

**27 CFR 555.22(b): ALTERNATE METHODS OF OPERATION; TEMPORARY  
EMERGENCY VARIATIONS FROM REQUIREMENTS  
27 CFR 555.109(b): IDENTIFICATION OF EXPLOSIVES MATERIALS**

*ATF is approving temporary emergency variations from the explosives marking requirements for display fireworks during the 2006 Fourth of July holiday season, effective the date of issuance of this Ruling and expiring on July 31, 2006.*

**ATF Rul. 2006-1**

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has received requests from explosives industry members for temporary, emergency variations from the explosives marking requirements for display fireworks during the 2006 Fourth of July holiday season.

As background, all display fireworks imported into the United States on and after July 26, 2005, and intended for distribution, must have specific marks of identification. According to industry members, typically these display fireworks are marked by their foreign manufacturer. If the foreign manufacturer does not properly mark the fireworks, then it is the responsibility of the licensed importer to properly mark the fireworks within 15 days of the product's release from the custody of the Immigration and Customs Enforcement, Department of Homeland Security. Federal explosives licensees who import or manufacture display fireworks for their own use, such as putting on a display show, are not required to comply with the marking requirements. 27 CFR 555.109(b).

ATF has been advised that shipping incidents earlier this year have significantly interrupted the import of display fireworks and caused several problems for the fireworks industry. First, some display fireworks operators have been unable to obtain their product for the Fourth of July holiday season, whether from importers or domestic distributors. Second, some importers are concerned that the product they import will be improperly marked, and that they will not have sufficient time to safely mark the product for distribution. As a result of this unforeseen explosion on board a vessel carrying display fireworks and the subsequent embargo by shipping companies a unique and emergency situation has emerged requiring a one time variation from the marking requirements.

Finally, some importers are concerned that the products they import may contain marks of identification for a company other than their own. Therefore, the industry members are requesting relief in the form of an emergency variation. 27 CFR 555.22(b).

This latter provision allows for the Director to approve construction, equipment, and methods of operation other than as specified in the Federal explosives laws and regulations where he finds that an emergency exists and the proposed variations from the specified requirements are necessary and the proposed variations will:

1. Afford security and protection that are substantially equivalent to those prescribed in 27 CFR Part 555;
2. Not hinder the effective administration of 27 CFR Part 555; and
3. Not be contrary to any provisions of law.

After careful consideration ATF is approving two limited and temporary methods of operation to those specified by the marking requirements. This approval is effective as of the date of this ruling and expires **July 31, 2006**. All display fireworks imported or manufactured for distribution after this date must be properly marked pursuant to existing regulations.

*Held*, ATF is approving a temporary variation from the marking requirements for those Federal explosives licensees who have lawfully imported or manufactured unmarked display fireworks *for their own use*, and who now find that they have excess display fireworks that could be distributed to others. If such persons now choose to distribute their excess display fireworks to another Federal explosives licensee, Federal explosives permittee, or exempted Federal, State, or local public entity, then they are not required to mark each shell as provided by the regulations from the date of issuance of this Ruling through July 31, 2006. Instead, during that limited time period, they must mark each outer container or box with the name and address (city and State) of the importer or manufacturer, AND they must notify ATF, either by fax (202-927-8887) or e-mail (eipb@atf.gov), as to the name and address (city and State) of the distributee, the quantity of product involved, and the date of distribution. Federal explosives licensees must continue to comply with all other regulatory requirements.

*Held further*, except as provided in the next paragraph, ATF is approving a temporary variation from the marking requirements for those Federal explosives licensees who receive imported display fireworks *for distribution* that are not properly marked. Examples of not "properly marked" are display fireworks which are imported without any required marks of identification or without the location of the manufacturer or date or shift of manufacture. Under these limited circumstances, between the date of the issuance of this Ruling and July 31, 2006, such licensees must mark each outer container or box with the name and address

(city and State) of the importer or manufacturer, AND must notify ATF, either by fax (202-927-8887) or e-mail (eipb@atf.gov), as to the name and address (city and State) of the distributee, the quantity of product involved, and the date of distribution. Federal explosives licensees must continue to comply with all other regulatory requirements.

*Held further*, except as provided above, ATF is denying a variation from the marking requirements for a licensed importer who receives display fireworks that contain the name and address of a company other than their own. In this situation, the product may not be distributed "as is" and must be marked according to 27 CFR 555.109(b) prior to distribution.

Date approved: June 22, 2006

Carl J. Truscott  
Director