



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Washington, DC 20226

July 1, 2011

Open Letter to All State/Local Government Entities and Members of the Explosives Industry

This letter provides information regarding the distribution to and receipt of explosives for pest control and mitigation purposes by States or their political subdivisions. Explosive pest control devices (EPCDs) commonly known as bird bombs or seal bombs are used to help protect crops, natural resources, and aircraft from damage by wildlife. State and local government authorities frequently use these devices at airports and landfills. EPCDs are regulated explosives subject to requirements of the Federal explosives laws and regulations.

The Federal explosives laws require all persons who engage in the business of manufacturing, importing, or distributing explosives, including EPCDs, to obtain a license from ATF. Federal law also prohibits the distribution of explosive materials to, or the receipt of explosive materials by, any person other than a licensee or permittee. Additionally, all persons who receive explosives, who transport explosives, or who cause explosives to be transported are required to obtain a Federal explosives permit or license from ATF.

However, Federal laws and regulations at 18 U.S.C. § 845(a)(3) and 27 CFR § 555.141(a)(3) exempt the transportation, shipment, receipt, or importation of explosive materials for delivery to any agency of the United States or to any State or political subdivision thereof. This exemption extends to contractors who have a current and valid contract with a State or local municipality to conduct explosives operations. Therefore, States and their political subdivisions may receive explosive materials without a license or permit.

States and their political subdivisions (e.g. municipal airports, landfills, and fire departments) must still comply with the explosives storage regulations in 27 CFR 555, Subpart K Storage. These regulations outline the construction, housekeeping, and tables of distances requirements for explosives storage magazines. Additional information on storage requirements may be found in ATF's publication Federal Explosives Law and Regulations at <http://www.atf.gov/publications/download/p/atf-p-5400-7.pdf>.

States and their political subdivisions must also comply with the Federal explosives theft reporting requirements found at 18 U.S.C. 842(k) and 27 CFR § 555.30. States and their political subdivisions must report to ATF any theft or loss of explosive materials by phone within 24 hours (800 800-3855, toll free), notify appropriate local authorities, and complete and submit ATF Form F 5400.5, Report of Theft or Loss – Explosive Materials, as soon as possible.

To find out more about government agency exemptions, see the article in ATF's December 2010 Explosives Industry Newsletter at <http://www.atf.gov/publications/newsletters/fel/fel-newsletter-2010-12.pdf>. To learn more about ATF regulation of EPCDs, please visit the ATF website at

<http://www.atf.gov/explosives/how-to/explosive-pest-control-device-requirements.html>. ATF is committed to helping States and their political subdivisions comply with Federal explosives laws and regulations. You may address questions regarding EPCDs via e-mail to EIPB@atf.gov or in writing to:

Chief, Explosives Industry Programs Branch
Bureau of Alcohol, Tobacco, Firearms and Explosives
99 New York Avenue, NE., Mailstop 6N-672
Washington, D.C. 20226

A handwritten signature in black ink, appearing to read 'Arthur Herbert', written in a cursive style.

Arthur Herbert
Assistant Director
Enforcement Programs and Services