

DEPARTMENT OF THE TREASURY**Bureau of Alcohol, Tobacco and Firearms****27 CFR Part 55**

[Notice No. 956; Ref: Notice No. 906]

RIN 1512-AC25

Identification Markings Placed on Imported Explosive Materials and Miscellaneous Amendments (2000R-238P)

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is proposing to amend its regulations to require licensed importers to identify by marking all imported explosive materials. ATF believes that the proposed marking requirements will help ensure that imported explosive materials can be effectively traced for criminal enforcement purposes. We are also proposing to incorporate into the regulations the provisions of ATF Ruling 75-35, relating to methods of marking containers of explosive materials. In addition, we are proposing to amend the regulations to remove the requirement that a licensee or permittee file for an amended license or permit in order to change the class of explosive materials described in their license or permit from a lower to a higher classification.

DATES: ATF must receive all comments on or before January 14, 2003.

ADDRESSES: Send written comments to: Chief, Regulations Division; Bureau of Alcohol, Tobacco and Firearms; P.O. Box 50221; Washington, DC 20091-0221; *Attn: Notice No. 956*. Written comments must be signed and may be of any length.

E-mail comments may be of any length and should be submitted to: nprm@atfhq.atf.treas.gov. E-mail comments must contain your name, mailing address, and e-mail address. They must also reference this notice number and be legible when printed on paper that is 8½" × 11" in size. We will treat e-mail as originals and we will not acknowledge receipt of e-mail. See the "Public Participation" section at the end of this notice for requirements for submitting written comments by facsimile.

FOR FURTHER INFORMATION CONTACT:

James P. Ficaretta, Regulations Division, Bureau of Alcohol, Tobacco and

Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202-927-8210).

SUPPLEMENTARY INFORMATION:**I. Background**

The Bureau of Alcohol, Tobacco and Firearms (ATF) is responsible for implementing Title XI, Regulation of Explosives (18 United States Code (U.S.C.) chapter 40), of the Organized Crime Control Act of 1970. One of the stated purposes of the Act is to reduce the hazards to persons and property arising from the misuse of explosive materials. Under section 847 of title 18, U.S.C., the Secretary of the Treasury "may prescribe such rules and regulations as he deems reasonably necessary to carry out the provisions of this chapter." Regulations that implement the provisions of chapter 40 are contained in title 27, Code of Federal Regulations (CFR), part 55 ("Commerce in Explosives").

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

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

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

administration of part 55. Section 55.109(b) also provides that the Director may authorize the use of other means of identification on fireworks instead of the required markings specified above.

The current regulations, however, do not require the marking of imported explosive materials.

A. Petition—Institute of Makers of Explosives

The Institute of Makers of Explosives (IME) filed a petition with ATF, dated March 7, 2000, requesting an amendment of the regulations to require licensed importers to place the same identification marks on imported explosive materials that are currently required for explosive materials manufactured in the United States. As stated in the petition, IME is the safety association of the commercial explosives industry. Its mission is to promote safety and the protection of employees, users, the public and the environment, and to encourage the adoption of uniform rules and regulations in the manufacture, transportation, storage, handling, use, and disposal of explosive materials used in blasting and other operations.

According to the petitioner, commerce in explosives is a global enterprise and it expects the quantity of imported explosives to increase over time. For example, the petitioner stated that between 1994 and 1997, imports of high explosives increased 14-fold to account for approximately 17 percent of all high explosives used annually in the United States. IME further stated that while unmarked high explosives may have entered the United States over the years, it was not until 1999 that the association became aware of significant quantities of unmarked cast boosters being imported into the country. IME contended that, by the end of 1999, about two million unmarked units had been distributed in the United States. The petitioner further stated that many more thousands of tons of these high explosives are expected to be imported into the United States in the near future.

Without a change in the regulations, IME is concerned that these explosives will enter into the commerce of the U.S. without marks of identification, posing significant safety and security risks to the public. Although IME informed ATF that many of its member companies importing explosives into the U.S. mark their imported explosive materials in an effort to ensure the traceability and accountability of the materials, it believes that all imported explosive materials should be appropriately identified. Therefore, it petitioned ATF

to amend the Federal explosives regulations.

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

B. Discussion

In an effort to protect the public from the misuse of explosive materials, ATF generally requires domestic explosives manufacturers to mark all explosive materials with specific information, including the name of manufacturer, and the location, date, and shift of manufacture. Generally, licensees and permittees must record the manufacturer's marks of identification on all explosives they receive. These requirements help ensure that explosive materials can be effectively traced for criminal enforcement purposes through the records kept by licensees and permittees. This process often provides valuable information in explosion and bombing investigations and is useful for inspection purposes in verifying inventory and proper business practices. However, as noted, the current regulations do not require that imported explosive materials be marked.

C. Advance Notice of Proposed Rulemaking

Based on IME's petition, ATF published in the **Federal Register** on November 13, 2000, an advance notice of proposed rulemaking requesting information and comments from interested persons on the desirability and feasibility of marking imported explosive materials (Notice No. 906, 65 FR 67669). Although we solicited specific comments on the following questions, we also requested any relevant information on the subject.

1. Should explosive materials imported into the United States contain identification markings?

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

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

4. What information should appear on imported explosive materials? ATF

believes that the name and address of the importer, the name of the country in which the explosive materials were manufactured, and the date that the explosive materials were manufactured would be sufficient.

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

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

7. Of those importers that would be affected by such a requirement, how many would be considered a "small business concern" as provided in the Small Business Act (15 U.S.C. 631, *et seq.*)?

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

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

The comment period for Notice No. 906 closed on January 12, 2001.

D. Notice No. 906—Analysis of Comments

In response to Notice No. 906, ATF received three comments. Two commenters argued that licensed importers should place the same or similar identification marks on imported explosive materials that are currently required for explosive materials manufactured in the United States. One of these commenters expressed his opinion that "explosive items imported into the United States should have identification markings. Where there is no marking, there is no ability to trace the item." The other commenter, the International Association of Bomb Technicians and Investigators, representing over 4,500 members, stated the following:

Identification markings placed on explosive materials serve to protect the public from the misuse of such materials and assist in effective tracking and inventory control for their lawful users. Moreover, these identification markings serve to facilitate bombing investigations leading to the apprehension of persons involved in the misuse of explosive materials.

As imported explosive materials may be subject to misuse, it makes sense to insure that they possess essentially similar

identification markings to those currently required for domestic manufactured explosive materials.

The petitioner, IME, submitted the third comment. IME reiterated its position that imported high explosives and blasting agents should contain the same identification markings prescribed in the regulations for domestically manufactured explosives.

IME also included an attachment as part of its comment that provided responses to the questions posed by ATF in the advance notice. In response to ATF's inquiry as to whether all imported explosives should be marked or if there should be an exception for certain classes of explosives, *e.g.*, low explosives, IME stated that it had no position on explosive materials other than high explosives and blasting agents. Regarding what identification marks, if any, are currently being placed on imported explosives, IME stated that nearly all explosive materials imported by its member companies have markings similar to those prescribed in the regulations for domestically manufactured explosives. It then provided examples of the import marking policies of IME member companies. In one instance, an IME member company imports shaped charges that are marked on the outer package by the manufacturer with the following information:

1. Manufacturer's name, address, and phone number;
2. Date of manufacture;
3. Product name and part number;
4. Transportation classification approval numbers;
5. Gross weight, net weight, and explosive weight;
6. Proper Shipping Name and UN ID#; and
7. Importer's name and address (as consignee).

Inside the package, the foreign manufacturer places a label (loosely, not attached to the inner packaging) that states all of the above mentioned information, except for items one and seven.

In another example, an IME member company requires sister companies to mark explosives with a date, plant, and shift code before importation into the United States. The explosives are also marked with the trade name and size. The outer packaging is marked with the country of manufacture and the manufacturer's name. This full-line company requires imported explosives from other manufacturers to be marked with the trade name, lot number or date, and product identification. In a third instance, an IME member company

imports a very small amount of explosives that are already marked in accordance with United States requirements.

As stated in the advance notice, ATF believes that the name and address of the importer, the name of the country in which the explosive materials were manufactured, and the date that the explosive materials were manufactured would be sufficient. In response to our question regarding what information should appear on imported explosives, IME stated that the same information required on domestically manufactured high explosives and blasting agents (identity of the manufacturer, and location, date, and shift of manufacture) should appear on imported high explosives and blasting agents. The commenter further stated that it did not see any benefit in requiring the importer's name and address and argued that this creates inconsistent and additional requirements for importers. IME also explained that identifying the manufacturer of explosives is routine while placing the importer's name and address on the products is not and could be prohibitive. In addition, IME contends that one of the benefits of the current required markings is manufacturer accountability in the use of explosive materials.

IME believes that imported high explosives and blasting agents should be marked with the shift of manufacture for the following reasons:

The shift of manufacture markings divide lot sizes of a particular high explosive or blasting agent into quantities that make two major benefits of marking possible. These benefits are traceability for evidentiary and technical purposes. Modern explosives plants are capable of producing millions of pounds of explosives per day. Huge lot sizes of one particular high explosive or blasting agent makes (1) too many people part of the custody chain and may dilute the effectiveness of evidence, and (2) makes it impossible to trace a quality control problem to a specific manufacturing process for corrective action.

Another commenter also recommended that imported explosives be marked with a date/shift code.

IME believes that the current exceptions to the marking requirements provided in the regulations for domestically manufactured explosives should apply to imported explosives as well.

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

explosive materials. In its comment, IME stated that it would be cost prohibitive for U.S. importers to actually place the required marks on high explosives and blasting agents. IME also stated that it is not aware of any U.S. importers that mark individual units of high explosives and blasting agents at any time other than the point of manufacture. Furthermore, the commenter noted that it is "much less safe to mark at any time other than the point of manufacture and * * * importers may not know required information such as the shift of manufacture."

ATF asked how many importers would be affected by a requirement to place identification markings on foreign explosive materials and, of those importers that would be affected by such a requirement, how many would be considered a "small business concern" as provided in the Small Business Act. IME responded that an IME member that imports explosives and is a small business would not be affected by a requirement to place identification markings on foreign explosives because the company specifies that the product must be marked in accordance with ATF regulations prior to importation into the United States.

In response to ATF's inquiry regarding cost burdens that would be imposed on importers for purchasing or leasing equipment for marking foreign explosives, IME stated that it does not expect any importers of commercial high explosives or blasting agents to purchase or lease equipment to mark foreign explosives. Rather, the commenter recommended "that the markings be placed on the products by the foreign manufacturer during the manufacturing process." In that regard, ATF also asked in the advance notice what would be the cost for importers to contract with a foreign manufacturer to place the required marks on explosive materials on behalf of the importer. IME responded that it does not collect or identify data that relates to price information such as the cost of bringing a product to market. Following its initial comment, IME submitted estimated cost information both for equipment and for marking imported explosives. IME explained, however, that marks of identification ordinarily are applied at the time of manufacture. As a result, U.S. importers likely would structure contracts with foreign manufacturers to effect the marking at the time of manufacture resulting in reduced costs for U.S. importers. As such, this cost burden would not significantly affect or

cause an undue burden to small businesses.

II. Proposed Amendments

A. Amendments to Section 55.109

In an effort to protect the public from the misuse of explosive materials, to more easily identify explosive materials, and to successfully trace misused explosive materials or explosive materials used in crimes, ATF believes that all explosive materials should contain marks of identification. As mentioned in the advance notice, explosive materials that contain identification marks can be tracked through the records kept by licensees and permittees. This process often provides valuable information in investigations involving bombings and explosions and is useful for inspection purposes in verifying inventory and proper business practices.

ATF recognizes that the importation of explosive materials and the use of imported explosives by explosive users and industry members are becoming increasingly more common. ATF shares IME's concern that these explosives are entering into the commerce of the U.S. without marks of identification, posing significant safety and security risks to the public. As such, ATF believes that all explosive materials imported into the United States, including low explosives, should contain identification marks similar to those required for domestically manufactured explosives.

Accordingly, we are proposing to amend section 55.109 to provide that licensed importers and permittees must identify by marking all explosive materials they import for sale or distribution, or import for their own use. The required marks must be legible and in the English language, using Roman letters and Arabic numerals. The marks must identify the importer's or permittee's name and address, the location (city and country) where the explosive materials were manufactured, as well as the date and shift of manufacture. ATF believes that the commenters presented valid arguments in support of requiring the date and shift of manufacture for imported explosive materials. ATF is not proposing to require the name of the foreign manufacturer on imported explosives as requested by IME. Rather, we believe that the identity of the importer is necessary to help ensure that explosive materials can be effectively traced for criminal enforcement purposes. Furthermore, ATF does not have regulatory oversight over foreign manufacturers, particularly with respect to their recordkeeping practices.

As noted earlier, licensees and permittees must record the manufacturer's marks of identification on all explosives they receive. This requirement helps ensure that explosive materials can be effectively traced for criminal enforcement purposes. This process is also useful for ATF inspection purposes in verifying inventory and proper conduct of business practices.

As proposed, the required marks must be placed on each cartridge, bag, or other immediate container of explosive materials that are imported, as well as on any outside container used for their packaging. This is consistent with current requirements for domestically manufactured explosives. The proposed regulations also provide that the required marks of identification must be placed on imported explosive materials within 24 hours of release from Customs custody.

In addition, under the proposed regulations, the exceptions to the marking requirements currently specified in the regulations will apply to imported explosive materials as well.

ATF is also proposing other amendments to section 55.109. We are clarifying that licensed manufacturers must place the required marks of identification on the explosive materials at the time of manufacture. We are also proposing to incorporate into the regulations the provisions of ATF Ruling 75–35 (1975-ATF C.B. 65). This ruling authorizes any method, or combination of methods, for affixing the required marks to the immediate container of explosive materials, or outside containers used for the packaging thereof, provided the identifying marks are legible, show all the required information, and are not rendered unreadable by extended periods of storage. The ruling also provides that where it is desired to utilize a coding system and omit printed markings on the containers, a letterhead application displaying the coding to be used and the manner of its application must be filed by the licensed manufacturer with, and approved by, the Director prior to the use of the proposed coding. Finally, the ruling provides that where a manufacturer operates his/her plant for only one shift during the day, the shift of manufacture need not be shown. Upon the effective date of a final rule in this matter, ATF Ruling 75–35 will be declared obsolete.

B. Miscellaneous—Amendment of Sections 55.55 and 55.41

Section 55.55 provides that a licensee or permittee who intends to change the class of explosive materials described in

his or her license from a lower to a higher classification (e.g., black powder to dynamite) must file an application on ATF Form 5400.13/ATF Form 5400.16 (Application for License or Permit) with the ATF National Licensing Center. If the change in class of explosive materials would require a change in magazines, the amended application must include a description of the type of construction as prescribed in part 55. Business or operations with respect to the new class of explosive materials may not be commenced before issuance of the amended license or amended permit. Finally, upon receipt of the amended license or amended permit, the licensee or permittee must submit his or her superseded license or superseded permit and any copies furnished with the license or permit to the ATF National Licensing Center.

ATF personnel have frequently encountered instances where the class of explosives listed on a particular explosives license is inconsistent with the type of explosive materials involved in a particular business' operations. The license classification system contained in section 55.55 has also caused confusion throughout the explosives industry as it is related to classification of explosive materials distributed, imported, or used, and the class of explosives authorized by the license or permit.

Accordingly, ATF is proposing to remove section 55.55. ATF believes that removing this section will provide more flexibility to the explosives industry in terms of the classes of explosive materials involved in their businesses, while not reducing the requirement to store explosive materials in accordance with the regulations contained in subpart K. Technical amendments are being made with respect to section 55.41 in order to be consistent with the proposed amendment of section 55.55.

III. How This Document Complies With the Federal Administrative Requirements for Rulemaking

A. Executive Order 12866

We have determined that this proposed regulation is not a significant regulatory action as defined by Executive Order 12866. Therefore, a Regulatory Assessment is not required.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on

a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. We hereby certify that this proposed regulation, if adopted, will not have a significant economic impact on a substantial number of small entities. As noted in IME's comment, U.S. importers that are considered small businesses should not be significantly affected by the proposed regulations because the foreign-manufactured explosives they import will already be marked in accordance with the provisions of section 55.109. Accordingly, a regulatory flexibility analysis is not required. We specifically request comments on whether small importers expect foreign explosives manufacturers to mark their explosives consistent with this proposed rule even though they are not legally subject to its requirements.

C. Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collections of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Bureau of Alcohol, Tobacco and Firearms, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Chief, Document Services Branch, Room 3110, Bureau of Alcohol, Tobacco and Firearms, at the address previously specified. Comments are specifically requested concerning:

(a) Whether the proposed collections of information are necessary for the proper performance of the functions of the Bureau of Alcohol, Tobacco and Firearms, including whether the information will have practical utility;

(b) The accuracy of the estimated burden associated with the proposed collections of information (see below);

(c) How the quality, utility, and clarity of the information to be collected may be enhanced; and

(d) How the burden of complying with the proposed collections of information may be minimized, including through the application of automated collection techniques or other forms of information technology.

The collections of information in this proposed regulation are in 27 CFR 55.109(a)(2). This information is required to properly identify imported explosive materials. The collections of information are mandatory. The likely respondents are businesses.

- *Estimated total annual reporting and/or recordkeeping burden:* 45 hours.
- *Estimated average burden hours per respondent and/or recordkeeper:* 1 hour.
- *Estimated number of respondents and/or recordkeepers:* 15.
- *Estimated annual frequency of responses:* 3.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

IV. Public Participation

We are requesting comments on the proposed regulations from all interested persons. In addition, we are specifically requesting comments on the clarity of this proposed rule and how it may be made easier to understand.

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

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

A. Submitting Comments by Fax

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

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

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

B. Request for Hearing

Any interested person who desires an opportunity to comment orally at a public hearing should submit his or her request, in writing, to the Director within the 90-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing is necessary.

C. Disclosure

Copies of the petition, the advance notice, the comments received in response to the advance notice and the comments received in response to this

notice of proposed rulemaking will be available for public inspection by appointment during normal business hours at: ATF Reference Library, Room 6480, 650 Massachusetts Avenue, NW., Washington, DC; telephone 202-927-7890.

For your convenience, ATF will post comments received in response to this notice on the ATF web site. All comments posted on our web site will show the name of the commenter, but will have street addresses, telephone numbers, and e-mail addresses removed. We may also omit voluminous attachments or material that we do not consider suitable for posting. In all cases, the full comments will be available in the library as noted above, or you may request copies of the full comments by writing to the ATF Reference Librarian at the address shown above. To access online copies of the comments on this rulemaking, visit <http://www.atf.treas.gov/>, and select "Regulations," then "Notices of proposed rulemaking (Firearms, Explosives and Others)" and this notice number. Click on the "View comments" link.

D. Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in the **Federal Register** in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

E. Drafting Information

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

List of Subjects in 27 CFR Part 55

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

Authority and Issuance

For the reasons discussed in the preamble, ATF proposes to amend 27 CFR part 55 as follows:

PART 55—COMMERCE IN EXPLOSIVES

1. The authority citation for 27 CFR part 55 continues to read as follows:

Authority: 18 U.S.C. 847.

§ 55.41 [Amended]

2. Section 55.41(c) is amended by removing "of the class authorized by this permit" at the end of the second sentence.

Subpart D—[Amended]

3. Subpart D is amended by removing section 55.55.

4. Section 55.109 is revised to read as follows:

§ 55.109 Identification of explosive materials.

(a) *General.* Explosive materials, whether manufactured in the United States or imported, must contain certain marks of identification.

(b) *Required marks.* (1) *Licensed manufacturers.* Licensed manufacturers who manufacture explosive materials for sale, distribution, or their own use must place the following marks of identification on explosive materials at the time of manufacture:

- (i) The name of the manufacturer; and
- (ii) The location, date, and shift of manufacture. Where a manufacturer operates his plant for only one shift during the day, he does not need to show the shift of manufacture.

(2) *Licensed importers and permittees.* (i) Licensed importers who import explosive materials for sale or distribution or their own use and permittees who import explosive materials for their own use must place the following marks of identification on the explosive materials they import:

(A) The name and address (city and state) of the importer or permittee; and

(B) The location (city and country) where the explosive materials were manufactured, date, and shift of manufacture. Where the foreign manufacturer operates his plant for only one shift during the day, he does not need to show the shift of manufacture.

(ii) The required marks for imported explosive materials must be in the English language, using Roman letters and Arabic numerals.

(iii) Within 24 hours of the date of release from Customs custody, licensed importers and permittees must place the required marks on all explosive materials imported, if such explosive materials did not bear the required marks at the time of their release from Customs custody.

(c) *General requirements.* (1) The required marks prescribed in this section must be legible.

(2) Licensed manufacturers, licensed importers, and permittees importing explosive materials must place the required marks on each cartridge, bag, or other immediate container of explosive materials that they manufacture or import, as well as on any outside container used for the packaging of such explosive materials.

(3) Licensed manufacturers, licensed importers, and permittees importing explosive materials may use any method, or combination of methods, to affix the required marks to the immediate container of explosive materials, or outside containers used for the packaging thereof, provided the identifying marks are legible, show all the required information, and are not rendered unreadable by extended periods of storage.

(4) If licensed manufacturers, licensed importers or permittees importing explosive materials desire to use a coding system and omit printed markings on the container, they must file with ATF a letterhead application displaying the coding that they plan to use and explaining the manner of its application. The Director must approve the application before the proposed coding can be used.

(d) *Exceptions.* (1) *Blasting caps.* Licensed manufacturers, licensed importers, or permittees importing blasting caps, are only required to place the identification marks prescribed in this section on the containers used for the packaging of blasting caps.

(2) *Alternate means of identification.* The Director may authorize other means of identifying explosive materials, including fireworks, upon receipt of a letter application from the licensed manufacturer, licensed importer, or permittee, showing that such other identification is reasonable and will not hinder the effective administration of this part.

Signed: August 14, 2002.

Bradley A. Buckles,
Director.

Approved: September 16, 2002.

Timothy E. Skud,
Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 02-26253 Filed 10-15-02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122 and 450

[FRL-7394-2]

RIN 2040-AD42

Effluent Limitation Guidelines and New Source Performance Standards for the Construction and Development Category; Proposed Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period and addition to docket.

SUMMARY: EPA is extending the comment period for the proposed rule and adding two documents to the rulemaking docket.

DATES: Comments on the proposed rule will be accepted through December 23, 2002.

ADDRESSES: Submit written comments to Comment Clerk, Water Docket (4101T), U.S. EPA, 1200 Pennsylvania Ave., NW, Washington, DC 20460. Please refer to Docket No. W-02-06. EPA requests an original and three copies of your comments and enclosures (including references). Commenters who want EPA to acknowledge receipt of their comments should enclose a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted. For hand deliveries or e-mail comments, see the **SUPPLEMENTARY INFORMATION** paragraph below.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Strassler at (202) 566-1026.

SUPPLEMENTARY INFORMATION: On June 24, 2002 (67 FR 42644), EPA proposed effluent guidelines and standards for storm water discharges from construction sites. The original comment deadline was October 22, 2002. EPA received requests to extend the comment period and the Agency has decided to do so due to the complexity of the issues involved with the proposed rule and its implementation. The comment period will now end on December 23, 2002.

EPA identified two documents which it considered during the development of the proposed rule but inadvertently omitted from the rulemaking docket. These documents are now available for public review.

1. National Association of Home Builders, "Erosion and Sediment Control Best Management Practices Research Project." Washington, DC, 2000.

2. EPA, "Final Report of the SBREFA Small Business Advocacy Review Panel

on EPA's Planned Proposed Rule for Effluent Limitation Guidelines and Standards for the Construction and Development Industry." October 12, 2001.

EPA established the public record for the proposed rule under docket number W-02-06. The record is available for inspection at the EPA Docket Public Reading Room, EPA West Building, Room B102, 1301 Constitution Avenue, NW, Washington, DC 20004. Please call the Water Docket office at (202) 566-2426 to schedule an appointment. Please bring any hand-delivered comments to the Public Reading Room address.

Comments may also be sent via e-mail to ow-docket@epa.gov. Electronic comments must be identified by the docket number W-02-06 and must be submitted as a WordPerfect, MS Word or ASCII text file, avoiding the use of special characters and any form of encryption. EPA requests that any graphics included in electronic comments also be provided in hard-copy form. EPA also will accept comments and data on disks in the aforementioned file formats. Electronic comments received on this document may be filed online at many Federal Depository Libraries. No confidential business information (CBI) should be sent by e-mail.

Additional information on the proposed rule is available on EPA's Web site at <http://www.epa.gov/waterscience/guide/construction/>.

Dated: October 9, 2002.

G. Tracy Mehan III,

Assistant Administrator for Water.

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-B-7430]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed Base (1% annual chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that the community is required either to adopt