32. As a result, this rule does not violate the Second Amendment or interfere with people’s ability to possess or use arms in common use for lawful purposes.

#### b. Violates the First, Fourth, and Fifth Amendments

##### Comments Received

Some commenters specified that the proposed rule would constitute an infringement on privacy protected by the First Amendment but did not elaborate on these statements.

A significant number of commenters opposed the proposed rule on grounds that it would circumvent and violate constitutional rights granted under the Fourth Amendment, constitute an intrusion, and would violate individual privacy. Multiple commenters expressed concerns that the proposed rule was clearly a means to search another’s property without a warrant, and others that the rule would subject them to illegal search and seizure, a violation of Fourth Amendment protections against unreasonable searches and seizures. More specifically, one commenter stated the proposed rule was an attempt to provide authority to conduct warrantless searches by mandating registration, while other commenters believed the proposed rule would create a registry of personal property, which they stated would be

unconstitutional as a random search or inspection without a warrant. Other commenters stated that the proposed rule would enable ATF to inspect or search private residences, check anyone’s house or storage if they submitted the proposed notification, or go to their home and ask to see their gunpowder, violating the Fourth Amendment by conducting such searches. Multiple commenters stated it is not the government’s business to know how much gunpowder or other materials individuals legally own or store on their private property. A commenter believed ATF was proposing the rule because the agency wants to go into homes to inspect ammunition and know where it is stored.

Many commenters believed the proposed rule would violate the Fifth Amendment’s right against self-incrimination. One commenter more specifically stated that the rule would violate the Fifth Amendment because it would require “mandatory self-reporting for small amounts of privately owned black powder or smokeless powder and the ability to inspect at any time.”

##### ATF Response

ATF disagrees with the commenters’ First Amendment objections. This rule does not regulate speech. Moreover, storing explosive materials is not expressive conduct. Even if somehow considered expressive conduct, this rule does not target that expressive activity. The First Amendment is therefore not implicated. *See Arcara v. Cloud Books, Inc.*, 478 U.S. 697, 707 (1986) (First Amendment scrutiny “has no relevance to a statute directed at . . . non-expressive activity.”); *see also Wright v. City of St. Petersburg*, 833 F.3d 1291, 1298 (11th Cir. 2016) (“First Amendment scrutiny ‘ha[d] no relevance to [a trespass ordinance] directed at imposing sanctions on nonexpressive activity.’”); *cf. Talk of the Town v. Dep’t of Fin. & Bus. Servs. ex rel. Las Vegas*, 343 F.3d 1063, 1069 (9th Cir. 2003) (holding that a section of the Las Vegas Code barring consumption of alcohol in places that lack valid liquor licenses “in no way can be said to regulate conduct containing an element of protected expression”). Conduct may be expressive where “[a]n intent to convey a particularized message [is] present, and . . . the likelihood [is] great that the message would be understood by those who viewed it.” *Texas v. Johnson*, 491 U.S. 397, 404 (1989) (quoting *Spence v. Washington*, 418 U.S. 405, 410–11 (1974)). The rule would not regulate conduct that intends to convey any

particularized message, and the commenters have not offered any valid reason to believe that storing explosives constitutes expressive conduct. As such, the First Amendment does not apply to the generally applicable regulatory requirement to annually submit a notice about stored explosives to the local fire safety authority.

ATF also disagrees that the rule violates the Fourth Amendment or any constitutional right to privacy. “The United States Constitution does not expressly guarantee a right to privacy, but the Supreme Court has held that a right to privacy does exist within the liberty component of the Fourteenth Amendment.” *See Padgett v. Donald*, 401 F.3d 1273, 1280 (11th Cir. 2005). Courts have recognized a privacy interest in avoiding disclosure of certain personal matters. *See id.* “[N]ot all disclosures of private information will trigger constitutional protection.” *Doe No. 1 v. Putnam County*, 344 F. Supp. 3d 518, 540 (S.D.N.Y. 2018) (finding courts have found a right to privacy in a “limited set of factual circumstances” involving one’s personal financial or medical information, *i.e.*, information of a “highly personal nature”). Information regarding stored explosives is of neither the medical nor financial variety, is not of a “highly personal nature,” and no court has found this information to be constitutionally protected.

ATF further disagrees that the rule would result in a warrantless search or seizure in violation of the Fourth Amendment. The rule narrowly applies to storing explosive materials covered by ATF regulations in 27 CFR part 555. Because explosive materials may legally be distributed only to federal explosives licensees/permittees, persons storing explosive materials regulated by ATF will generally hold a federal explosives license/permit. Explosives licensees/permittees are aware that ATF may enter places where explosive materials are stored to inspect or examine required records or documents, and facilities in which explosives are stored, under 18 U.S.C. 843(f) and 27 CFR 555.24. There is no reasonable expectation of privacy in the information contained in those records. 18 U.S.C. 842(j) makes it unlawful for any person to store explosive materials in a manner not in conformity with ATF regulations, and ATF regulations already require all persons who have regulated explosives to comply with the storage requirements in part 555, subpart K.

For those persons storing explosive materials who do not hold a federal license/permit, the requirement is merely a requirement to report the

presence of explosives for local fire safety purposes and retain the records so the person can verify they have met the notice requirement if asked, in conformity with 18 U.S.C. 842(j). Warrantless searches of property protected by the Fourth Amendment are per se unreasonable subject only to a few specifically and well-delineated exceptions. *See Kentucky v. King*, 563 U.S. 452, 459 (2011); *United States v. Reedy*, 989 F.3d 548 (7th Cir. 2021); *United States v. Rollins*, 190 Fed. Appx. 739 (2006). In addition, the rule, like every other regulation in 27 CFR part 555, would not apply to small-arms ammunition or components, or to commercially manufactured black powder in quantities not exceeding 50 pounds (as well as percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers) intended to be used solely for sporting, recreational, or cultural purposes in antique firearms as defined in 18 U.S.C. 921(a)(16) or in antique devices exempted from the term “destructive device” in 18 U.S.C. 921(a)(4), as they are exempt from the provisions of 27 CFR part 555 pursuant to 18 U.S.C. 845(a)(4) and (5) and 27 CFR 555.141(a)(4) and (b).

ATF acknowledges that the language in the proposed rule, which states that the individual must make “each written notification . . . available for examination or inspection by an ATF officer at all reasonable times” may lead to the incorrect conclusion that ATF may enter the premises of individuals who do not hold a federal license/permit without a warrant for inspection purposes. Out of an abundance of caution, ATF is therefore removing that language from the final rule text.

ATF disagrees that the rule would violate the Fifth Amendment right against self-incrimination. The Fifth Amendment protects against disclosures that could be used against a person in a later criminal prosecution. However, the rule would require annual reports about stored explosives, which is a regulatory issue, not a criminal one. *See United States v. Spiezio*, 523 F. Supp. 264, 269 (E.D. Pa. 1981) (holding that 18 U.S.C. 842(f), which requires licensees to report information on persons to whom explosive materials are distributed, did not compel defendants to incriminate themselves in violation of their rights under U.S. Const. amend. V, cl. 3, in that the privilege under Const. amend. V, cl. 3 is not violated by reporting requirements of a regulatory nature that apply to lawful activities, and explosives are not inherently criminal, but are inherently dangerous so that Congress had a legitimate aim in

controlling explosives); *see also United States v. Bouknight*, 493 U.S. 549, 556 (1990) (“The Court has on several occasions recognized that the Fifth Amendment privilege may not be invoked to resist compliance with a regulatory regime constructed to effect the State’s public purposes unrelated to the enforcement of its criminal laws.”); *United States v. Wilson*, 98 F.4th 1204, 1225 (10th Cir. 2024) (holding where a statutory or regulatory scheme requiring records to be kept is *not* aimed primarily at criminal activities, or at groups inherently suspect of criminal activities, and is “constructed to effect the State’s public purposes unrelated to the enforcement of its criminal laws,” no Fifth Amendment protection applies).

The rule is aimed at annual reporting on stored explosive materials to appropriate officials for fire officials’ safety. The rule is not intended to target or investigate criminal activity, nor is it directed at any person suspected of criminal activity. Because the rule is regulatory in nature, the Fifth Amendment is not implicated, and therefore does not apply.

#### c. Violates the Ninth, Tenth, and Fourteenth Amendments

##### Comments Received

One commenter also stated the rule would violate the Ninth Amendment but did not add an explanation.

A small number of commenters expressed concerns that the proposed rule violated the Tenth Amendment. One commenter advised that, per the Tenth Amendment, any rights not given to the federal government are given to the states, which they said means that any regulation of explosive materials storage should be handled at the local, not the federal, level. Another commenter made the same statement about regulating personal gunpowder storage.

Several commenters stated that the proposed rule would violate the Fourteenth Amendment. One commenter stated that implementing the proposed rule would violate the Fourteenth Amendment by targeting and criminalizing those who reload ammunition and store materials to do so, if they fail to report their stores. Another commenter stated that, if any exemptions for police or other organizations are added to the rule, it would violate the equal application of law clause of the Fourteenth Amendment. One commenter stated that the proposed rule would deprive them of rights under the color of law. Two commenters expressed concern that the

proposed rule would violate their right to privacy.

##### ATF Response

One commenter stated the proposed rule would violate the Ninth Amendment, which states, “[t]he enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.” U.S. Const. amend. IX. This commenter did not explain how they thought the proposed rule violated this constitutional provision.

ATF disagrees that the rule violates the Ninth Amendment. Rather than enunciating a particular affirmative right, the Ninth Amendment serves to protect other fundamental rights that are not set forth in the Constitution. *Charles v. Brown*, 495 F. Supp. 862, 863 (N.D. Ala. 1980). Some unenumerated rights may be of constitutional magnitude, but only by virtue of other amendments, such as the Fifth or Fourteenth Amendment. *Id.* at 864. A person cannot claim a right that exists solely under the Ninth Amendment. *Id.* at 864. *Cf. Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215, 231 (2022) (holding the Due Process Clause of both the Fifth and Fourteenth Amendments only protect rights that are “deeply rooted in this Nation’s history and tradition” and “implicit in the concept of ordered liberty.”).

ATF does not believe that an annual reporting requirement, designed to ensure the safety of emergency response personnel, denies any unenumerated right that is “deeply rooted in this Nation’s history and tradition” or “implicit in the concept of ordered liberty” protected under the Ninth Amendment or under any other constitutional amendment. *Dobbs*, 597 U.S. at 231; *see also United States v. Kuehnoel*, 187 F.3d 649 (9th Cir. 1999) (the defendant was convicted of possessing a pipe bomb and argued the conviction was in violation of his Ninth Amendment rights; the Court disagreed, “[w]e have observed that the Ninth Amendment ‘has not been interpreted as independently securing any constitutional rights.’”); *accord United States v. Broussard*, 80 F.3d 1025, 1041 (5th Cir.), *cert. denied*, 519 U.S. 906 (1996). No fundamental right would be infringed upon or denied as a result of the rule; therefore, the Ninth Amendment is inapplicable.

ATF disagrees that the rule violates the Tenth Amendment. Commenters correctly stated that the Tenth Amendment reserves to the states rights not given to the federal government. However, they were incorrect in their conclusion that therefore, regulating

explosive materials should be reserved for the states. The Commerce Clause of the Constitution, art. 1, § 8, cl. 3, states that “Congress shall have the Power . . . to regulate Commerce . . . among the several States . . . .” Therefore, when Congress acts within its power under the Commerce Clause, “the Tenth Amendment expressly disclaims any reservation of that power to the States.” See *New York v. United States*, 505 U.S. 144, 156 (1992).

Simply put, a valid exercise of Congress’ power as delegated to it by the commerce clause is not a violation of the Tenth Amendment. Multiple courts have repeatedly and consistently upheld the federal explosives laws as a valid exercise of Congress’ power to regulate commerce. See, e.g., *United States v. Joos*, 638 F.3d 581, 586 (8th Cir. 2011) (holding that 18 U.S.C. 842(i), which prohibits a felon from possessing any explosive, fell within Congress’s power under the Commerce Clause); *United States v. Folen*, 84 F.3d 1103, 1104 (8th Cir. 1996) (holding that making possession of explosives unlawful based on connection to commerce is within Congress’ power under the Commerce Clause); see also *United States v. Disney*, 62 M.J. 46, 49 (C.A.A.F. 2005) (holding that storing stolen explosives had a direct substantial impact on commerce); *United States v. Dawson*, 467 F.2d 668, 673 (8th Cir. 1972) (holding that receiving, transporting, selling, or storing explosives is an activity that affects commerce); see also *United States v. Grimes*, 142 F.3d 1342 (11th Cir.1998) (holding argument that 18 U.S.C. 844(i) is facially unconstitutional is without merit).

ATF disagrees with the commenter who stated the proposed rule would violate the Fourteenth Amendment by targeting and criminalizing those who reload ammunition and store materials. As previously discussed, the rule would not apply to small-arms ammunition and components thereof, or to commercially manufactured black powder in quantities not exceeding 50 pounds (as well as percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers) intended to be used solely for sporting, recreational, or cultural purposes in antique firearms as defined in 18 U.S.C. 921(a)(16) or in antique devices exempted from the term “destructive device” in 18 U.S.C. 921(a)(4). See 18 U.S.C. 845(a)(4) and (a)(5). Ammunition reloaders fall into this exception and thus would not be impacted by the rule. But in addition, the Fourteenth Amendment’s Due Process Clause does not apply to federal

action and is therefore not applicable to this rule, as explained more below.

ATF disagrees that the rule would violate the Fourteenth Amendment because it would deprive individuals of their rights under the color of law. The Fourteenth Amendment provides that “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.” U.S. Const. amend. XIV. The rule does not operate under the color of state law; it is based on federal explosives law under 18 U.S.C. chapter 40, and therefore the Fourteenth Amendment is simply not applicable.

ATF disagrees that any exemption added to this rule to exempt police or other organizations would violate the “equal application of the law” clause of the Fourteenth Amendment. ATF is unable to address the commenter who mentioned a hypothetical exemption for police or other organizations in the proposed rule and alleged that it violates the Fourteenth Amendment. Although 18 U.S.C. 845 enumerates specific provisions and exceptions to certain federal explosives laws, it is not clear what exception the commenter references or what type of hypothetical exception the commenter envisions that would violate the Fourteenth Amendment. However, the commenter’s argument that this rule violates the Equal Protection Clause of the Fourteenth Amendment is meritless. The Equal Protection Clause forbids only intentional discrimination. *McCleskey v. Kemp*, 481 U.S. 279, 292 (1987); *Horner v. Ky. High Sch. Athletic Ass’n*, 43 F.3d 265, 276 (6th Cir. 1994). Even if “a neutral law has a disproportionately adverse effect . . . it is unconstitutional under the Equal Protection Clause only if that impact can be traced to a discriminatory purpose.” *Personnel Administrator of Mass. v. Feeney*, 442 U.S. 256, 272 (1979); see also *Soto v. Flores*, 103 F.3d 1056, 1067 (1st Cir. 1997) (“It is a truism that under Equal Protection Clause jurisprudence, a showing of disproportionate impact alone is not enough to establish a constitutional violation.”). “Discriminatory intent” requires that the “decisionmaker selected or reaffirmed a particular course of action at least in part ‘because of,’ not merely ‘in spite of’ the law’s differential treatment of a particular class of persons.” *SECSYS, LLC v. Vigil*, 666 F.3d 678, 685 (10th Cir. 2012) (Gorsuch, J.) (alteration and some quotation marks omitted) (citing *Feeney*, 442 U.S. at 279). Consequently, “when the law under review is generally applicable to all persons, no presumption of intentional

discrimination arises; proof is required. This is so because many laws, perhaps most and often unavoidably, affect some groups of persons differently than others even though they involve no intentional discrimination.” *Id.* (emphasis in the original).

This rule is generally applicable to all persons who store explosive materials as required by federal law. Nothing in this rule creates discrete, objectively identifiable classifications which treat similarly situated people differently based on a particular class of persons. See *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 60 (1973) (Stewart, J., concurring); *Tex. Entertainment Ass’n v. Hegar*, 10 F.4th 495, 513 (5th Cir. 2021); *Corey Airport Servs., Inc. v. Clear Channel Outdoor, Inc.*, 682 F.3d 1293, 1296–97 (11th Cir. 2012). Because the commenter did not identify a specific exception, it is unclear that there is any disparate impact on a certain class of individuals; but even if that impact existed, it would not be based on a discriminatory purpose.

ATF disagrees with the two commenters who expressed concern that the proposed rule would violate their right to privacy under the Fourteenth Amendment for the same reasons previously discussed under ATF’s response to comments on the Fourth Amendment’s right to privacy earlier in this section of the preamble.

#### 4. Improper Registry and Other Use or Loss of Reported Information

##### Comments Received

A significant number of commenters expressed general concerns that the proposed rule was an attempt to collect data and create an illegal, de facto, or back-door registry of lawful individuals storing reloading materials, ammunition, and firearms. For example, one commenter stated the proposed rule was a blatant attempt to create unofficial registration of firearms, and another added that Congress has explicitly barred ATF from creating a registry of firearm owners in the Firearm Owners Protection Act. Another commenter expressed concern that any executive administration, standing army, or foreign power which sought to disarm and rule the American people, would need only obtain reports generated under this proposed rule to have the information they needed. One commenter stated the collected information could easily be added to “ATF’s firearm ownership database,” while another added that mandatory gun registries have historically led to confiscation measures.

Many commenters stated that, if the proposed rule was really based on safety concerns, local fire departments would be requesting this information themselves; therefore, they stated, the reason for the proposed rule was to create “another unconstitutional registry” that could be used against good citizens of this country. One commenter specified that they would support the rule for safety purposes if it was initiated by the local fire department rather than ATF and if they knew the information would not be transferred to ATF.

Some commenters raised concerns specifically about the use of local reporting as a subterfuge to create an illegal federal registry. One such commenter stated that the proposed rule was a tactic to get around the federal prohibition against a national gun registry by allowing local agencies to maintain such a registry. This same commenter added that the federal government could demand copies of these local registries. Another commenter stated that this rule could use local firefighters to spy on what lawful citizens own in the name of safety. Other commenters added that history has shown that the government can use a registry to disarm citizens even if the citizens are only reporting to local fire departments or police departments.

A significant number of commenters expressed concerns that the reporting requirement was particularly directed at gaining information to use to confiscate ammunition, gunpowder, and other explosive materials persons use to make ammunition. A number of commenters stated, for example, that the information collected under the proposed rule would be used not only for registration, but as a subterfuge for monitoring and confiscating gunpowder, ammunition, and firearms, and to incarcerate innocent people as a result. Another set of commenters similarly stated the proposed rule would create a registry of ammunition reloaders in order to track and find out where people keep gunpowder. A couple of commenters stated the proposed rule would provide ATF with a continuously updated registry of everyone that reloads their own ammunition or of reloading components in the guise of first responder safety, while another commenter described it as “fishing” for data on individual reloaders, and others believed the ultimate goal of the reporting requirements was to suppress ordinary citizens from engaging in this activity, or to adversely impact them for engaging in activities protected under the Constitution. One commenter said

the rule was designed to keep any form of explosives or propellants from law-abiding citizens. Another commenter warned the information could be used to arbitrarily set a limit on how much material used to make ammunition someone can store. One of these commenters also added that storing ammunition and gunpowder safely has never been a problem in this country, so the rule was clearly intended to target ammunition-making materials. Another commenter similarly stated that there are “no significant issues related to powder storage,” and that there are “already tools in place, such as receiving a warrant, for problematic individuals.”

Many commenters expressed concerns about how the reported information could subsequently be misused. For example, many considered the proposed rule to be a means of collecting information to create a paper trail on legally purchased items. Others expressed concerns that local authorities would share the reported information with law enforcement, insurance companies, etc., or that the purpose of the proposed rule was to leak individual names and addresses on the internet.

On a related topic, commenters were concerned about how secure the information would be. For example, one commenter said gathering this kind of information would increase the chances of a data breach or data leak, and another commenter asked what would be done if these records were hacked. Another commenter asked how fire departments would be expected to track this information and keep it secure, while another commenter asked who would pay for data storage and security of the reports.

#### ATF Response

The rule does not address, nor does it require, notification of firearms storage. The rule applies only to storing explosive materials that are already subject to ATF’s explosives regulatory authority. It does not apply to explosive materials that are specifically exempt from ATF’s regulations, which include small-arms ammunition and components thereof, and commercially manufactured black powder in quantities not exceeding 50 pounds (as well as percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers) intended to be used solely for sporting, recreational, or cultural purposes in antique firearms as defined in 18 U.S.C. 921(a)(16) or in antique devices exempted from the term “destructive

device” in 18 U.S.C. 921(a)(4). *See* 18 U.S.C. 845.

Additionally, the rule would not create a registry of explosives storage locations, or any other kind of registry for federal, state or local officials to access. The rule would require that all persons storing non-exempt explosives, who are already required to provide reports to local authorities when they begin storing non-exempt explosives, must also notify their local fire authority every 12 months thereafter if they continue to store explosive materials and when they cease storing the explosives, and must retain a copy of such written notification for five years as proof of compliance.

Under the existing requirement to report the same information when beginning to store the covered explosives, local authorities have not shared this information with the ATF. To the best of ATF’s knowledge, local authorities have also not shared this information with other persons or entities, like insurance companies. Local authorities are likely to share information on explosives with other officials to the extent necessary to address a fire-related situation, but there have been no issues with information being otherwise shared, and ATF has no reason to believe that would change with the additional notifications under this rule. Neither ATF nor local authorities have made a registry, particularly at a national level. There have also been no concerns raised by local authorities to ATF that their information would be hacked, or other similar scenarios raised in the public comments. As a result, ATF does not anticipate any of these concerns to be an issue arising from the additional annual reporting of the same information under the rule.

#### 5. Lack of Clarity

##### Comments Received

Numerous commenters opposed the proposed reporting requirement because they stated the rule was vague, unclear, or overbroad. A number of commenters stated generally that the proposed rule was written too broadly, which could lead to varied interpretation and abuse. One commenter said the proposed rule was intended to be broad so it could be used for surveillance purposes to erode the rights of law-abiding citizens. In a similar vein, a number of other commenters stated the proposed rule was too vague, and one added that the terms could potentially be redefined over time. One commenter said the rule was extremely inconsistent, and another

commenter stated that the rule was not thought out.

Some commenters provided more specific information on ways in which they felt the rule was too vague. For example, a few commenters expressed that this rule should not be considered because it does not define what is an explosive or explosive material. Another commenter stressed that the proposed rule was a solution in search of a problem and did not include details on how local fire departments would track this information in such a way as to not create a database of gun owners.

In addition, a number of commenters considered the proposed rule too vague because it did not specify what kinds of explosive materials would have to be reported. Numerous commenters stated the proposed rule did not define the types of explosives, define or name specific explosive materials, or the quantity that would have to be reported. Another commenter added that the proposed rule did not define how much explosive material would qualify as a hazard. Other commenters stressed that the proposed rule as written could apply to anything from hairspray, gasoline, fertilizers, to ammunition storage. One commenter added that many other household items could be considered an explosive, and if these items are required to be reported, the reporting process would be complicated and could overwhelm the system. And one commenter noted that “the broad term of explosive material would [a]ffect every household in the United States,” subjecting them to “extreme recordkeeping requirements.” Another commenter asked whether the proposed rule would subject “someone buying fireworks for the Fourth of July or New Years” to the reporting requirements or “someone who reloads or stocks ammunition” in their home because they hunt or are involved in shooting sports.

Some commenters stated that the proposed rule was too broad with respect to single-, double-, and triple-based gunpowder/propellants used by many Americans. A couple of commenters stressed that this rule could create massive issues for the public because no one would know the specific amount of powder that must be reported, thus causing people to inadvertently break the law.

Some commenters considered the rule too vague because they said it did not identify the penalty for failing to report explosives storage. One commenter stated the rule was unclear about specifics on how to report and to whom they should submit the report. Some commenters considered the proposed

rule to be too ambiguous about who would have to report explosives storage. Several commenters stated the Department needs to clarify whether the rule applies to permittees, licensees, or “any person” because, they emphasized, there is a huge difference between these groups. One commenter added that if the number applies to “any person,” the estimated affected population number of 9,674, mentioned in the economic analysis part of the rule, was underestimated and objectionable. This commenter also stated that the Department also did not clarify whether the reporting requirement would apply to businesses or large entities that would be able to handle this requirement.

#### ATF Response

ATF disagrees that the rule is too vague. Although the specific paragraph that would be revised by the rule does not explain which explosive materials are covered by the rule, that is because those details are explained in other provisions in the same regulation. The paragraph proposed for revision is not meant to be read alone; it is part of a larger set of regulatory provisions. The regulations also explain that the reporting requirements are applicable only to explosive materials that are subject to ATF’s explosives regulations in 27 CFR part 555. Additionally, there is an annual **Federal Register** notice, which identifies the kinds of explosives covered by the regulations. ATF acknowledges that some people may not be familiar with the rest of the explosives regulations and is providing further detail in these comment responses and elsewhere in the preamble to address that concern. However, ATF does not think that the regulation paragraph proposed for revision needs to be further revised to cross-reference regulations in the same part 555.

Regarding comments specifically about who would be required to report, the paragraph proposed for revision, § 555.201(f), clearly states at the beginning that it applies to “any person” who stores explosive materials. As a result, ATF does not agree with commenters who expressed that it was unclear as to whom the reporting requirement applies. It applies to all persons who store explosive materials covered by ATF explosives regulations. Persons who would be subject to the rule’s annual reporting requirement are already subject to the existing initial reporting requirement in the current regulatory provision and should already be aware that they must notify the local fire authority when they begin storing

explosives, or begin storing them in a new magazine. The rule does not change who must report on explosives storage, only how often. With regard to comments about penalties for failing to report as required by this rule, 18 U.S.C. chapter 40 provides the penalties for noncompliance with the storage requirements prescribed by the Attorney General. 18 U.S.C. 842(j) states in relevant part that “[i]t shall be unlawful for any person to store any explosive material in a manner not in conformity with regulations promulgated by the Attorney General.” The rulemaking merely requires individuals to comply with notification requirements for storing explosives. Failure to comply with this provision is a violation of section 842(j). A person who violates section 842(j) is subject to a fine or imprisonment of not more than a year. 18 U.S.C. 844(b).

With regard to comments about the kinds of explosives the rule might include, several earlier ATF responses in section III.B of this preamble address this topic. However, to clarify in the context of these comments on vagueness, the annual notice requirement proposed in § 555.201(f) applies only to explosive materials that are subject to ATF regulations. ATF also annually publishes in the **Federal Register** a list of explosive materials that are subject to ATF’s explosives regulations.<sup>9</sup> The rule would not expand the types or classes of explosive materials that are subject to ATF’s explosives regulations. Explosive materials that are specifically exempt from ATF’s explosives regulations, such as consumer fireworks, small-arms ammunition, components of small-arms ammunition (e.g., primers, propellants), and commercially manufactured black powder (in quantities not exceeding 50 pounds and intended to be used solely for recreational, sporting, or cultural purposes in antique firearms), are not subject to the proposed notice requirements. See 18 U.S.C. 845 and the 2025 Annual List of Explosive Materials, 90 FR 25077 (June 13, 2025). See also discussion in the ATF response under sections III.B.1 and 7 of this preamble.

The household items mentioned as examples in several of the comments would also not be subject to ATF regulations or the proposed annual notice requirement because they are not considered explosive materials under federal explosives laws. This

<sup>9</sup> See, e.g., 2025 Annual List of Explosive Materials, 90 FR 25077 (Jun. 13, 2025); 2024 Annual List of Explosive Materials, 89 FR 67672 (Aug. 21, 2024).

information is already contained elsewhere in ATF regulations in 27 CFR part 555 (as well as 18 U.S.C. chapter 40), and the list published in the **Federal Register**. Therefore, ATF does not think it is necessary to repeat that detail or include a cross-reference to the relevant sections of the same part, in the paragraph in which the proposed revision to the notice requirement would occur. Nonetheless, ATF has added a clarifying phrase to address the scope more directly in that paragraph. This final rule therefore adds the phrase “covered by this part” to the first sentence, so it will read, “Any person who stores explosive materials covered by this part must notify . . . .”

## 6. Effect on Law-Abiding Citizens

### Comments Received

Numerous commenters believed that the only purpose for the proposed rule was to illegally or inappropriately pursue, track, or watch law-abiding gun owners, people who store gunpowder, or people the government considers to be a threat or problem. A number of commenters asserted that the proposed notice requirement constitutes harassment of law-abiding citizens and gun owners or was purposely designed to hurt and harass them. One commenter said they respected the public safety point of the rule, but they also thought the rule was preposterous because it targeted law-abiding taxpayers who own firearms. A number of commenters stated that the proposed rule was nothing but a way to control the livelihood of private citizens who have not broken any laws.

Other commenters considered the rule to be an intrusion into the homes of private citizens without a warrant. Several recommended that ATF “stay in their lane and stop intruding on law-abiding citizens, and stay out of their homes”; that people have the right to purchase and store explosives wherever they choose as long as it is done safely. A number of commenters more specifically stated that ATF does not need to know who has gunpowder, and the local fire department does not need to know unless there is a fire.

Another commenter stated that the proposed rule was a way for the Department and ATF “to keep their thumb on shooting sports enthusiasts.”

In part because the proposed rule mentioned the OCCA, a number of commenters believed the proposed rule would cause law-abiding citizens who store gunpowder in their homes to be treated as, labeled, or made into criminals. Other commenters stated the proposed rule could potentially

criminalize legal citizens who unknowingly have explosive materials in their homes and could potentially cause millions of Americans who would not even be aware that the proposed notice requirement occurred to be subject to criminal penalties. Some commenters stated that the proposed rule was aimed at targeting law-abiding citizens even more than actual criminals or dangerous people of interest. And another commenter said the Department should stop pursuing law-abiding citizens who are defending themselves and focus on drug cartels and criminals with “Glock switches.”

Numerous commenters asserted that many commenters would not comply with this rule because it was inappropriately impacting law-abiding citizens. One commenter asked why gunpowder is just now being considered for safety purposes since it has been in existence for centuries.

### ATF Response

ATF disagrees that the rule will have an increased negative impact on law-abiding citizens. First, the rule does not impact firearms. It applies only to explosive materials covered by ATF regulations in part 555, which does not include standard household items like those mentioned by commenters. More specifically, the rule would not apply to explosive materials that are expressly exempt from ATF’s explosives regulations, such as consumer fireworks, small-arms ammunition, and components of small-arms ammunition (*e.g.*, primers, propellant). In addition, the exempt explosive materials include commercially manufactured black powder in quantities not exceeding 50 pounds (as well as percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers) intended to be used solely for sporting, recreational, or cultural purposes in antique firearms as defined in 18 U.S.C. 921(a)(16) or in antique devices exempted from the term “destructive device” in 18 U.S.C. 921(a)(4). *See* 18 U.S.C. 845; 2025 Annual List of Explosive Materials, 90 FR 25077 (June 13, 2025); *see also* discussion in the ATF response under sections III.B.1 and 7 of this preamble.

Second, the rule would not affect persons who would not already be required to comply with ATF’s explosives storage requirements at 27 CFR part 555, subpart K. Persons subject to the rule are already subject to the current notice requirement and should be aware that they must notify the local fire authority if they begin storing explosives or acquire a new magazine. If they have been complying with the

existing requirement, they would be law-abiding citizens in this context. While they would be impacted by the proposed additional notice frequency, as described in response to comments under section III.B.1, ATF believes the impact would be minimal.

However, citizens who should have notified local authorities of their explosives storage under the existing regulatory provision, but did not do so when they began storing their explosives, are already in violation of the existing notice requirement. The rule would increase how often a person must notify but would not change who must notify, the kinds of explosives that are covered, or what information must be reported. It also would not cause persons to be in violation of existing requirements. Persons who are violating the existing notice requirement but who comply with the proposed notice requirement would be impacted more by the rule than persons who are already complying with existing reporting requirements. This is because they would have to submit their first notice and determine who the local authorities are in response to the rule. But even so, the marginal impact of the proposed notice requirement would still be small; most of the impact would stem from complying with existing requirements in the first instance.

ATF notes that the statute under 18 U.S.C. chapter 40 sets forth the penalty for failing to store explosives in compliance with the regulations as prescribed by the Attorney General. Persons who possess explosive materials that are already subject to ATF regulations are aware that they must comply with regulatory requirements, and that failure to comply with those regulatory requirements could result in a criminal penalty, particularly when storing explosives. 18 U.S.C. 842(j) makes it “unlawful for any person to store any explosive material in a manner not in conformity with regulations promulgated by the Attorney General.” A violation of 18 U.S.C. 842(j) constitutes a misdemeanor offense under section 844(b) of the statute. These statutory penalties remain unchanged, and the proposed annual notice requirement would not create any new or additional criminal penalties. It affects a regulatory notice and would simply change the frequency of notices for those possessing explosive materials subject to ATF regulations.

Sections of ATF regulations typically do not cite the statutory provision establishing the penalty. ATF generally does not include a statement in other sections of its regulations of the criminal penalty because the penalty is

statutorily established. Therefore, ATF does not feel it is necessary to add such a statement to the paragraph being proposed for revision because the criminal penalty is set forth in 18 U.S.C. chapter 40.

ATF disagrees that this rule will punish law-abiding citizens storing gunpowder because the rule references the OCCA. The primary federal statute regulating explosives and arson is the OCCA, Title XI, as amended by the SEA, 18 U.S.C. chapter 40. One of the provisions of the SEA provides safeguards for storing, handling, packaging, and labeling explosives. As previously discussed, the rule does not apply to explosive materials that are specifically exempt from ATF's explosives regulations. *See* 18 U.S.C. 845 and the 2025 Annual List of Explosive Materials, 90 FR 25077 (June 13, 2025). *See also* discussion in the ATF response under sections III.B.1 and 7 of this preamble.

ATF disagrees that the rule could potentially criminalize citizens who unknowingly have explosive materials in their home. 18 U.S.C. 842(j) requires that all persons must store explosive materials in compliance with its requirements. The statute defines the term explosive materials and explosives, and it requires the Attorney General to report an annual list of explosives in the **Federal Register**. *See* 90 FR 25077 (June 13, 2025) for the current list. This provides law-abiding citizens with notice and knowledge of what explosives must be stored in compliance with 18 U.S.C. 842(j), and thus what explosives would be subject to the notification requirement in this rule.

ATF disagrees that the rule targets law-abiding citizens more than criminals. As previously stated, all persons must store explosives in accordance with federal law and corresponding regulations. It is important that first responders are aware of explosives storage when responding to a fire site so they can be prepared when taking action that accounts for the explosives in an emergency response. This goal of the rule is to improve safety for emergency responders and the public.

With regard to the commenters who stated that the proposed notice requirement was designed and intended to harm and harass people, ATF disagrees. The additional notice frequency would have minimal impact on those who are required to submit notices. As the rule would not expand who is covered or what types of explosive materials are covered, it is not harassing or harming people as these persons are already required to submit

such a notice when they begin storing covered explosives. In addition, because there are exemptions for several kinds of explosives, including small-arms ammunition and commercially manufactured black powder not exceeding 50 pounds, used solely for sporting, recreational, or cultural purposes in antique firearms or devices, the rule would also not impact, harm, harass, or deny, persons who make their own ammunition for such purposes because, just as the current notice requirement does not apply to them, the rule would not apply to them.

Rather, ATF proposed this notice requirement because it has an important impact on the safety of those who respond to fires, and people living or working near explosives storage sites. For more details on this safety basis, see section III.B.7 of this preamble.

The proposed notice requirement also does not create an authorization for ATF to come into peoples' homes without a warrant, nor would it result in a warrantless search or seizure in violation of the Fourth Amendment. *See* discussion in section III.B.3.b of this preamble. The rule narrowly applies to storing explosive materials covered by ATF regulations in 27 CFR part 555. Because explosive materials may legally be distributed only to federal explosives licensees/permittees or exempt government agencies, persons storing explosive materials regulated by ATF will generally hold a federal explosives license/permit. Explosives licensees/permittees are aware that ATF may enter places where licensees/permittees store explosive materials to inspect or examine required records or documents, and the storage facilities, under § 555.24. ATF may not enter locations merely to inspect explosives stored by persons who do not hold a federal license/permit. The rule does not change this. Therefore, for those persons who do not hold a federal license/permit, ATF would continue to have no right of warrantless entry to inspect explosive materials stored at that location.

ATF acknowledges that the language in the proposed rule which states that the individual must make "each written notification . . . available for examination or inspection by an ATF officer at all reasonable times" may lead to the incorrect conclusion that ATF may enter the premises of individuals who do not hold a federal license/permit without a warrant for inspection purposes. Out of an abundance of caution, ATF is therefore removing that language from the final rule text.

## 7. Does Not Enhance Public Safety Comments Received

Some commenters believed the proposed annual notice requirement would do nothing to stop gun violence and would not make communities safer. One commenter acknowledged the importance of public safety, but said the proposed rule failed to address the core issues surrounding gun violence and thus would not aid public safety. Other commenters stated that the rule showed insufficient evidence that the requested level of notices would be necessary or would significantly reduce crime and enhance public safety.

Some commenters focused more specifically on the proposed notice requirement as a means of increasing safety and risk assessment planning for first responders. These comments were predicated on the idea that common hazardous materials are more dangerous than explosives or that explosions on residential properties are not an issue. For example, one commenter stated that according to their research, most emergency responders and the public are injured or killed by common hazardous materials, which would not be covered by the proposed notice requirement, and it would thus serve little purpose. This commenter added that chemicals such as propane, butane, chlorine, anhydrous ammonia, ammonium nitrate, ethanol, crude oil, hydrocarbon fuels, and liquefied petroleum gas are the major killers of emergency responders and in particular, firefighters. Other commenters indicated that the rule did not establish that smokeless or black powder is a serious risk to firefighters. One of these commenters stated that the rule did not include the actual number of serious injuries or persons killed from explosions at residential properties within the last ten years, and therefore the Department should not pursue the proposed regulation unless it can show data of numerous deaths from explosions on residential properties, and provide verifiable data that shows the risks that firefighters have experienced.

A couple of other commenters considered notices on explosives storage to be pointless. One commenter specified that 911 operators already ask about hazardous materials at a location and they report that information to the fire department, so notifying fire authorities of such information would be redundant. This commenter added that during an emergency, the fire department is not going to stop and search files for notices. Another commenter stressed that "anyone with

even the most basic of fire training understands that there are dangers hidden within homes, from O2 cylinders to propane bottles; we need to watch the fire's behavior and not the special note on a computer screen that is usually out of date and useless. The government has shown over and over that you are ineffective at even the most basic levels of security and safety."

A few commenters considered the notice requirement to be pointless because gunpowder does not give rise to crime. One commenter stated that the agency failed to show how this rule resolved a crime problem, and another stated that smokeless powder is rarely used in criminal acts. One commenter stated that according to their research, there is no evidence that criminals or violent organizations purchase and store large amounts of gunpowder to commit crimes.

A number of commenters raised issues with treating gunpowder or smokeless gunpowder as an explosive and asserted that it is not a risk to public safety. Several commenters stated that, while modern smokeless gunpowder is flammable rather than an explosive, two stated that it is only an explosive when not stored in compliance with current regulations, and one added that it also is not a firearm. Another commenter who reiterated that smokeless gunpowder is not an explosive, also asked under what authority it was being reclassified as one. Other commenters added that smokeless gunpowder is not dangerous when stored properly in private homes, and a couple of commenters stressed that there is no justifiable data showing that people who store gunpowder in their homes pose a fire hazard or a significant threat. Another couple of commenters said they do not remember hearing about any explosions or increased fire damage caused by reloading powder storage.

One commenter does not believe the rule will be effective because it does not provide guidance on safe storage practices.

A few commenters said this rule would not only fail to provide any protection, it would also create a burden for the public as well as local firefighters. While one commenter felt it made sense to know if explosive materials are being stored, they stated there was no need to collect this information for small amounts of the average household items (e.g., yard fertilizer, black powder, paint thinners, small amounts of gunpowder for reloading, lighter fluid, propane tanks). The commenter stated that the notice requirement for household items would be an overwhelming and complicated

process, and lives could be lost if fire departments have to check an extensive registry before fighting a house fire. Another commenter stated that they believed it was essential for the federal government to maintain public safety while maintaining the rights of Americans; however, the proposed rule could inadvertently discourage citizens from storing gunpowder responsibly which could potentially lead to unsafe practices. One commenter said the proposed rule would open a Pandora's box for the fireworks industry and other industries.

#### ATF Response

ATF reiterates that the rule does not address firearms, firearms safety, or violence from firearms. The rule applies only to explosive materials that are subject to ATF's regulatory authority. The rule does not expand the type or class of explosive materials that are subject to ATF's explosives regulations or the existing notice requirement. The rule does not apply to explosive materials that are specifically exempt from ATF's explosives regulations, and covered explosive materials do not include the household items listed by commenters (e.g., yard fertilizer, black powder, paint thinners, small amounts of gunpowder for reloading, lighter fluid, propane tanks). See 18 U.S.C. 845 and the 2025 Annual List of Explosive Materials, 90 FR 25077 (June 13, 2025). See also discussion in the ATF response under section III.B.1 of this preamble. The rule simply requires persons storing ATF-regulated explosive materials to notify the local fire authority every 12 months and when they cease storing explosives, in addition to the existing initial notice requirement, in order to increase first responder and public safety when fire or an explosion occurs at a location where explosives are being stored.<sup>10</sup>

For example, as noted in section I of this preamble, firefighters and other fire safety officials generally do not attempt to fight a fire that involves explosive materials because of the potential for an explosion that could harm the responders. If officials know of the

existence of explosives in such close proximity to a fire, they also typically evacuate the facility and the surrounding area to ensure the safety of the first responders and the public.

Explosives industry members, association representatives, and firefighting organizations specifically identified the increased frequency in notifications to local authorities as one way to improve safety in discussions as part of the 2013 working group established by Executive Order 13650.<sup>11</sup> They noted that local emergency response organizations may sometimes have high personnel turnover, which can cause the original report to be of less value as it might not come to the awareness of incoming personnel. *Id.* This may be more the case in locations that rely on volunteer or part-time personnel. They stated that the safety and security of explosives facilities, responders, and the surrounding communities would benefit from more frequent communications between persons who store explosives and local fire authorities. They also stated that more frequent communications would promote explosives site visits and training opportunities for fire responders. *Id.*

#### C. Comments Suggesting Changes

##### Comments Received

Several commenters provided suggestions or recommendations to improve the rule. Most of these comments made suggestions about the types and amounts of explosives that should be included under the proposed rule's notice requirements. For example, some commenters stated that there needs to be a distinction between notifying about small and large amounts of storage, or the rule should require notices only for very large amounts of explosives. Another commenter suggested that the rule would serve the public better if it were extended to black powder, dynamite, nitroglycerin, semtex, and other high explosives used for lawful purposes.

Other commenters suggested items that should be exempt from the annual notice requirement. Some commenters suggested that home reloading and muzzle-loading use should be exempt from notice requirements. Another commenter suggested that propellants manufactured strictly for the purpose of reloading sporting ammunition should

<sup>10</sup> In 1998, ATF amended the regulations in 27 CFR part 55 (now part 555) to require that any person who begins storing explosive materials must notify the authority having jurisdiction for fire safety in the locality in which the explosive materials are being stored of the storage type, magazine capacity, and location of each site where such explosives are stored. The 1998 final rule was issued in response to numerous deaths and injuries sustained by emergency response personnel responding to fires and other emergencies at sites where explosives were stored without the knowledge of state and local officials. See RIN 1545-AU09, 61 FR 53688 (Oct. 15, 1996).

<sup>11</sup> Executive Order 13650, Actions to Improve Chemical Facility Safety and Security—A Shared Commitment, Report for the President, at 51 (May 2014), [https://www.osha.gov/chemicalexecutiveorder/final\\_chemical\\_eo\\_status\\_report.pdf](https://www.osha.gov/chemicalexecutiveorder/final_chemical_eo_status_report.pdf).

be exempt from this rule as that would minimize ATF's enforcement burden, minimize local fire department record-keeping burdens, and minimize the need for additional personnel to implement and enforce the proposed rule. One commenter suggested that powder and/or munitions should not be required for notices because there are so many other chemicals, aerosol, pesticides, thinners, cleaners, oil, and other combustibles in the average home and/or garage that are not reported annually.

Other comments made suggestions as to how ATF could better approach the subject or expend its resources more usefully. One commenter suggested that it would be more beneficial if ATF focused on publishing a tutorial on how to safely store small quantities of explosives instead of mandating annual notice requirements. Another commenter recommended that the notice requirement be replaced with training guidelines for first responders to ask when they are initially contacted about a fire or upon their arrival at the scene of a fire. In reference to ensuring public safety, one commenter believed ATF should focus on comprehensive background checks, mental health initiatives, and educational programs instead of finalizing the rule. Three other commenters stated that the Department should work with people to ensure the safety of our communities without infringing on peoples' rights and imposing burdensome notice requirements on law-abiding citizens, and that it is crucial to strike a balance between personal liberties and public safety.

One commenter suggested that the National Fire Prevention Association should be listed instead of ATF as a more appropriate agency to handle storage and notice requirements for hazardous materials.

#### ATF Response

In response to the comments suggesting that distinctions should be made between which types of explosives are covered by the notice requirement, or recommending a variety of exceptions to the kinds of explosives covered, ATF believes the rule is clear that it is applicable only to explosive materials currently subject to ATF's explosives regulations in 27 CFR part 555. The rule does not expand the type or class of explosive materials that are currently subject to ATF's regulatory authority. Further, it does not require notification for explosive materials specifically exempt from ATF's explosives regulations. See 18 U.S.C. 845 and the 2025 Annual List of

Explosive Materials, 90 FR 25077 (June 13, 2025). See also discussion in the ATF response under sections III.B.1 and 7 of this preamble. Persons subject to the rule are already subject to the existing notice requirement being proposed for revision, and should be aware of the current requirement to notify the local fire authority when they begin storing explosive materials subject to ATF regulations or they acquire a new magazine. The rule simply requires them to make notifications every 12 months and when they cease storing explosives, in addition to the current requirement of notification when storage begins.

With regard to comments suggesting that the paragraph proposed for revision, 27 CFR 555.201(f), include the types and amounts of explosive material that must be reported, and items that would be exempt from the notice requirements, ATF does not accept these suggestions. The paragraph proposed for revision is one paragraph in a full set of regulations on explosives. It is not intended to be read by itself, and other sections of the explosives regulations already contain the suggested information. In addition, ATF already publishes an annual list of explosive materials subject to ATF regulations in the **Federal Register** that updates the list with new developments in the explosives industry.

ATF does not believe that developing training material on how to safely store small amounts of explosive material is a sufficient substitute for the rule. The regulations at 27 CFR part 555 already provide explosives licensees/permittees, and persons without an explosives license/permit, with the necessary requirements to safely and securely store explosive materials that are subject to ATF's explosives regulations. The rule will allow local fire authorities to develop their own response plans based on the information received from the annual notification. Training material cannot replace the information about the actual presence of explosives that local fire authorities would receive through the annual notification.

ATF also disagrees that the National Fire Protection Association should be responsible for notifying local fire authorities of stored explosive materials. ATF, through the federal explosives laws, has been delegated the authority by Congress and the Attorney General to reduce the hazard to persons and property arising from misuse and unsafe or insecure storage of explosive materials. Additionally, ATF already requires that all persons storing explosive materials that are subject to 27 CFR part 555 must provide notice of

those materials to local fire authorities; the rule just increases the frequency of those notices.

#### D. Comments on Economic Analysis

##### 1. Need for Regulation

###### Comments Received

Multiple concerns and questions were posed by commenters asking about the need to report on any combustible or explosive material that is normally stored in limited quantities at businesses or in homes (e.g., gasoline, fertilizer, swimming pool chemicals, propane, lithium batteries), with an overriding concern that the proposed rule would overwhelm citizens and businesses with burdensome notice requirements.

###### ATF Response

ATF disagrees that the rule would apply to combustible materials such as gasoline, fertilizer, or swimming pool chemicals, which are not regulated explosive materials. The need for the rule was to ensure that first responders are aware of the location of magazines containing explosives stored by anyone storing regulated explosives. This would ensure that if a first responder were to respond to fires or explosions in the building or nearby, they would be aware of the hazardous conditions. Being aware of hazardous conditions in addition to the existence of a fire enables first responders to anticipate the potential need for specialized protective gear, determine alternate approaches or methods, account for ways in which different explosive materials might react to heat, and take other steps that might save lives and minimize damage to property.

##### 2. Burden on the Public

###### Comments Received

Many commenters stated the proposed rule was a waste of taxpayer money, time, and resources. Many commenters expressed concern regarding the burden the rule would place on the average citizen, businesses, and manufacturers due to all the additional notices and record-keeping that would result. One commenter expressed that the rule would cause extremely burdensome paperwork and record-keeping for the average citizen. The commenter also stated that the rule should not be allowed as it would "create an additional burden on citizens just on the grounds of the Paperwork Reduction Act of 1995."

###### ATF Response

This rule applies only to persons who store explosive materials covered by

ATF explosives regulations in 27 CFR part 555. The rule would not expand or change who would be required to submit notices from those who are already required to report this information; it just increases the frequency. The vast majority of persons who would be impacted by the rule are already federal explosives licensees/permittees subject to other record-keeping requirements. Although the rule would also impact a small number of other persons who store explosive materials covered by ATF regulations but who do not have a license/permit, this is necessary to increase safety, as described in multiple portions of section III.B of this preamble. The proposed change to the storage notice requirement adds only minimal time or work. Persons subject to the proposed annual notice frequency are already required to report the same information to the same authorities when they begin storing explosive materials at a given site or in a new one. So, if there are no other changes from the prior notice, they would merely need to send the same letter with a new date and signature each year. If there is a change, updating the letter to reflect that change would require only minimal time. ATF estimates that this annual notice requirement would have an annual opportunity cost to licensees/permittees of five minutes.

### 3. Impact on Small Businesses

#### Comments Received

One commenter emphasized that the rule would “disproportionately impact small businesses and individuals, further exacerbating the regulatory burden they already face.” One commenter posed several questions regarding who would pay for all the additional resources required to comply with the rule and stated that the economic impact numbers provided are incorrect. Another commenter indicated that if citizens are required to submit notices it will drive up the costs associated with homeowners’ insurance.

#### ATF Response

ATF disagrees that the rule would disproportionately impact small businesses and individuals. As discussed in several parts of section III.B of this preamble, the rule would not affect individuals storing commercially available combustible materials such as those typically found in residential households. It would apply only to persons who store explosive materials covered by ATF explosives regulations in 27 CFR part 555. If a person is storing regulated

explosive materials at their home, they should already be complying with ATF regulations for safely storing explosives in a magazine and accounting for the increased risk to their home of these materials through their homeowners’ insurance. Merely notifying the local fire authority would not affect those requirements or costs. For all businesses and other persons covered by the rule, including small businesses, this rule will impose only a five-minute burden in any given year, which is a de minimis time burden and thus would not have a significant or disproportionate impact on small businesses.

### 4. Government Costs

#### Comments Received

One of those commenters mentioned that the proposed annual notice requirement would be a “logistical nightmare,” while many others opined the rule would overwhelm and overburden already understaffed fire departments, especially those with more limited budgets (such as volunteer fire departments, small municipal departments, and those located in rural areas). One commenter added that the notice requirement would create a fiscal burden on local agencies and smaller fire departments. Another commenter stated that the proposed rule would put an undue burden on an already overworked agency (ATF). Another commenter stressed that the notice requirement would result in excess paperwork for firefighters. Another commenter opined that “this proposal will create unnecessary paperwork for the local fire authority.” The commenter also suggested that the proposed rule’s annual cost should include the cost to local communities for the time and expense incurred by the local fire officials.

#### ATF Response

ATF disagrees. ATF acknowledges that local fire departments or local municipalities will receive additional notices, which will involve receiving, routing, and organizing this information. However, ATF does not believe this is a significant paperwork burden on local fire departments or local municipalities. Additionally, the regulation does not require local jurisdictional authorities to do anything specific with these notices. Therefore, ATF cannot speculate as to how local jurisdictions will route or organize the notices. Furthermore, the paperwork burden for persons who would have to report on their regulated explosives storage once each year would be spread out among approximately 9,100

individuals and entities throughout the entire United States. Based on ATF’s Federal Explosives Licensing Center (“FELC”), the number of individuals or entities currently notifying local authorities is approximately 600 or fewer persons per state, depending on the location of licensed/permitted explosives entities. At the local level, the number would be significantly smaller. The rule would not affect all individuals or all businesses that might carry small amounts of combustible materials.

### 5. Benefits

#### Comments Received

One commenter suggested issues they felt needed clarification in the proposed rule’s economic analysis section, such as providing better details on potential threats to first responders, costs associated with inspections, and potential alternatives. This commenter said the proposed rule needed to explain the connection between the list of explosives and actual fatalities or injuries to first responders.

#### ATF Response

ATF disagrees that the rule should account for costs associated with inspections because the rule did not include a requirement for inspections, and they are not triggered by the notice requirement. ATF also disagrees that further explanation of the benefits of the rule’s notice requirement is necessary for a rule that imposes a five-minute burden in a given year. Informing local fire authorities of explosives storage is already a requirement for all persons when they begin storing covered explosives and provides a benefit to fire authorities in managing, assessing, and responding to fires and other issues in their jurisdiction that might impact the stability of the explosives or endanger first responders and others. It also aids them in being better equipped and prepared for additional hazards if a fire occurs at the magazine. This rule simply adds to the frequency with which they must report the required information—from once when they begin to store the covered explosives to once when they begin, every 12 months thereafter, and when they cease storing the explosive materials, so that the local authority has up-to-date information—at minimal cost to copy, paste, and email. ATF responds to the comment about alternatives in the next section.

### 6. Alternatives

#### Comments Received

Another commenter suggested that ATF consider alternative approaches

that prioritize education, responsible gun ownership, and collaboration with the firearms community.

#### ATF Response

ATF disagrees with the proposed alternatives and with the previous commenter's assertion. This rule does not affect gun ownership; therefore, focusing on responsible gun ownership would not be applicable in this context. It also does not affect private citizens who are not storing explosive materials covered by ATF explosives regulations in 27 CFR part 555. In addition, private citizens who are storing covered explosives are already subject to the requirement to report this information; the rule only affects the notice frequency. All persons subject to the rule should already have completed at least one notice providing the required information to local authorities. They therefore should not need training or education on how to create or submit such a notice. First responders already know how to deal with the dangers of explosives for the area, and ATF regularly collaborates with firefighting and other first responder communities; the first responders just need to know where explosives are, the types of explosives, and the potential amount (as represented by the magazine's capacity) so they can be prepared to safely respond to a fire emergency involving a magazine. Federal explosives licensees/permittees, who constitute the vast majority of persons subject to the rule, are already required to be trained on safely storing explosive materials. Other persons who have questions on these subjects can review ATF's explosives website at [www.atf.gov/explosives](http://www.atf.gov/explosives).

#### IV. Final Rule

The current regulation at 27 CFR 555.201(f) requires any person who stores explosive materials to provide to local fire safety officials an oral notification before the end of the day on which the person begins storing explosive materials subject to ATF's explosives regulations in 27 CFR part 555 at that location, and in writing within 48 hours after they begin storing the explosives. Both forms of notification must include the storage type, magazine capacity, and location of each site where the person is storing such explosive materials.

The proposed rule did not propose changes to the existing regulatory text but proposed adding to it. The proposed additions included a requirement for the person to submit written notice, covering the same information, once every 12 months following the initial notice until the person is no longer

storing explosive materials at that site; a requirement that the person submit written notice within 48 hours after they cease storing explosives at that site; a requirement that the written notices must also include the notification date and the name, title, and agency of the authority official notified; and a requirement to retain the written notices for five years from the notice date, and make it available for examination or inspection by an ATF officer, as requested.

This rulemaking finalizes the proposed rule by amending § 555.201(f) as proposed in the NPRM except the last clause relating to examination and inspection. Because public comments indicated that this language could lead to the incorrect conclusion that ATF may enter the premises of individuals who do not hold a federal license/permit, ATF is removing that language from the final rule. In addition, this rule adds the phrase "covered by this part" to the first sentence of the existing regulatory text, so it would read, "Any person who stores explosive materials covered by this part must notify . . . ." ATF is also making minor sentence structure edits to both the existing text and the proposed amendment text to conform with plain writing guidelines. Both the added phrase and these minor sentence structure edits are being made in response to public commenters who misunderstood that this notice requirement applies only to explosive materials covered by ATF explosives regulations.

ATF is finalizing the proposed amendments because it believes notification every 12 months will increase public safety through increased communication between persons storing explosive materials and their local emergency responders; provide regularly updated storage information to local authorities; and allow for risk assessments and emergency response preparation prior to incidents, thus reducing potential safety and damage risk to first responders, emergency equipment, and other people around explosives storage sites.

#### V. 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 agencies quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting public flexibility.

This rule amends 27 CFR 555.201(f) to require written annual notification to authorities having jurisdiction for fire safety of the existence of stored explosive materials. More specifically, § 555.201(f) already requires any person who stores explosive materials to notify authorities with jurisdiction for fire safety about the storage type, magazine capacity, and location of each site where such explosive materials are stored when the person begins storing the explosive materials. This rule adds a requirement for an updated report once every 12 months thereafter, and when the person discontinues storing the explosives. Annual notice to the local fire authority ensures they have current information on explosives storage in their area, which enables the fire authority to better plan for fires in such locations and take appropriate steps to account for explosives. This increases both the safety of first responders and of those in the areas around the magazine. The explosives industry and fire authorities support this reporting for these safety reasons. This requirement would take about five minutes to send an email every 12 months and thus involves de minimis cost to those submitting notices.

The Office of Management and Budget ("OMB") has determined that this rule is not a "significant regulatory action" under Executive Order 12866.

##### 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. This rule, however, is not an Executive Order 14192 regulatory action because it is not a significant regulatory action as defined by Executive Order 12866 and it does not impose total costs greater 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 final rule does not create a criminal regulatory offense and is thus exempt from Executive Order 14924 requirements.

### D. Executive Order 13132

This rule will 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 Acting Director has determined that this rule does 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 final 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 rule subject to notice-and-comment rulemaking requirements unless the agency head certifies, including a statement of the factual basis, that the rule will 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 Acting Director certifies, after consideration, that this rule will not have a significant economic impact on a substantial number of small entities. ATF estimates that this rule will impact approximately 9,100 persons, with 8,774 of those being licensees/permittees, and the majority of those being small businesses. However, ATF estimates that the additional notifications will take up to five

minutes annually to provide written notification by email. It therefore does not impose a significant economic impact on small businesses or the industry as a whole.

### G. Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not likely to have a significant economic impact on a substantial number of small entities under the Small Business Regulatory Enforcement Fairness Act of 1996, 15 U.S.C. 657 and 5 U.S.C 601 note, as it imposes no additional costs.

### H. Unfunded Mandates Reform Act of 1995

This 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 will not significantly or uniquely affect small governments. Therefore, ATF has determined that no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

### I. 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 rule creates the need to revise an existing information collection under the PRA. The title and description of the information collection impacted by this rule, a description of those who provide the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

*Title:* Notifying Fire Safety Authority of Stored Explosive Materials.

*OMB control number:* 1140–0071.

*Summary of the information collection:* This regulation amends 27 CFR 555.201(f) to require annual notice to authorities having jurisdiction for fire safety about explosive materials being stored in their jurisdiction. Currently, any person who stores explosive materials is required to notify authorities with jurisdiction for fire safety about the storage type, magazine

capacity, and location of each site where such explosive materials are stored when the person begins storing the explosives at that location. This rule amends the regulation to require the person to also submit such notices annually thereafter, and when the person ceases to store explosives there. Any person storing explosive materials is also required to maintain a copy of the written notification for five years from the date of the notice.

*Need for information:* It is important that first responders are aware of explosives storage when responding to a fire site. Firefighters and other fire safety officials generally do not attempt to fight a fire that has engaged a container of explosive materials because of the potential for an explosion that could harm the responders. Knowing that explosives are stored at the site, in close proximity to a fire, enables first responders to adjust their strategy for handling and responding to the fire in such cases to provide better public safety. The additional annual notice requirement provides local authorities with updated information from which to assess the potential danger from explosives at the site.

*Proposed use of information:* To provide first responders advance, updated information about where explosives are stored, which enables them to better plan for and respond to fires in close proximity to such stored explosives, and increases public safety.

*Description of the respondents:* Persons or entities who store regulated explosive materials.

*Number of respondents:* 9,100.

*Frequency of response:* once annually.

*Burden of response:* 5 minutes.

### J. Congressional Review Act

Pursuant to the Congressional Review Act, 5 U.S.C. 801 *et seq.*, OMB’s Office of Information and Regulatory Affairs has determined that this rule does not meet the criteria in 5 U.S.C. 804(2) to constitute a major rule. This rule is not a major rule because it will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

### Disclosure

Copies of the proposed rule, public comments received in response to it, and this final rule are available through the federal eRulemaking portal, at

<https://www.regulations.gov> (search for RIN 1140-AA51).

#### List of Subjects in 27 CFR Part 555

Administrative practice and procedure, Explosives, Freight, Hazardous substances, Imports, Penalties, Reporting and recordkeeping requirements, Safety, Security measures, Seizures and forfeitures, Transportation, Warehouses.

Accordingly, for the reasons discussed in the preamble, ATF amends 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.

■ 2. Amend § 555.201 by revising paragraph (f) to read as follows:

#### § 555.201 General.

\* \* \* \* \*

(f) Any person who stores explosive materials covered by this part must notify the authority having jurisdiction for fire safety in the locality in which the explosive materials are being stored of the type, magazine capacity, and location of each site where such explosive materials are stored.

(1) The person must make the notification in paragraph (a) of this section orally before the end of the day on which they begin storing the explosive materials, and in writing within 48 hours from when they begin storing them.

(2) Thereafter, the person must submit written notice once every 12 months following the initial notice, but no later than the end of the month during which the 12-month period is completed, unless the person is no longer storing explosive materials at the relevant site.

(3) When a person ceases to store explosive materials at a site, they must notify the authority having jurisdiction for fire safety in the locality in which the explosive materials were stored in writing within 48 hours after the person discontinues storing materials at that location.

(4) Each written notice must also contain the notice date and the name, title, and agency of the fire authority official notified. The person submitting the notice must retain a copy of each written notice for five years from the notice date.

\* \* \* \* \*

**Robert Cekada,**

*Director.*

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BILLING CODE 4410-FY-P

#### DEPARTMENT OF THE TREASURY

#### Office of Foreign Assets Control

#### 31 CFR Part 505

#### Sanctions Penalties Regulations

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Treasury's Office of Foreign Assets Control (OFAC) is adding the Sanctions Penalties Regulations. These new regulations consolidate previously existing information regarding penalties applicable to multiple sanctions programs implemented by OFAC.

**DATES:** This rule is effective September 25, 2026.

**FOR FURTHER INFORMATION CONTACT:** OFAC, Assistant Director for Regulatory Affairs, 202-622-4855; or <https://ofac.treasury.gov/contact-ofac>.

#### SUPPLEMENTARY INFORMATION:

#### Electronic Availability

This document and additional information concerning OFAC are available on OFAC's website: <https://ofac.treasury.gov>.

#### Background

OFAC administers and enforces U.S. economic and trade sanctions programs against targeted foreign governments, individuals, groups, and entities in accordance with national security and foreign policy goals and objectives. OFAC is responsible for the civil investigation and enforcement of economic sanctions violations under Presidential national emergency powers and specific legislation, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA).

In this rule, OFAC is reproducing information regarding enforcement procedures and penalties, including the rights of U.S. persons being investigated for violations, that are currently located in individual parts of 31 CFR chapter V into a new part, the Sanctions Penalties Regulations (the "Regulations"). This initial promulgation of the Regulations contains information regarding penalties for violations of sanctions issued pursuant to IEEPA and the United Nations Participation Act, as amended (22 U.S.C. 287c(b)) (UNPA). No substantive changes to these penalty provisions are being made with this rule. Following publication of this part, OFAC will update parts within 31 CFR chapter V to replace existing penalties information with cross-references to the

Regulations, to help standardize penalties provisions and to ease compliance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended (Pub. L. 101-410, 104 Stat. 890, as amended; 28 U.S.C. 2461 note) (FCPIA). Civil penalty amounts are subject to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Pub. L. 114-74, 129 Stat. 599, 28 U.S.C. 2461 note) (the FCPIA Act), as well as FCPIA. The FCPIA Act requires each Federal agency with statutory authority to assess CMPs and adjust them annually for inflation according to a formula described in section 5 of the FCPIA Act.

Subpart A of the Regulations clarifies the relation of this part to other laws and regulations, describes penalty information that is released to the general public, and sets forth a Paperwork Reduction Act notice.

Subpart B of the Regulations contains the definition of two terms used throughout the Regulations and refers to other parts of 31 CFR chapter V for additional definitions.

Subpart D of the Regulations describes the IEEPA civil penalty process, from the issuance of a pre-penalty notice to a final agency action. IEEPA provides for civil monetary penalties (CMP) of up to the greater of \$377,700 or twice the value of a transaction. Subpart E of the Regulations provides information on UNPA penalties.

In determining civil penalties, OFAC considers the facts and circumstances surrounding an apparent violation, including whether any of the following are present: willful or reckless violation of law, awareness of conduct at issue, or harm to sanctions program objectives. Base penalties are halved in cases for which OFAC learns of the violation through a voluntary self-disclosure to OFAC. Both IEEPA and UNPA include criminal penalties; OFAC may refer apparent sanctions violations to appropriate law enforcement agencies for criminal investigation and/or prosecution. Apparent sanctions violations that OFAC has referred for criminal investigation and/or prosecution may nevertheless be subject to OFAC civil penalty or other administrative action.

In addition to IEEPA penalties, OFAC also may levy civil penalties for sanctions violations pursuant to additional statutes. Penalties for certain additional statutes can be found in the following sections of the CFR: (a) the Trading with the Enemy Act (50 U.S.C. 4301-4341, at 4315), penalties at 31 CFR 501.700 through 501.747; (b) section 2339B of the Antiterrorism and Effective