



EXPLOSIVES NEWSLETTER

**ARSON & EXPLOSIVES
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AUGUST 2000

THE NEW ATF STRUCTURE

In the past 2 years, ATF has undergone a significant reorganization in an effort to maintain a more unified, full-service agency with greater authority delegated to the field. The reorganization affects both Headquarters and field operations.

The primary effect of the restructuring is that ATF no longer consists of two separate components—Regulatory and Criminal Enforcement.

“Our current structure clearly did not optimize the very solid nexus between the regulatory and enforcement functions,” said former ATF Director John Magaw, during an address to ATF employees in Washington on November 25, 1997. “It will now be realized in all areas.”

ATF FIELD OPERATIONS

Perhaps one of the biggest changes under the realignment is that the special agent in charge (SAC) also carries the title of division director (DD) and oversees all field activities within his or her geographical area of responsibility. A director of industry operations (DIO) position was created to assist the SAC/DD in each of the 23 field divisions to oversee all industry operations (including explosives regulation).

Prior to the restructuring, some industry members expressed concern that it would cause a loss of explosives industry expertise within ATF. However, combining experts from both Criminal and Regulatory Enforcement into one central location within each division resulted in a more coordinated approach, more field points of contact, and a more uniform response to industry concerns.

ATF HEADQUARTERS

ATF Headquarters was also restructured. The explosives regulatory function of the former Firearms and Explosives Operations Branch, to which most correspondence concerning explosives regulatory issues was previously directed, has been incorporated into the Arson and Explosives Programs Division (AEPD).

Guy K. Hummel, Sr., is the Chief, AEPD, and is a 31-year veteran ATF special agent. In June he transferred from his previous assignment as SAC/DD of the New Orleans Field Division (Louisiana, Arkansas, and Mississippi). Tom Crone joined Chief Hummel in July as the Deputy Chief, AEPD. Deputy Chief Crone is a 37-year veteran ATF inspector who was most recently the DIO of the Phoenix Field Division (Arizona, New Mexico, Colorado, Wyoming and Utah).

Please feel free to contact Chief Hummel or Deputy Chief Crone, as well as Regulatory Explosives Specialists Derek Ball, Joseph Bradley, or William O'Brien, and Industry Analyst Eugene Baker, at the above address.

ATF strongly believes that the field and Headquarters changes offer the best organizational structure to achieve our strategic vision of “Working for a Sound and Safer America...Through Innovation and Partnerships.”



WORKING FOR A SOUND AND SAFER AMERICA- THROUGH INNOVATION AND PARTNERSHIPS

ATF PUBLISHES FINAL RULE IN FEDERAL REGISTER

On August 24, 1998, ATF published a final rule in the Federal Register amending the Federal explosives regulations. The changes were effective December 22, 1998. A brief overview of the changes follows.

License Fees:

Original manufacturer, importer, and dealer in explosives licenses will cost \$200 for the first 3-year period of the license. Renewals for these licenses will cost \$100 for subsequent 3-year periods.

Permit Fees:

Original explosives user permits will cost \$100 for the first 3-year period of the permit and will cost \$50 for subsequent 3-year renewals. User-limited permits, which are nonrenewable, will cost \$75.

Definitions:

The final rule also amended 27 CFR § 55.11, Meaning of Terms, by adding new definitions and revising several others. The term "special fireworks" has been replaced with "display fireworks." These changes more closely match ATF's regulatory definitions to current industry terminology and those used by the Department of Transportation (DOT). Display fireworks are explosives classified by (DOT) as UN0333, UN0334, or UN0335 under 49 CFR 172.101. The term "articles pyrotechnic" was also added. Articles pyrotechnic are similar in chemical construction to consumer fireworks, but they are not intended for consumer use and are classified by DOT as UN0431 or UN0432 in 49 CFR 172.101. The term "common fireworks" was replaced with "consumer fireworks," which are defined as those fireworks classified by DOT as UN0336 and UN0337 under 49 CFR 172.101. Consumer fireworks do not include fused setpieces containing components that together exceed 50 mg of salute powder.

You can find 27 CFR Part 55 on ATF's website at <http://www.atf.treas.gov/regulations/27CFR55.html>

STORAGE REQUIREMENTS—DISPLAY FIREWORKS

Title 18 USC, Section 842 (j), and 27 CFR Part 55, Subpart K require that explosive materials be stored in an approved magazine.

ATF has revised the Application For Permit-User Limited Display Fireworks, ATF Form 5400.21, dated 12/98. The instructions on the previous editions of the form stated that fireworks could be temporarily stored in a commercial building. This instruction has been removed from the revised permit application. Previous editions of ATF Form 5400.21 became obsolete on December 22, 1998.

Permittees may request authorization for temporary storage in a commercial building by submitting a written variance application to the Director. The standards for authorizing such variances are set forth in the regulations at 27 CFR §55.22. The alternate storage method must provide levels of safety and security substantially equivalent to the storage requirements of the law and regulations.

All licensees and permittees are reminded that they should make contingency plans for temporary storage for rainouts, event cancellations, etc. It is critical that variances be applied for in a timely manner to allow ATF to make a determination.

All explosive material storage must be in compliance with the regulations or pursuant to an approved variance.

AMENDMENT TO LICENSING REQUIREMENTS INTENDED TO EASE BURDEN FOR ON-SITE MANUFACTURERS

ATF formerly required that entities engaged in the business of on-site manufacturing obtain a license in each "region" in which operations occur. "On-site manufacturing" refers to mixing components to form an explosive material immediately prior to use (i.e., mixing ANFO for blasting operations or binary theatrical flash powder).

As the requirement stood, however, when ATF restructured from 5 regions to 23 field divisions, on-site manufacturers would have had to obtain a license in each of the field divisions in which they intend to operate. Because this would place an undue burden on the industry, ATF has issued a final rule amending 27 CFR Part 55 to authorize manufacturers to conduct all their on-site manufacturing using a single license. The amendment was published in the Federal Register on August 24, 1998, with an effective date of December 22, 1998.

CONSTRUCTION REQUIREMENTS FOR TYPE 4 MAGAZINES CLARIFIED

ATF has learned that the floors of several type 4 outdoor magazines currently used by explosives proprietors do not meet the specific construction requirements under 27 CFR 55.210. The magazines in question are constructed with wooden floors. This article clarifies the construction requirements for these magazines and provides guidance regarding obtaining variances to the construction requirements.

The regulations at 27 CFR 55.210 state, in part, "outdoor magazines are to be constructed of masonry, metal-covered wood, fabricated metal, or a combination of these materials." ATF has interpreted this to require that the walls, roof, and floor of the magazine be constructed of one or a combination of these materials. Wooden floors without a metal covering do not comply with this requirement.

Additionally, 27 CFR 55.210 requires that "...foundations are to be constructed of brick, concrete, cement block, stone, or metal or wood posts. If piers or posts are used, in lieu of a continuous foundation, the space under the building is to be enclosed with fire-resistant material..."

Enclosing an open foundation with a fire-resistant material does not eliminate the requirement that the floor, walls, and ceiling be constructed of the materials described above. However, the Public Safety Branch will carefully consider any variance request to store explosives in a magazine not specifically meeting the requirements at 27 CFR Part 55. ATF has recently approved variance requests for magazines with wood-only floors when it was demonstrated that, among other things, the ground under and surrounding the magazines was completely covered with gravel or another material incapable of propagating a flame to the underside of the magazine. Additionally, in lieu of a continuous foundation, metal skirting was attached to the magazines in such a way as to prevent access to the underside of the magazines.

The use of skirting and materials such as gravel will not guarantee approval of a variance. Each variance request will be evaluated based on the specific circumstances at the premises.

Persons having questions about magazine construction and the variance process should contact the Public Safety Branch at 202-927-7930.

LETTERS TO THE EDITOR

- Q. Would an environmental analytical testing laboratory be subject to 27 CFR Part 55 for activities such as receiving soils contaminated with explosive residue or slurries of sodium azide from the manufacturing of airbag initiators?**
- A.** Federal explosives law under 18 U.S.C., Chapter 40, and its implementing regulations under 27 CFR Part 55, do not contain any provisions for exempting laboratories or research organizations for this purpose. Therefore, all provisions of Part 55 must be followed, including the interstate controls and storage requirements.
- Q. Footnote (2) under 27 CFR 55.218, states that when two or more magazines are separated by a distance less than that specified under the column "Separation of Magazines," they must be considered as one magazine. Also, the total quantity stored in such a group must be treated as if stored in a single magazine for table of distance purposes. No similar footnote appears for the tables under 55.219 or 55.224. Does the magazine grouping provision of 55.218 also apply for tables 55.219 and 55.224?**
- A.** Yes. If two or more outdoor storage magazines are separated by less than the distances noted in Tables 55.219 and 55.224, they must be considered as one magazine, and the total quantity of explosives stored in such a group must be considered as if stored in a single magazine. Each magazine of a group must comply with the separation distances as specified in Tables 55.219 and 55.224, respectively, from inhabited buildings, public highways, or passenger railways.
- Q. I have some old firecrackers that contain less than 130 milligrams of powder and were purchased before the limit was changed to 50 milligrams. Do I need to store these in an approved magazine?**
- A.** Yes. "Firecrackers" containing more than 50 milligrams of powder are regulated as low explosives and must be stored in a Type IV or equivalent magazine.

REMINDER!!

We would like to remind everyone of the requirements for notifying ATF of magazine changes. This requirement is outlined in 27 CFR 55.63, Explosive Magazine Changes. Proprietors wishing to acquire additional magazines or change construction in existing magazines must notify ATF either by telephone or in writing. If notification is provided in writing, it must be at least three business days prior to any changes in magazines. We have included in this newsletter, for your convenience, a possible format to use when describing magazine facilities. Please refer to 27 CFR 55.63 for any additional requirements surrounding changes to magazine facilities.

**DISPOSING OF DETERIORATED
EXPLOSIVES**

Deteriorated explosives pose a significant public safety hazard. This notice is to emphasize the importance of following the proper procedures for the safe destruction and/or disposal of deteriorated explosives. The Environmental Protection Agency (EPA) regulations promulgated in 40 CFR Parts 262, 264, and 265 set standards for the safety, security, and accountability of hazardous waste. Be sure to comply with the requirements of the Resource Conservation and Recovery Act (RCRA) administered by EPA. The customer service hotline number is 1-800-438-2474. In authorized states, EPA has delegated the responsibilities of the hazardous waste program to State officials. You should check with your State authorities to ensure all Federal, State, and local requirements are adhered to during any clean-up operation of deteriorated explosive materials.

**ATF REACHES INDUSTRY MEMBERS
VIA INTERNET**

ATF's internet site has been a huge success. Visitors to the website say they have found it to be extremely informative. The site is updated often and includes information on newly enacted laws and regulations, profiles of ATF's Most Wanted, important telephone numbers, and current forms and publications. Please visit our website at <http://www.atf.treas.gov> to see what other new information is available.

**U.S. CHEMICAL SAFETY AND HAZARD
INVESTIGATION BOARD**

What is the U.S. Chemical Safety Board?

The Chemical Safety Board (CSB) is an independent Federal agency whose mission is to ensure the safety of workers and the public by preventing chemical accidents. Congress modeled it after the National Transportation Safety Board (NTSB), which investigates aircraft and other transportation accidents for the purpose of improving safety.

Like the NTSB, the CSB is not an enforcement or regulatory body. Rather, it is a scientific investigatory organization responsible for finding ways to prevent chemical accidents at industrial facilities and in transport. The CSB is the lead Federal agency for investigating and identifying causes of chemical accidents. It also conducts accident-related research, advises industry and labor on actions they should take to improve safety, and makes regulatory recommendations to the United States Environmental Protection Agency and the Department of Labor, which are the key Federal enforcement agencies regulating industries using chemicals.

The CSB opened its doors for business on January 5, 1998, and was almost immediately called into action to investigate the tragic explosion of the Sierra Chemical Plant in Sparks, Nevada.

For more information, visit CSB's website at www.chemsafety.gov.

**EXPLOSIVES SECURITY:
Report Lost or
Stolen Explosives or Suspicious
Activity to ATF**

Industry members are reminded of the need to always maintain the highest security provisions. This includes securely storing explosives, as well as "knowing your customer" and noting suspicious activity.

Remember: If you notice a loss or theft of explosives, you are required to report it to ATF within 24 hours of discovery by telephone, at **(800) 800-3855 or (888) ATF-BOMB**. After calling it in, you must complete ATF Form 5400.5, "Report of Theft or Loss - Explosive Materials," and submit it in accordance with the instructions on the form. The loss or theft must also be reported to the appropriate local law enforcement authorities.

It is important that ATF and the explosives industry work together to reduce the criminal use of stolen explosive materials and to eliminate opportunities for terrorists to acquire such materials. ATF inspectors and special agents are aided immensely by reports and descriptions of suspicious individuals and vehicles. Vigilant cooperation aids our joint goal of preventing injury or death to our fellow citizens.

Wanted by ATF

\$1,000,000 REWARD

ERIC ROBERT RUDOLPH

White Male, DOB 9/16/66, 5'11", 165
to 180 pounds, Brown Hair,
Blue Eyes

Aliases: Bob Randolph, Robert
Randolph, Bob Rudolph, Eric
Rudolph, Eric R. Rudolph

Wanted in connection with a fatal
bombing in Birmingham, Alabama;
a fatal bombing in Atlanta, Georgia;
and four other bombings in Atlanta,
Georgia.

**CAUTION: CONSIDER ARMED
AND DANGEROUS**

**Contact your nearest ATF Office,
or call 1-888-ATF-BOMB**

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**Questions/Suggestions to Editor:
Explosives Newsletter**

Name and Address:

Suggestions for improvement of newsletter:

Questions you would like to see addressed in the next newsletter:

Please use this form if you would like to express an idea or get an answer to a question. Mail to:

Bureau of Alcohol, Tobacco and Firearms
ATTN: Explosives Newsletter
650 Massachusetts Avenue, NW, Room 7100
Washington, DC 20226
