



ATF EXPLOSIVES Industry Newsletter

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Changes in the Arson and Explosives Programs Division

In January 2005, Carson Carroll, the Arson & Explosives Programs Division (AEPD) Division Chief, was promoted to Deputy Assistant Director of Field Operations for the Central region. We want to extend our congratulations and best wishes for his new responsibilities. AEPD will miss him.

As of June 12, 2005, Joseph M. Riehl is the new AEPD Division Chief. He began his ATF career as a special agent from 1987 to 1994 in the Jacksonville, FL, field office. During that period he participated in a number of high profile arson and bombing cases, some of which involved fatalities.

From 1994 to 1998, Joe served in ATF Headquarters, both in the Firearms Enforcement Branch and then as Explosives Training Manager in our training directorate. After this Headquarters experience, Joe entered

ATF management as a Resident Agent in Charge in

Providence, R.I., followed by 3 years as the Assistant Special Agent in Charge of the Baltimore Field Division.

As a field supervisor, he notably served as the Special Agent in Charge of the ATF National Response Team and was involved in the D.C. Sniper investigation.

Through the majority of his career, he has been an ATF certified explosives specialist and has been a member of the International Association of Bomb Technicians and Investigators since 1989.

Most recently he obtained his Master of Science degree at the Department of Defense National Defense University's Industrial College of the Armed Forces.

AEPD welcomes Joe, and we are looking forward to working with him. We are certain that the industry will welcome someone with such an extensive background involving explosives issues.

Arson & Explosives Programs Division (AEPD)
Division Chief **Joseph M. Riehl**
Deputy Division Chief **Mark A. Siebert**

Explosives Industry Programs Branch (EIPB)
Branch Chief **Gary L. Bangs**

Explosives Technology Branch (ETB)
Branch Chief **Mark D. Martin**

Arson and Explosives Enforcement Branch (AEEB)
Branch Chief **Michael P. Hayes**

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and Safer America**

Director's Speech at the ISEE National Conference

It was a real pleasure for members of AEPD to attend the International Society of Explosives Engineers (ISEE) conference in Orlando, Florida. On February 7, 2005, ATF Director Carl J. Truscott addressed the members of ISEE at their National Conference. In the interest of continuing communications with all the explosives licensees and permittees, the following is the full content of Director Truscott's speech.



Good morning, everyone. I appreciate this opportunity to talk with you.

Jeff [Dean], thank you for that introduction. I know that both you and Dale [Ramsey] have worked hard to fulfill ISEE's mission: to advance the art and science of explosives engineering. I appreciate your commitment to the positive relationship between ISEE and ATF. Earlier this morning, I met with your Board of Directors, and I enjoyed this opportunity to talk with them. Now I'm delighted to meet many more of you, and to be with you as you begin your conference.

As Jeff mentioned, before I became Director of ATF, I served in the United States Secret Service. In protecting the President, we identified threats and worked against them, mitigating the threat or at least maximizing the distance away from it. And I have to tell you that in those days, I thought of explosives as just that: threats. But now that I'm at ATF, I am gaining another perspective. I'm glad to know more about all the ways that American society benefits from the use of explosives. And I've developed great respect for all the people who routinely work with such potentially hazardous materials. Rather than maintaining what most of us not in your business would consider a "safe distance"— maybe in the next county— you rely on expertise and discipline to keep you safe and bring you success.

So much of modern life is made possible by the use of explosives—in mining, construction, and so many other applications. You use explosives to save lives through avalanche control, and to strengthen our economy by providing an effective highway system. Throughout our society, explosives help us accomplish so many tasks that would be cost-prohibitive or even impossible without them. And explosives give us access to the raw materials in so many of the things we use daily—from the silica in microchips, to the iron in skyscrapers. I want you to know that I realize the importance of this industry to our way of life. I appreciate the invitation to address you this morning.

ATF and ISEE have long worked together in partnership. After all, some of us are some of you. ATF employees who are members of ISEE include our Certified Explosives Specialists and Explosives Enforcement Officers. Many Industry Operations Investigators and Inspectors in the field are ISEE members, along with many of those at Headquarters who work on explosives issues. As you probably know from meetings in your local chapters, ATF employees have attended local and regional meetings nationwide. In the last year, these have included the Kentucky Blasters Conference, the Mid-America Blasters Conference, the New England Explosives Expo, and the Rio Grande Blasters conference. We've also conducted training sessions for ISEE chapters, informing them about the Safe Explosives Act. And you've returned the favor: Jeff Dean and other ISEE officials have come to our facility at Fort A.P. Hill, Virginia, to help educate our industry operations investigators.

Speaking of "investigators:" you may have noticed that many ATF employees have a new job title. Our regulatory employees are in the process of changing from "inspectors" to "investigators." When ATF was transferred to the Department of Justice in a provision of the Homeland Security Act, we were obligated to bring our job titles into compliance with those used by the Department of Justice. Although inspectors' job titles are changing, their work has not changed. The "inspector" who visited your workplace two years ago, and the "investigator" who will visit tomorrow, share the same task and work toward the same goal.

It's also important to note that the employees now called "investigators" are not the same as our special agents, who have the job title of "criminal investigators." The two types of employees have complementary expertise, and they work together to ensure the safety and security of our Nation. But they have different responsibilities. Inspectors and the newly titled investigators interact most with the explosives and firearms industries. Criminal investigators pursue criminal enforcement matters and investigate explosives incidents.

As you know, ATF works to ensure that explosives are used in a safe and lawful manner, a goal that we share with you. ATF also investigates bombings and other explosives incidents. I'd like to let you know about one of our newest innovations. Last week, I announced the deployment of the second version of our Bomb Arson Tracking System, or BATS. The system is an arson and explosives incident database for the entire U.S. Department of Justice. Nationwide, our law enforcement partners can use the system to share data and images of arsons, improvised explosive devices, and crime scenes online. Police officers will be able to link incidents

more easily, and to compare cases around the nation, searching for similarities in motives, leads, or potential suspects.

Through the BATS system and in many other ways, ATF has proven its value to the Department of Justice.

On Friday, I was proud to represent the men and women of ATF as we welcomed our newly confirmed Attorney General, Judge Alberto Gonzales, to the Department of Justice. In his remarks, the new Attorney General emphasized to us that the President expects us to protect the rights and interests of American citizens.

The Attorney General said that these expectations can be fulfilled only through a team effort. This team approach is important to ATF as well. Working together in partnership—within law enforcement, and between law enforcement and the private sector—helps us build a safer society.

ATF's participation in this year's ISEE national conference, and my remarks this morning, reflect a productive interaction between our organizations. Our booth in the Exhibit Hall and our seminars during the conference will give you the opportunity to meet with us. We appreciate the assistance of Arlene Chafe and Lynn Mangol in coordinating ATF's presence at this year's conference.

Some of you will have met our ATF representatives at the Regulatory Panel seminar yesterday, but I'd like to introduce them to the rest of you. Lew Raden is our Assistant Director for Enforcement Programs and Services, and spoke at yesterday's seminar. Jim Zammillo, the Deputy Assistant Director—Field Industry Operations, supervises all inspectors in the field, and can answer your questions about the inspection process. Gary Bangs, Chief of Explosives Industry Programs in our Arson and Explosives Division, can answer any specific questions you may have questions about regulations. Gary is also presenting later in the week. They'll be available to speak with you during the conference. I'd also like to introduce Russ May, who is the Resident Agent in Charge at ATF's Orlando office.

We continue to work with the ISEE and the explosives industry in a spirit of mutual respect. ATF's most recent meeting with ISEE and other industry leaders took place on January 11 at our headquarters in Washington, D.C. At that meeting, ATF and ISEE, along with other explosives industry groups, agreed to create a joint publication for industry members. This publication will include both regulatory information and best practices already being followed by industry members. We are also continuing to seek ISEE's input on some of our publications for the industry, and to assist ISEE by reviewing its publications as requested.

Over the years, our strong partnership has helped us to make progress toward resolving complex issues, such as accounting for bulk explosives. I know that your industry contains many responsible business owners, and I appreciate your commitment to operating safely and lawfully. I envision a positive relationship that allows us to identify issues, meet together to get all the facts, and work toward a consensus that will achieve our common goals. I believe that by working together with consideration and respect, we can facilitate the lawful use of explosives, while ensuring the safety of all Americans.

As fast as an explosive charge can change the face of our landscape, the world in which we all operate changed on September 11, 2001. The attacks on that day forced all of us to re-imagine the threats that we face, and how we could prepare for them. Because you use explosives in your daily work, you know their power, perhaps better than anyone. In our current security environment, it's clear that others know that power, too, and are interested in using it to destroy, rather than to build.

As many of you know, ATF formulated its Explosives Threat Assessment and Prevention Strategy, or ETAPS, in the spring of 2004. This strategy gives us the opportunity to respond to changes in the industry and in the society in which it operates. It is a dynamic process—we gather information, evaluate it, plan programs in response to it, and evaluate the results.

An increased focus on possible terrorist activities was certainly one motivation for the creation of the strategy. We know that terrorists attempt to exploit "soft targets," and we wanted to be certain the explosives industry and the ammonium nitrate industry were not among these "soft targets."

In looking at the industry, we found two major areas of concern. The first was physical security. The second was the potential for explosives diversion, or, the theft and illegal sale of explosives. To address the absence of consistent industry-wide physical security standards, we put together a checklist of security provisions commonly used in other industries, to give you ideas on how you could be certain your supplies were secure.

Our concern about the potential for explosives to be diverted into illegal commerce came in part from our casework. Prior experience showed us that in some instances, dishonest individual employees had stolen and sold explosives unlawfully, without the knowledge of their employers. To help businesses avoid this potential hazard, we focused on those companies' internal controls. By examining the records and procedures of a business, we have suggested improvements to the proprietor before any existing weakness can be exploited.

In these initiatives, we were pursuing two goals:

- to alert you to potential vulnerabilities, and*
- to give you the knowledge you need to resolve them before a potentially catastrophic event takes place.*

The disturbing knowledge of what can go wrong, impelled us to share that knowledge with you, in an attempt to avert it. I think these efforts reflect ATF's concern for public safety, and our commitment to working in partnership with you. ATF and ISEE play different roles in achieving the same mission: ensuring that explosive materials are used in a safe and controlled environment by the appropriate personnel.

The inspectors and investigators who work directly with you and conduct inspections at your facilities are the eyes, ears and hands of our regulatory efforts. We provided written materials in order to inform them about the new areas of focus and the suggested safeguards. We're building on this initial effort, by working toward nationwide consistency in our inspection procedures. We are looking at current practices within our inspection process so that we can make positive and meaningful recommendations to industry members about security at industry sites. We fully understand your concerns. We will continue to explore this issue, and we will continue to work with explosives industry licensees to prevent explosives thefts and losses, achieving our mutual goal of preventing the misuse of explosives.

In particular, we are focusing on creating more separation between the voluntary elements and the legally required measures. During their visits to you, our inspectors and investigators have discussed regulatory requirements, and have made other suggestions on how you might safeguard your businesses on a voluntary basis. We understand that engaging in these two actions simultaneously may have caused some confusion.

As we modify our inspection procedures, we will clearly delineate which matters are voluntary, and which are subject to regulation.

The ETAPS approach allows us to respond to changing circumstances. But our fundamental approach, and the seriousness of our task, will remain the same. In carrying out our inspections, we will continue to use the same strategies we have always used: interviews, observation and testing. I insist that our inspectors and investigators conduct themselves in a highly professional manner as they interact with you and your employees.

While conducting onsite inspections, our inspectors and investigators will wear clothing that is appropriate for the tasks they perform. The standardized clothing helps you to identify them easily, and it gives them the safety and versatility they need to work efficiently.

Where appropriate, multiple inspectors may be working together as a team to accomplish large tasks as quickly as possible, minimizing disruption at inspected facilities. As always, willful noncompliance or serious violations affecting public safety can and will lead to revocation.

To protect the American public, none of us can afford to treat public safety issues lightly. I know that you also take these issues seriously. After all, the first of the Fundamental Canons that you have chosen for your organization, mandates that you "...promote the safety and health and welfare of persons and property..." I know that you strive to operate your businesses effectively and safely, and I urge you to make safety both a value, and a habit.

Communication is the key to making any partnership work; that's true here, too. We at ATF are trying to get more information out to you so that you know what to expect. I'd like you to know about one particular effort we're making to help the inspection process work better in the long term. In past years, we've hosted seminars for firearms licensees on what to expect from an ATF inspection. Recognizing that this kind of information would benefit you, too, we're offering seminars for explosives licensees and permittees. The first of these seminars was given to National Mining Association members, and another will be given at the American Pyrotechnics Association's annual convention later this month. Here at ISEE, our presentation on Wednesday will contain this and other valuable information.

A special edition of our Explosives Industry Newsletter is available at our booth, and we'll send it to you twice yearly. We're also looking at other ways to keep you informed; as I mentioned, we're working with ISEE's leadership on joint documents to help our two organizations better understand each other.

We know that a good partnership means listening, as well as talking. In early December, some of you received a customer survey about ATF in the mail.

We are conducting this survey because we believe the best way to learn what you think, is to ask you.

We asked a representative sample of our licensees for their suggestions on improving the inspection process. Forty-eight percent of the explosives industry members surveyed responded, and we think this very high response rate indicates that you take this effort as seriously as we do. For those of you who responded to our survey by mail or online, thank you for taking the time to help us in this effort. We look forward to receiving an analysis of the results, and to hearing your opinions and ideas first-hand. We'll assess the results, and then provide feedback to you in a future Explosives Industry Newsletter.

We're eager to listen to each of you, and hear your concerns and ideas. If you have concerns about your inspection, I urge you to speak with the area supervisor at the local ATF field office. I am confident that your questions will be answered promptly and thoroughly. At this conference, you can meet with the representatives I introduced earlier, or talk to the ATF employees staffing our booth. We want to hear your complaints—and perhaps even your compliments! We are committed to fostering a productive relationship with each of you, and we want to have the opportunity to resolve your concerns.

As I close today, I'd like to emphasize the value we place on our partnership with you. At ATF, we believe working together isn't just a good idea: it's a matter of national security. Our Nation benefits from your work, and that good work must be allowed to continue. At the same time, it is essential to protect our society from the potentially catastrophic consequences of explosives used in the wrong way, by the wrong people. The prosperity and safety of our Nation may depend on our ability to collaborate effectively. Our organizations share a vision of a prosperous and safe America. Let us continue to work together to secure our common future.

Thank you.

New Federal Explosives Licensing Center

The Federal Explosives Licensing Center (FELC) is a newly established branch within the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The FELC is responsible for reviewing and acting upon various types of Federal explosives licenses and permits. The FELC was established as a result of the Safe Explosives Act (SEA) of 2002, and the explosives licensing processes are currently being transitioned to Martinsburg, West Virginia, from Atlanta, Georgia, where they have been since the late 1980's.

The Chief of the FELC is Christopher Reeves, who has over 15 years of experience working for ATF. Mr. Reeves began his career with ATF working at the ATF National Tracing Center (NTC) in Landover, Maryland. Mr. Reeves moved up the ranks of the NTC from a shipping and receiving clerk to a Supervisor Firearms Tracing Specialist. In 1996, Mr. Reeves went through basic training in Glynco, Georgia, to be an ATF Inspector. Mr. Reeves was stationed in Sacramento, California, until September 1999, when he returned to the NTC in Falling Waters, West Virginia, as an ATF Specialist. Mr. Reeves was selected as Chief of the FELC in October 2003.

The current staffing levels for the FELC consist of 13 employees (including contract staff). Future staffing levels will bring the total up to 20 by May 2005.

New office space is being renovated for the FELC and will be completed by the end of February 2005.

The FELC works closely with the Federal Bureau of Investigation's (FBI's) National Instant Criminal Background Check System (NICS) and staff on a daily basis, providing individual information on all licensees and their employees, ensuring that all individuals associated with an explosives license or permit are not prohibited from manufacturing, dealing, or handling explosive materials.

The FELC is currently processing new and renewal explosives applications for the following states and U.S. territories:

Alabama	Kentucky	Ohio
Alaska	Louisiana	Oregon
Arizona	Maine	Puerto Rico
Arkansas	Maryland	Rhode Island
Colorado	Massachusetts	South Carolina
Connecticut	Minnesota	South Dakota
Delaware	Missouri	Tennessee
Florida	Nebraska	Utah
Georgia	Nevada	Vermont
Guam	New Hampshire	Virgin Islands
Hawaii	New Jersey	Washington
Idaho	New Mexico	West Virginia
Iowa	North Carolina	Wisconsin
Kansas	North Dakota	Wyoming

All questions regarding explosive applications or renewals for the above states can still be directed to the National Licensing Center (NLC) in Atlanta, Georgia, at 866-662-2750.

Reporting Changes in Responsible Persons and Employees Authorized to Possess Explosive Materials

We would like to remind you that the Federal explosive regulations at 27 CFR 555.57(b) require that, for all licenses or permits issued on and after May 24, 2003, each person holding the license or permit must report new responsible persons or employees authorized to possess explosive materials within 30 days of appointment. The notification must include all identifying information for the responsible persons and a completed ATF form 5400.28, Employee Possessor Questionnaire for each employee possessor.

If you have any questions regarding reporting the aforementioned changes, please contact the Explosives Industry Programs Branch at (202) 927-2310.

Industry Members should realize that ATF industry operations investigators will closely compare the lists of authorized employee possessors with current company employees possessing explosives during inspections.

Reporting Procedures For Explosives Transactions

The Explosives Industry Programs Branch (EIPB) recently received two questions from an industry member regarding 68 FR 53509, effective September 11, 2003, which modified 27 CFR 555.103(b)(2)(ii) and 27 CFR 555.105(b)(6)(iii) and (iv). The industry member specifically asked about the use of common or contract carriers for delivering explosive materials and the recording requirements for distributors. The EIPB believes that our response might be helpful to all members of the explosives industry. Therefore, we are providing portions of our answer in this newsletter.

Explosives Transactions Involving A Common or Contract Carrier

First, the industry member asked if the following is a correct interpretation of the requirements of a Federal explosives licensee/permittee (i.e. distributor):

(a) In instances where delivery of explosives to the distributee is not by common or contract carrier, then the identification document of the person accepting possession of explosives on behalf of the distributee described must be examined.

ATF reviewed this statement and agreed with the interpretation. In instances where explosives are not delivered to the distributee by a common or contract carrier, the distributor must verify the identity of the person accepting possession of the explosives on behalf of the distributee by examining an identification document before relinquishing possession. In doing so, the distributor must ensure that he/she does not transfer possession of explosives to any person whose name does not appear on the current list of names of persons authorized to accept delivery of explosive materials on behalf of the distributee. (Please note, the persons on the certified list must also be listed on the license/permit as an employee possessor or a responsible person.)

Explosives Transactions Involving A Common or Contract Carrier

Second, the industry member asked whether the following is a correct interpretation of the requirements of a Federal explosives licensee/permittee (i.e. distributor):

(b) In instances where delivery of explosives to the distributee is by common or contract carrier, then the procedures described in paragraph (b)(3), as revised on September 11, 2003, are followed and the verification requirements contained in paragraph (b)(2)(ii) are not followed.

Again, this interpretation is correct. For transactions in which a common or contract carrier transports explosive materials from a distributor to a distributee, the distributor must examine the common or contract carrier's identification and record certain information in the distributor's permanent records as prescribed in the regulations. In this instance, because the transfer is to a contract carrier, neither the distributor nor the contract carrier needs to verify that the person accepting delivery on behalf of a distributee is on the list of authorized persons.

Delivery of Explosive Materials To A Limited Permittee

For those transactions in which explosive materials are to be delivered to a **limited permittee** by common or contract carrier hired by the distributor, the regulations **do** require the common or contract carrier to ensure that the person accepting delivery is on the authorized list. See 27 CFR 555.105(b)(6)(iii)(C).

However, to reduce the burden on common or contract carriers, ATF has provided an alternate method for this particular verification requirement. This alternate method allows the distributor to timely contact the limited permittee to obtain and record information indicating whether the shipment was received and the date and time of the contact with the distributee.

See ATF Rul. 2003-5, which states the following:

"The distributor shall, no later than three business days after shipment of the explosive materials, contact the distributee by telephone facsimile, e-mail or any other means to ensure that the shipment has been received. The distributor shall make a notation on ATF Form 5400.4 indicating whether the shipment was received and the date and time of the contact with the distributee."

This procedure ensures that delivery has taken place and documents the information in the distributor's records, while lessening the undue burden on common or contract carriers. Common or contract carriers no longer need to perform the verification requirements stipulated under 27 CFR 555.105(b)(6)(iii) applicable to limited permittees.

Storage of More Than 300,000 Pounds of Explosives

The regulations at 27 CFR §555.213(a) limit storage at a magazine site to 300,000 pounds of explosives, or not more than 20 million detonators, "unless approved by the Director." This provision also effectively limits the total amount of explosives that may be stored in magazines which, because they are not separated from one another by less than the specified distance for "separation of magazines," must be considered a single magazine (*see note 2 to §555.218*). ATF has issued variances in certain cases allowing the storage of quantities of explosives greater than 300,000 pounds in a magazine, or in a group of magazines required to be considered a single magazine for table of distance purposes. Companies wishing to receive such a variance must show, among other things, that the distances from their explosives storage to inhabited buildings, passenger railways, and public highways will provide the same level of safety to the public as that afforded by the Tables of distances under Part 555. Variances will not be approved if the proposed operation or storage is in violation of any State or local requirements.

Please contact the Explosives Industry Programs Branch at (202) 927-2310 if you have any further questions regarding variance requests.

ATF Inspections

Many explosives licensees and permittees have seen ATF inspectors wearing what appears to be a blue uniform on explosives inspections. This apparel is standardized clothing that is used for safety, identification, and versatility when conducting inspections. The clothing is made of cotton to reduce the chance of static electricity. It has the letters "ATF" as a means of identification for the industry and law enforcement personnel. When conducting inspections, it is important for industry to know that an individual waiting to inspect their plant is an ATF inspector, especially in early morning hours. The same is true to facilitate recognition by law enforcement personnel when inspectors are assisting on the scene of an accidental explosion. The clothing also provides versatility so inspectors may carry the tools needed to conduct an inspection, to include everything from range finders to gauges to tape measures. In addition, the clothing

provides a professional appearance and standardization throughout the inspector work force. If any industry member has questions or concerns pertaining to this, please contact your local ATF field office supervisor.



Need to contact the Explosives Industry Programs Branch with a question, variance, or issue? E-mail us at: eipb@atf.gov

Newsletter Distribution

Have you recently changed your address, or do you know someone in the industry not currently on the distribution list that may wish to receive the ATF Explosives Newsletter? If so, please notify the Explosives Industry Programs Branch by phone or Fax us the following information and we will change an address or add a name to the distribution list. All we need is the following information:

Name: _____

Company: _____

Address: _____

City/State: _____ Zip Code: _____

Phone No.: *(optional)* _____ E-mail: *(optional)* _____