

on or after the date these regulations are published as final regulations in the **Federal Register**.

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Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 01-28670 Filed 11-14-01; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 55

[Notice No. 933]

RIN 1512-AB73

Implementation of Public Law 104-208, the Omnibus Consolidated Appropriations Act of 1997, Relating to a National Repository for Arson and Explosives Information (98R-266P)

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

ACTION: Notice of proposed rulemaking.

SUMMARY: We are proposing to amend the regulations to implement the provision of Public Law 104-208, the Omnibus Consolidated Appropriations Act of 1997, relating to a national repository for information on explosives incidents and arson. The proposed regulations implement the law by requiring all Federal agencies having information concerning incidents involving arson and the suspected criminal misuse of explosives to report such information to ATF.

DATES: Comments must be received on or before February 13, 2002.

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. 933*. Written comments must be signed, and may be of any length.

E-mail comments may 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 not more than three pages 8½" x 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:

Background

On September 30, 1996, Public Law 104-208 (110 Stat. 3009), the Omnibus Consolidated Appropriations Act of 1997 (hereafter, "the Act"), was enacted. The Act amended the Federal explosives laws in Title 18, United States Code (U.S.C.), Chapter 40. As amended, section 846(b) authorizes the Secretary of the Treasury to establish a national repository of information on incidents involving arson and the suspected criminal misuse of explosives. This section also requires all Federal agencies having information concerning such incidents to report the information to the Secretary. This includes information regarding arson and explosives incidents investigated by a Federal agency, as well as information on such incidents reported to a Federal agency by other sources (e.g., a State or local agency) and criminal dispositions, if any. In addition, the law provides that such repository will contain information on incidents voluntarily reported to the Secretary by State and local authorities.

The National Repository

The Secretary tasked ATF with establishing and maintaining the national repository of information concerning arson and explosives incidents. The information that we collect will be available for statistical analysis and research, investigative leads, and intelligence. We recognize that partnerships with other agencies are vital to the success of the national repository. The principal Federal partners in the data collection effort are ATF, the Federal Bureau of Investigation (FBI), and the United States Fire Administration (USFA).

The national repository of information will be available in a database designed and implemented with input from Federal, State, and local fire service and law enforcement authorities. The database will include some 80,000 incidents, dating back over 25 years, from ATF's Explosives Incidents System (EXIS), now known as the Arson and Explosives Incidents System (AEXIS). The database also will incorporate information from a variety of law enforcement and fire service sources. Finally, a public Internet site will provide aggregate statistical summaries of data collected from Federal and State agencies.

Currently, the ATF National Repository Branch is working on

integrating data from all contributing sources to establish the most accurate and complete arson and explosives informational data. It will provide statistical information to the public and it will establish a secure web site that will provide selected investigative information to authorized user groups. The national repository's secure site will be a law enforcement and fire service intelligence database designed to aid investigators in identifying trends and similarities between arson and explosives incidents. The repository will help authorized investigators identify suspects, case-specific similarities regarding explosive and incendiary device construction, methods of initiation, types of fuels/explosives used, and methods of operation. The system will also be capable of linking thefts of explosive materials with the later criminal misuse of the explosives. Through partnership with other Federal, State, and local law enforcement and fire service agencies, the system will also help identify persons who commit crimes of violence using arson and explosives, and assist in tracking dispositions of arson and explosive criminal cases. The system will link investigators who may be investigating similar incidents and will rely on communication between investigators to disseminate case-specific information on a case-by-case basis. We have also established a toll free telephone number (1-800-461-8841) to provide a method for direct exchange of information between authorized users and our National Repository Intelligence Research Specialists who have detailed knowledge of the system's capabilities.

To facilitate the development of the national repository, we have established the Arson and Explosives National Repository Branch (AENRB) within the Arson and Explosives Programs Division at our headquarters in Washington, DC. The Branch is available to assist other Federal, State, and local law enforcement and fire service investigators with arson and explosives investigations. The Branch is staffed with ATF special agents, intelligence research specialists, and support personnel who are all experienced in arson and explosives related investigations.

Proposed Regulations

The proposed regulations require all agencies having information concerning incidents involving arson and the suspected criminal misuse of explosives, from whatever source received, to report such information to ATF. The term "agency" is defined in

the proposed regulations as each of the executive agencies and military departments (as defined in 5 U.S.C. 105 and 102, respectively) and the United States Postal Service. The term "incident" is defined as an event or occurrence, other than accidental, resulting in the response of an emergency service, fire service, or law enforcement agency which results in the recording of certain action(s) or reportable event(s) in an official report. The term "arson" is defined as the crime of maliciously damaging or destroying, or attempting to damage or destroy, by means of fire or an explosive, any building, vehicle, or other real or personal property used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce. The term "suspected criminal misuse" is defined as any activity triggering an official report of an explosives incident. The term "explosives" has the same meaning as that defined in the law (18 U.S.C. 232(5), 841(d), and 844(j)) and regulations (27 CFR 55.11 and 55.23).

Under the proposed regulations, agencies will report certain minimal information to ATF, in the format mutually agreed upon by the agency and ATF. In order to arrange a method to submit the data, agencies should contact the AENRB at the toll free number mentioned above. The minimal information reported to ATF includes:

1. General information about the arson or explosive incident (e.g., incident/case number, agency name, date);
2. Basic information about the arson or explosive incident (e.g., location of the incident, date and time of the incident, type of incident);
3. A complete list of all stolen explosives;
4. A complete list of all recovered explosives;
5. Estimated property value and loss;
6. Casualties (e.g., fire service, law enforcement, civilian);
7. Any narrative summary regarding an arson or explosive incident and information on all device components. The term "device component(s)" is defined in the proposed regulations as items or materials used to assemble or to construct any type of an improvised explosive or incendiary device, such as containers, explosives, fuels, propellants, and materials used to cause the device to function or to cause the fire to occur;
8. Suspect(s) or arrested or convicted person(s) full name and identifiers (e.g., date of birth, race, nationality, sex, social security number, law enforcement identifying number); and

9. Disposition of the case (i.e., court and date of conviction, statutory provisions violated, and the length of sentence imposed, if any), if available.

10. Information, if any, to assist in evaluating similarities with other arson and explosives incidents, such as features specific to the incident that are unique, highly distinctive, or sufficiently idiosyncratic to merit inclusion.

The proposed rule requires that agencies will report arson and explosives incidents to ATF at least quarterly (i.e., January–March; April–June; July–September; October–December), no later than 15 days after the quarter ends, but may report any incident as soon as it happens.

State and local authorities having information on incidents involving arson and the suspected criminal misuse of explosives may report the information voluntarily to ATF and should contact the AENRB at the toll free number mentioned above in order to arrange a method to submit the data.

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) generally 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 because it only requires Federal agencies to report information on arson and explosives incidents to the Secretary. State and local authorities voluntarily may report such information to ATF. Accordingly, a regulatory flexibility analysis is not required.

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 Department of the Treasury, 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, 650 Massachusetts Avenue, NW, Washington, DC 20226. Comments are specifically requested concerning:

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

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

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

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 55.233, 55.234, 55.235, and 55.236. This information is required to implement the provisions of Public Law 104–208, the Omnibus Consolidated Appropriations Act of 1997, relating to a national repository for arson and explosives information. The likely respondents are State or local governments.

Estimated total annual reporting and/or recordkeeping burden: 67 hours.

Estimated average annual burden hours per respondent and/or recordkeeper: .67 hours (40 minutes).

Estimated number of respondents and/or recordkeepers: 100. This represents only those State and local authorities reporting information concerning arson and explosives incidents directly to ATF.

Estimated annual frequency of responses: 4.

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.

Public Participation

We are requesting comments on the proposed regulations from all interested persons. We are also 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.

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 three pages long.

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

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.

Disclosure

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

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.

Drafting Information

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

List of Subjects in 27 CFR Part 55

Administrative practice and procedure, Arson, 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

Paragraph 1. The authority citation for 27 CFR Part 55 is revised to read as follows:

Authority: 18 U.S.C. 846, 847.

Par. 2. Section 55.1 is amended by revising paragraph (a), by removing the word "and" at the end of paragraph (b)(8), by removing the period at the end of paragraph (b)(9) and adding in its place "; and", and by adding new paragraph (b)(10) to read as follows:

§ 55.1 Scope of regulations.

(a) *In general.* The regulations contained in this part relate to commerce in explosives and implement Title XI, Regulation of Explosives (18 U.S.C. Chapter 40; 84 Stat. 952), of the Organized Crime Control Act of 1970 (84 Stat. 922), Public Law 103-322 (108 Stat. 1796), Public Law 104-132 (110 Stat. 1214), and Public Law 104-208, (110 Stat. 3009).

(b) * * *

(10) The arson and explosives national repository.

Par. 3. Part 55 is amended by adding a new Subpart L immediately following § 55.224 to read as follows:

Subpart L—Arson and Explosives National Repository

Sec.

55.231 What is the arson and explosives national repository?

55.232 What do the terms mean that are used in this subpart?

55.233 Who must report information on arson and explosives incidents to ATF?

55.234 What is the minimal information that must be reported to ATF?

55.235 How will an agency report arson and explosives incident information to ATF?

55.236 How often will an agency report arson and explosives incident information to ATF?

§ 55.231 What is the arson and explosives national repository?

Under section 846(b) of the Act, the Secretary of the Treasury is authorized to establish a national repository, or storehouse, of information on incidents involving arson and the suspected

criminal misuse of explosives. The Secretary tasked ATF with establishing the repository and maintaining it.

§ 55.232 What do the terms mean that are used in this subpart?

For purposes of this subpart, the terms "agency," "arson," "device component(s)," "explosive(s)," "incident," and "suspected criminal misuse" are defined in this section. Terms not defined below will have the same meaning specified in section 55.11.

(a) *Agency.* Each of the executive agencies and military departments (as defined in 5 U.S.C. 105 and 102, respectively) and the United States Postal Service.

(b) *Arson.* The crime of maliciously damaging or destroying, or attempting to damage or destroy, by means of fire or an explosive, any building, vehicle, or other real or personal property used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce.

(c) *Device component(s).* Items or materials used to assemble or to construct any type of an improvised explosive or incendiary device, such as containers, explosives, fuels, propellants, and materials used to cause the device to function or to cause the fire to occur.

(d) *Explosive(s).* (1) 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;

(2) Any chemical compounds, mechanical mixture, or device that contains any oxidizing and combustible unit, or other ingredients, in such proportions, quantities, or packing that ignition by fire, by friction, by concussion, by percussion, or by detonation of the compound, mixture, or device or any part thereof may cause an explosion;

(3) Gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuzes (other than electric circuit breakers), detonators, and other detonating agents, smokeless powders, and other explosive or incendiary devices. "Explosive or incendiary device" means—

(i) Dynamite and all other forms of high explosives;

(ii) Any explosive bomb, grenade, missile, or similar device; and

(iii) Any incendiary bomb or grenade, fire bomb, or similar device, including any device which—

(A) Consists of or includes a breakable container including a flammable liquid or compound, and a wick composed of any material which, when ignited, is capable of igniting such flammable liquid or compound; and

(B) Can be carried or thrown by one individual acting alone; and

(4) Blasting agents, water gels, and all items in the "List of Explosive Materials" provided for in § 55.23.

(e) *Incident*. An event or occurrence, other than accidental, resulting in the response of an emergency service, fire service or law enforcement agency which results in the recording of certain action(s) or reportable event(s) in an official report.

(f) *Suspected criminal misuse*. Any activity triggering an official report of an explosives incident.

§ 55.233 Who must report information on arson and explosives incidents to ATF?

Any agency (as defined in § 55.232) having information on incidents involving arson and the suspected criminal misuse of explosives, from whatever source, must report the information to ATF in the format arranged with ATF. State and local authorities having information concerning such incidents voluntarily may report the information to ATF by telephoning 1-800-461-8841 (nationwide toll free number).

§ 55.234 What is the minimal information that must be reported to ATF?

(a) General information about the arson/explosives incident, including—

- (1) The incident/case number;
- (2) The agency name; and
- (3) The date;

(b) Basic information about the arson/explosives incident, including—

- (1) The location of the incident;
- (2) The date and time of the incident;

and
(3) The type of incident (e.g., fire, explosion, bombing);

(c) A complete list of all stolen explosives;

(d) A complete list of all recovered explosives;

(e) Estimated property value and loss;

(f) Casualties (e.g., fire service, law enforcement, civilian);

(g) Any narrative summary regarding the arson/explosives incident and information on all device components;

(h) Suspect(s) or arrested or convicted person(s) full name and identifiers (e.g., date of birth, race, nationality, sex, social security number, law enforcement identifying number);

(i) Disposition of the case (i.e., court and date of conviction, statutory provisions violated, and the length of sentence imposed, if any), if available; and

(j) Information, if any, to assist in evaluating similarities with other arson and explosives incidents, such as features specific to the incident that are unique, highly distinctive, or sufficiently idiosyncratic to merit inclusion.

§ 55.235 How will an agency report arson and explosives incident information to ATF?

Arson and Explosives incident information must be reported to ATF in a manner that is authorized by the Director.

§ 55.236 How often will an agency report arson and explosives incident information to ATF?

An agency must report arson and explosives incident information to ATF on a quarterly basis (i.e., January–March; April–June; July–September; October–December), and no later than 15 days after the quarter ends, but may report any incident as soon as it happens. If an incident is reported prior to the end of the quarter it should not be reported again as part of a quarterly report.

Signed: August 23, 2001.

Bradley A. Buckles,
Director.

Approved: October 15, 2001.

Timothy E. Skud,
Acting Deputy Assistant Secretary
(Regulatory, Tariff and Trade Enforcement).
[FR Doc. 01-28597 Filed 11-14-01; 8:45 am]

BILLING CODE 4810-31-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 0137-1137; FRL-7103-5]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed action.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Missouri which provides for the attainment and maintenance of the sulfur dioxide (SO₂) National Ambient Air Quality Standard (NAAQS) in St. Joseph, Missouri. In the final rules

section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed action must be received in writing by December 17, 2001.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551-7603.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: November 2, 2001.

James B. Gulliford,

Regional Administrator, Region 7.

[FR Doc. 01-28520 Filed 11-14-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MT-001-0039b & MT-001-0041b; FRL-7086-4]

Clean Air Act Approval and Promulgation of Air Quality Implementation Plan Revision for Montana; Revisions to the Missoula City-County Air Pollution Control Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State implementation the State implementation plan (SIP) revisions regarding the Missoula City-County Air Pollution Control Program, as submitted by the Governor of Montana with a letter dated April 30, 2001. On November 17, 2000, the Montana Board