



## U.S. Department of Justice

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

Washington, DC 20226

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08-0096  
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May 19, 2008

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Dear ██████████

This is in response to your letter received January 31, 2008, to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). We appreciate the opportunity to respond to your request. Your letter summarized discussions that ATF has had with various members of the American Pyrotechnics Association (APA) Public Display Committee pertaining to the tracking of individual fireworks shells by utilizing the “date/shift code” in the required records of disposition. The APA has stated that the requirement to record the date/shift code for each distributed fireworks product has imposed a significant burden on the industry, and in some cases, it is impractical if not impossible to comply with the regulation. APA has proposed an alternative to the prescribed regulation(s) at 27 Code of Federal Regulations (CFR) Sections 555.122-555.125 as well as Section 555.103, Marks of Identification.

Your proposal states that the fireworks industry would “begin marking **all** display fireworks products entering the U.S. with the name and address (city and state) of the importer, the name of the manufacturer and location (city and country) where the explosive materials were manufactured, and the date and shift of manufacture (if the manufacturer operates more than one shift).” Further you have proposed to provide ATF access to a broad variety of commercial records that are not required by regulation, but would aid ATF’s ability to enforce the explosives laws. In your request, and in subsequent discussions with ATF, you have suggested that this broader marking practice combined with extra record access would provide for greater overall accountability for these materials, and as a result, ATF could eliminate the date/shift tracking requirements records. We believe your proposal has merit and provides a potential solution for many fireworks companies.

With respect to your proposal for relief from certain recordkeeping requirements, and in accordance with the regulations at 27 CFR 555.22, ATF may approve a variation from the regulatory requirement, if the proprietor can articulate the following:

1. Good cause for the use of the alternate method or procedure;
2. The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure and that the alternate method or procedure is substantially equivalent to that specifically prescribed method or procedure; and
3. The alternate method or procedure will not be contrary to any provision of law and will not result in an increase in cost to the government or hinder the effective administration of this part.

Fireworks proprietors may obtain a variance from the recordkeeping and marking requirement provisions as proposed by APA if they can provide access to alternate records that would assist in criminal investigations or inspections ensuring compliance. Importers disposing of fireworks to other licensees and permittees should also provide whatever additional records may assist those proprietors in identifying the materials in their records. Proprietors purchasing from these importers will likely also require variances to the recordkeeping requirements, and must also make supplemental records available to ATF upon request if they wish to not record date/shift codes. Such records may include invoices, pull sheets, packing lists, shipping manifests, packaged display show descriptions, colors or effects of the shells, and any other commercially generated records that would provide descriptive information regarding fireworks materials shipped or otherwise disposed of from the premises.

Further, as suggested in your letter, importers requesting a variance must agree to have all of their products marked with all the information as prescribed under 27 CFR 555.109(b). Your letter also asked for a "phased-in approach" to address marking of all current product inventories. ATF agrees that this is reasonable. The variance letters will require those fireworks items in inventory at the time the variance is received to be marked within 60 calendar days after the date on the variance approval letter, or by August 15, 2008, whichever is later. This date must be used in lieu of the date of manufacture when marking these shells in inventory.

ATF is willing to work with the APA on a standard variance request letter that could be used to help facilitate these procedures.

Thank you very much for your efforts resolving these complex issues. Should you or any of your members need assistance, feel free to contact us by phone at (202) 648-7120, or email to [eipb@atf.gov](mailto:eipb@atf.gov).

Sincerely yours,

A handwritten signature in black ink that reads "Gary L. Bangs". The signature is written in a cursive, flowing style.

Gary L. Bangs  
Chief, Explosives Industry Programs Branch