

## § 555.79

601.521 through 601.527. The regional director (compliance) shall be represented in proceedings under §§ 555.73 and 555.75 by an attorney in the office of the chief counsel or regional counsel who is authorized to execute and file motions, briefs, and other papers in the proceedings, on behalf of the regional director (compliance), in his own name as "Attorney for the Government".

[T.D. ATF-87, 46 FR 40384, Aug. 7, 1981, as amended by T.D. ATF-92, 46 FR 46916, Sept. 23, 1981]

### **§ 555.79 Appeal on petition to the Director.**

An appeal to the Director is not required prior to filing an appeal with the U.S. Court of Appeals for judicial review. An appeal may be taken by the applicant, licensee, or permittee to the Director from a decision resulting from a hearing under § 555.73 or § 555.75. An appeal may also be taken by a regional director (compliance) from a decision resulting from a hearing under § 555.75 as provided in § 555.76(b). The appeal shall be taken by filing a petition for review on appeal with the Director within 15 days of the service of an administrative law judge's decision or an order. The petition will set forth facts tending to show (a) action of an arbitrary nature, (b) action without reasonable warrant in fact, or (c) action contrary to law and regulations. A copy of the petition will be filed with the regional director (compliance) or served on the applicant, licensee, or permittee, as the case may be. In the event of appeal, the regional director (compliance) shall immediately forward the complete original record, by certified mail, to the Director for his consideration, review, and disposition as provided in subpart I of part 71 of this chapter. When, on appeal, the Director affirms the initial decision of the regional director (compliance) or the administrative law judge, as the case may be, the initial decision will be final.

### **§ 555.80 Court review.**

An applicant, licensee, or permittee may, within 60 days after receipt of the decision of the administrative law judge or the final order of the regional director (compliance) or the Director,

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file a petition for a judicial review of the decision, with the U.S. Court of Appeals for the district in which he resides or has his principal place of business. The Director, upon notification that a petition has been filed, shall have prepared a complete transcript of the record of the proceedings. The regional director (compliance) or the Director, as the case may be, shall certify to the correctness of the transcript of the record, forward one copy to the attorney for the Government in the review of the case, and file the original record of the proceedings with the original certificate in the U.S. Court of Appeals.

### **§ 555.81 Service on applicant, licensee, or permittee.**

All notices and other formal documents required to be served on an applicant, licensee, or permittee under this subpart will be served by certified mail or by personal delivery. Where service is by personal delivery, the signed duplicate original copy of the formal document will be delivered to the applicant, licensee, or permittee, or, in the case of a corporation, partnership, or association, by delivering it to an officer, manager, or general agent, or to its attorney of record.

### **§ 555.82 Provisions of part 200 made applicable.**

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

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

In any case where a notice of revocation has been issued and a request for a stay of the effective date of the revocation has not been granted, the licensee

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

### Subpart F—Conduct of Business or Operations

#### § 555.101 Posting of license or user permit.

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

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

#### § 555.102 Authorized operations by permittees.

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

(b) *Distributions of surplus stocks*—(1) *Distributions of surplus stocks prior to May 24, 2003*. Permittees are not authorized to engage in the business of sale or distribution of explosive mate-

rials. However, permittees may dispose of surplus stocks of explosive materials to other licensees or permittees in accordance with § 555.103, and to non-licensees or to nonpermittees in accordance with § 555.105(a)(4).

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

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

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

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

(i) A licensed importer, licensed manufacturer or licensed dealer selling or otherwise distributing explosive materials (or a permittee disposing of surplus stock to a licensee or another permittee) who has the certified information required by this section may sell or distribute explosive materials to a licensee or permittee for not more than 45 days following the expiration date of the distributee's license or permit, unless the distributor knows or has reason to believe that the distributee's authority to continue business or operations under this part has been terminated.

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

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

(iv) Where possession of explosive materials is transferred at the distributor's premises, the distributor must in all instances verify the identity of the