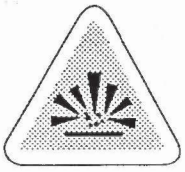
Volume V, 1991

EXPLOSIVES NEWSLETTER

Federal Explosives Licensees/Permittees Information Service provided by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms Washington, D.C.



THEATRICAL FLASH POWDER

On September 27, 1991, ATF amended regulations in 27 CFR part 55 to relax the licensing requirements for on-site manufacturers of small quantities of theatrical flash powder. Current regulations require that such manufacturers be licensed in each ATF region in the United States where they intend to engage in business. The amended regulations will allow such on-site manufacturers to operate nationally on one license issued to their principal place of business. Also, the amended regulations will clarify the definition of flash powder.

Theatrical flash powder is flash powder commercially manufactured in premeasured kits not exceeding 1 ounce and mixed immediately prior to use and intended for use in theatrical shows, stage plays, band concerts, magic acts, thrill shows, and clown acts in circuses. ATF believes that requiring such manufacturers to be licensed in each region in which they conduct business is no longer necessary.

The single license provided in the regulation for theatrical flash powder is limited to theatrical flash powder commercially manufactured in premeasured kits not exceeding 1 ounce and which are mixed immediately prior to use. Accordingly, manufacturers who produce theatrical flash powder other than with the commercially manufactured kits are not eligible for the relaxed licensing requirements established by this final rule. Pursuant to 18 U.S.C. 843(g), on-site manufacturers of theatrical flash powder are required to post their license on the premises covered by the license. Since this rule will allow such on-site manufacturers to operate on one license in any State, this license must be posted at each site where the theatrical flash powder is mixed and used.

DOT ELIMINATES CLASS A, B, AND C EXPLOSIVES

On December 21, 1990, the U.S. Department of Transportation (DOT) issued a final rule which revised the **Hazardous Materials** regulations contained in CFR Parts 171 to 180. These regulations cover the classification, packaging, and shipping of explosives (including blasting agents), oxidizers (ammonium nitrate), flammable liquids, and flammable solids.

DOT has revised the U.S. hazardous materials regulations so that they will conform with international regulations which are based on the United Nations Recommendations on the Transport of Dangerous Goods. The revised regulations are designed to standard-

ize testing and classification procedures, nomenclature, packaging, labeling, placarding, and handling and eliminate inconsistencies that currently exist between the U.S. (domestic) and UN (international) standards.

The most important change to the user of explosive materials will be the elimination of the **Class A, B, and C explosives and blasting agents**. Under the UN recommendations all explosive materials will be placed into **Class 1 Explosives. Class 1** is divided into six divisions, the divisions being characteristic of the properties and hazards of the particular explosive. The breakdown of the Class 1 Explosives into its six divisions is as follows:

CLASS 1: - EXPLOSIVES

Division 1.1 - Class A explosives (dynamite, cast boosters, cap sensitive emulsions, water gels and slurries, Class A detonators).

Division 1.2 - Class A or Class B explosives (Division 1.2 will generally be some sort of ammunition or materials that have a projection hazard).

Division 1.3 - Class B explosives (generally propellants or explosives that have a fire hazard but not a mass detonation hazard).

Division 1.4 - Class C explosives (Class C detonators, safety fuse, and other Class C explosives).

Division 1.5 - Blasting Agents {An/FO, non cap sensitive emulsions, water gels, slurries, packaged blasting agents (wethole materials.)}.

Division 1.6 - No applicable class. {Currently there are no commercial explosives in Division 1.6}.

Criteria and test procedures have been set up in the UN recommendations to determine the proper classification of an explosive (class and division). Through this criteria and test it can be initially determined if the material is an explosive and subsequently to what hazard division it belongs.

In addition to the class and division number, every explosive under UN recommendations will have a proper shipping name and an identification (4 digit) number. When this regulation becomes effective shipping cases will be required to show the proper shipping name and the identification number.

DOT has provided a transition period. The existing packagings for explosives may be used until October 1, 1996, although packagings currently authorized under DOT regulations may not be manufactured after October 1, 1994.■

NOTICE! NOTICE!

The November 1989 edition of ATF F 5400.4, Explosives Transaction Record, is missing the vertical line in Item 16, Certification of Distributee, between questions d and e. Please make sure that each question is answered with a "yes" or "no." We are in the process of correcting this form.■

ATTENTION EXPLOSIVES LICENSEES/PERMITTEES

Recently, in the Northeast, a criminal investigation into the theft of high explosives was hampered by the lack of properly maintained records of the explosive materials by several licensees.

Licensees/permittees are reminded that business records must accurately reflect the physical count of the item shipped or received. In addition, the complete and accurate date-shift-code is an essential part of the product description and is necessary for law enforcement purposes.

27 CFR section 55.109 provides the following for the identification of explosive materials:

> "Each licensed manufacturer of explosive materials shall legibly identify by marking all explosive materials he manufactures for sale or distribution. The marks required by this section must identify the manufacturer and the location, date, and shift of manufacture. The licensed manufacturer shall place on each cartridge, bag, or other immediate container of explosive materials manufactured for sale or distribution the required mark which shall also be placed on the outside container, if any, used for their packaging."■

INSTITUTE OF
MAKERS OF
EXPLOSIVES

A MESSAGE FROM THE INSTITUTE OF MAKERS OF EXPLOSIVES (IME)

BLASTING CAP ACCIDENT REPORT

To date, in 1991, there have been four blasting cap (detonator) accidents reported to IME which involved children.

The first involved a 9-year-old Ohio boy who was injured when he touched the legwires of an electric blasting cap to a 9-volt battery. The incident took place on a school bus. Reportedly, the boy had found the detonator alongside a road.

In the second accident, a 13-year-old Nevada boy suffered serious burns and damage to his hand when a blasting cap detonated as he was holding it. The cap was reportedly found in a trash can near a park area.

The third accident resulted in injuries to a 10-year-old Connecticut boy. The boy found the blasting cap in a lighthouse while on a school trip. Reportedly, two other boys found blasting caps while on the trip to the lighthouse but these were recovered by law enforcement personnel following the accident to the 10-year-old.

In the fourth accident, a 7-year-old Texas boy was killed when an oil well blasting cap that he was holding detonated as he connected it to a battery. An 11-year-old boy who stood nearby was injured when the cap exploded. Authorities reported that the boy found the blasting cap on the roadside near their home.

None of these accidents should have happened. All involved blasting caps that users carelessly left and did not store in locked magazines.

GOOD STORAGE PRACTICES

1. Keep storage magazines locked when unattended.

2. Store explosive containers in a stable manner, arranged so that brand and grade marks and size designations are readily visible.

3. Rotate stocks. The oldest, useable stocks should be removed first.

4. Keep magazine floors free of grit, paper, and rubbish. Sweep floor regularly.

5. Only approved loading conveyors may be used and stored in magazines.

6. Magazines should be used exclusively for the storage of explosives materials and blasting accessories. Only items which are compatible with the explosive materials and are used in the explosive loading operation should be stored in magazines. This would include plastic sleeves for wetholes, tamping bags and poles, connecting and leading wire, loading ropes, etc.

7. Chains, jacks, wire cables, drill bits and steels, shovels, picks, metal bars, and general tools should not be stored in magazines.

8. Flammable liquids such as gasoline, kerosene, alcohols, and fuel oils, cylinders of compressed gasses, and containers of greases and lubricants should never be stored in magazines.

9. An inventory notation should be made every time explosive materials are taken from, put into, or returned to the magazine. ■

CLARIFICATION OF OWNERSHIP OF EXPLOSIVE MAGAZINES

Recently, the Firearms and Explosives Operations Branch was asked who is responsible for stored explosives where the magazine is located on land not owned by the owner and user of the magazine(s).

The explosives law, 18 U.S.C. section 842(j), states: "It shall be unlawful for any person to store any explosive material in a manner not in conformity with regulations promulgated by the Secretary."

In this situation the owner of the land would have no interest in the stored explosives. Therefore, the company storing explosive materials at this location would be responsible that the magazine(s) are constructed, operated, and sited in conformity with the regulations in 27 CFR Part 55.

Also, the responsible company would be required to notify the local ATF office that the corporation is storing explosives at the location.■

NEWS RELEASE

On October 8, 1991, the Consumer Product Safety Commission (CPSC) banned reloadable tube aerial shell devices with shells larger than 1.75 inches in outer diameter. These products are imported. The reason for the ban is that 39 incidents involving reloadable shells have been reported to the CPSC since 1985. The resulting injuries were severe and include burns and loss or impairment of sight.

Reloadable tube aerial shell fireworks devices (also referred to as "reloadable shell devices") typically consist of a cardboard launcher tube approximately 10 to 12 inches tall and separate shells that the user places inside of the tube. The user ignites the fuse which extends slightly above the top of the tube, and the shell is projected approximately 75 to 250 feet in the air where it bursts with another powder charge, releasing a colorful starburst. They are classified by DOT as Class C common fireworks devices. Class C fireworks devices are suitable for use by consumers. These reloadable shell devices have become increasingly popular in the past three to four years. Prior to the ban four nominal sizes of shells were available for consumer use: 1.5, 1.75, 2.0, and 2.25 inches in outer diameter. ■

CHANGE IN ADDRESS AND TELEPHONE NUMBERS

In January 1991, the Bureau of Alcohol, Tobacco and Firearms (ATF) Headquarters moved from 12th & Pennsylvania Avenue, N.W. to 650 Massachusetts Avenue, N.W. As a result of this move, telephone numbers for the Firearms and Explosives Division have changed. The following represents those telephone changes.

Firearms and Explosives Phone Numbers

Firearms & Explosives Division	(202) 927-8300
Firearms & Explosives Operations Branch	(202) 927-8310
Firearms & Explosives Imports Branch	(202) 927-8320
National Firearms Act Branch	(202) 927-8330

Change of Address
Santa Ana, Ca - Office of Law Enforcement

The Santa Ana office of Law Enforcement has moved to a new location, the new mailing address is 200 West Santa Ana Blvd., Suite 550, Santa Ana, CA 92701. All correspondence from local explosives licensees/permittees should be addressed to this new location.

PLACARDING REGULATIONS

The Explosives Newsletter, Volume 1, 1990, announced a proposed regulation to require warning placards to be displayed on all facilities used to store blasting agents.

On May 30, 1990, ATF issued a rule which amended 27 CFR section 55.211 by adding a new paragraph (a)(5) to read as follows:

(a) (5) **Placards.** The placards required by Department of Transportation regulations at 49 CFR Part 172, Subpart F, for the transportation of blasting agents shall be displayed on all magazines.

For clarification purposes, the placards required by this regulation are only required on **Type 5** magazines for the **storage of blasting agents.**■

CORRECTION FIREWORKS REGULATION

We have received a lot of calls and correspondence regarding the Explosives Newsletter, Volume II, 1990, concerning the article on **New Fireworks Regulations**. This newsletter will serve to clarify the storage requirements for flash powder and bulk salutes.

The high explosives classification is extended to flash powder and bulk salutes because they can be made to detonate by means of a blasting cap when unconfined. The term "bulk salutes" means unfinished salutes and finished salutes which are segregated from other special fireworks However, when finished salutes have been packed into shipping containers with other special fireworks, they are subject to the storage requirements for low explosives.

We are sorry for any inconvenience this may have caused. ■

Nebraska, Kansas, Iowa and Missouri Explosives Licensees/Permittees

You recently received a new Federal explosives license/permit. You will note that the regional code (the first number on your license) has changed from 3 to 5. This is due to a realignment of the four States — Nebraska, Kansas, Iowa, and Missouri — from the Midwest Region to the Southwest Region. There should be no other changes to your license. If you have questions concerning your license, please call the Firearms and Explosives Licensing Center at **1-800-366-5423**.

General questions should still be directed to the same area supervisor's office as in the past. All special requests (e.g., variances, storage changes, etc.) should now be sent to the Southwest Regional Director at 1114 Commerce Street, 7th Floor, Dallas, Texas 75242, or call 1-214-767-2281. Please **do not call 1-214-767-2212**; this number was listed in error on the insert included with your amended license.

Upon receipt of your new license, please destroy your old license and any copies to ensure that they do not fall into unauthorized hands.

Q. If we store the city's fireworks show in a local magazine for a couple of days, how do we know if its proper?

A. A magazine used by a licensee/permittee must meet construction and location requirements and is inspected to see that standards are met. State and city magazines are also required to meet Federal standards.

Q. In the response to the first question in volume II, 1990, you state that "A license/permit is required to transport special fireworks across state lines." What license/permit is required and what is the section of 18 U.S.C. Part 40, or 27 C.F.R. Part 55 that specifically identifies that requirement?

A. The type of license/permit required would be a User Permit for low explosives or a User Limited permit for one transaction. The section of the law is 18 U.S.C. § 842(a)(3)(A).

Q. The ATF identifies high explosives as materials capable of detonation with a blasting cap when unconfined (§ 55.202a). What is ATF's operational definition for "detonation", what is the technical basis for that definition, and what is the procedure used to make a determination of detonation?

A. As required by 18 U.S.C., § 842(j), ATF has adopted standards of safety and security recognized in the explosives industry. The Institute Makers of Explosives (IME) Safety Publication No. 12, Glossary of Industry, Terms defines detonation as:

..... **"An explosive reaction, also called detonation wave, that moves through the material at a velocity greater than the speed of sound in the material."**

Q. Is a manufacturer of low explosives license sufficient for the manufacture of all special fireworks, including flash powder and salutes? Similarly, is a low explosives user permit sufficient for the performance of any fireworks display, including those using salutes?

A. The manufacture of special fireworks, other than flash powder and bulk salutes, would only require a manufacturer of low explosives license. However, since flash powder and bulk salutes are classified as high explosives as defined in 27 CFR § 55.202(a), a license as a manufacturer of high explosives would be necessary. Further, a person who sells flash powder or bulk salutes but does not manufacture would not need a license to manufacture high explosives, but instead would need to be licensed as a dealer of high explosives.

Q. A major manufacturer of explosive products had proper licenses to conduct business in three adjoining States with distribution points in each state. A national mining company has business establishments in each of the same states but does not have a federal license or permit. Are the explosives manufacturer and/or the mining company in violation of 18 U.S.C. § 842, if one of the manufacturers distribution points delivers explosives to the mining company in one of the adjoining states?

A. A nonlicensee/nonpermittee may only purchase explosives in the State where he is a resident. In this instance the mining company location where the explosives are needed must purchase from the explosives manufacturer's facility located in the same state. The sale is made there and all records are maintained there. The order may then be shipped from an out of state location of the manufacturer directly to the mine location since the explosives would be constructively received by the seller in the same state. The transaction form is then kept at the premises where the sale was made.

If you would like to express an idea or get an answer to a question concerning any of the topics covered in the newsletter or would like to request a clarification on any explosive related matters, you may address your inquiries to the Bureau of ATF, Attn: Editor, Explosives Newsletter, P.O. Box 50239, Washington, D.C. 20019.

CAUTION! CAUTION!

It has been brought to our attention that the type 2 trailers (magazines) manufactured by the Tread Corporation may not meet ATF construction standards as set forth in 27 C.F.R. § 55.208(a)(2). Apparently, in dry climates shrinkage of the wood lining is possible. Magazines should be checked and additional wood should be added to meet requirements.■

Law Enforcement Corner

FAMILY AFFAIR

On April 13, 1990, 1,100 pounds of stolen dynamite were purchased from a suspect in Roseburg, Oregon. The dynamite was part of a 4,000-pound theft from a construction company in Oregon. Some of the explosives from this theft were also used in a 50-pound explosive device that was recovered at the scene of an attempted bombing of a county health services building in Oregon. Further investigation resulted in the execution of a search warrant at the suspect's residence. Assisting ATF in the execution of the warrant were the Roseburg Police and Fire Departments, the Douglas County Sheriff's Department, the Salem and Portland Police Departments, and the Oregon State Police.

Found buried in the backyard of the suspect's residence was a 55-gallon plastic barrel containing 131 2-pound sticks of dynamite. Because the dynamite was crystallized and in a hazardous condition, sections of the residential neighborhood were evacuated while the dynamite was removed and safely disposed of. Consequently, the suspect was arrested, and on July 5, 1990, he was indicted and charged with concealing stolen dynamite.

Based on information obtained from the suspect, ATF and local authorities served a second search warrant at the residence of the suspect's brother-in-law. A search of a shed on the property resulted in the recovery of 650 pounds of dynamite, 7,400 feet of detonating cord, and 441 electric blasting caps. Investigators determined that these explosives were also part of the explosives theft.

A substantial portion of the stolen explosives was still hidden in the woods near the area of the original theft. A search of this location resulted in the recovery of two separate caches of dynamite from underneath hollowed-out logs that had been covered with brush and tree limbs. Combined, these two caches totaled 1,250 pounds. The dynamite was subsequently traced to the explosives theft. Further judicial action is pending.■

WHERE'S THE ???????

On November 16, 1990, ATF agents from Jacksonville, Florida, and officers of the Jacksonville Sheriff's office arrested an individual for possession of a small arsenal of weapons and explosives, which included handgrenades, mines, blasting caps, 45 pounds of C4, and 8 pounds of military TNT. An arsenal almost identicial to this was previously seized. This individual advised that he and others had transported the items from a residence in Tennessee.

Investigators subsequently learned that this was the residence of one of two suspects in an armed robbery of two soldiers. The individual further advised that the brother of this suspect had additional stolen explosives, destructive devices, and illegal firearms. Searches failed to produce the items described.

On December 29, 1990, another cache of weapons and explosives was found in Clay County, Florida. This cache made up the balance of the items that had been transported from the residence in Tennessee. Since the start of this investigation, the suspects in the armed robbery have been indicted for that offense as well as on charges of conspiracy, possession of unregistered Title II weapons, and the interstate transportation of stolen explosives. The co-conspirators who were involved in the transfer and concealment of the weapons and explosives have been indicted on like charges.■

ATF CHEMIST AND SPECIAL AGENTS FOILS BOMBER

On December 16, 1989, a package bomb exploded at the residence of a circuit court judge in Mountain Brook, Alabama. The judge was killed instantly by the blast, and his wife was seriously injured. Agents responded to the scene and, after an initial examination of the scene, determined that the package had been delivered by the U.S. mail and that it had contained a pipe bomb. Finishing nails were used in the device to provide additional shrapnel.

On December 18, a suspect package was discovered at the 11th Circuit Court of Appeals in Atlanta, Georgia. The device was rendered safe, and it was determined that the device was similar to the device used in the December 16 incident. Later this same date, a package bomb exploded at a law office in Savannah, Georgia. An attorney to whom the package was addressed was severely injured as a result of the blast and subsequently died. Again, similarities between the devices were identified.

Consequently, a task force of personnel from ATF, the U.S. Postal Service, the FBI, and U.S. Marshal's Service, as well as officers from numerous State and local law enforcement agencies was formed. As the investigation ensued, an individual emerged as a suspect when an ATF chemist recalled a 1972 ATF investigation in which an individual was subsequently convicted for the possession of an explosive device similar in design and construction to the mailed devices.

This recollection led to an extensive query of the Explosives Incidents System (EXIS), which revealed no devices containing similar components. This helped to substantiate that the bomb maker from 1972 was the only person to make these unique devices. Moreover, laboratory records substantiated that the individual's 1972 device was similar to the mailed devices in 12 areas. Further investigation revealed that the individual had cases pending before the deceased judge and the 11th Circuit Court of Appeals.

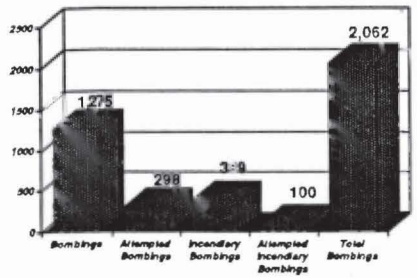
In the months that followed, the task force obtained other circumstantial evidence that could be used to prove the individual committed the bombings. Task force members also uncovered additional, though unrelated evidence against the individual regarding his conviction for possession of the 1972 device and his subsequent appeal of the charge. This additional evidence resulted in the individual's indictment and arrest on charges of obstructing justice and perjury.

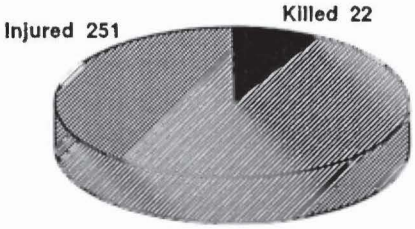
The task force continued to solidify its case on the mailed-package bombings, and on November 7, 1990, a Federal grand jury returned a 70-count indictment against the individual. The indictment charged him with the mail bombing deaths of the judge and the attorney, as well as with sending explosive materials and injurious articles through the mail.

On December 14, 1990, after a 5-day trial, the individual was found guilty of the charges stemming from the ancillary obstruction case. He was subsequently found guilty in June 1991 of the charges relating to the mailed-package bombings. On August 20, 1991, the mail bomber was sentenced to seven life terms plus 400 years in prison with no possibility of parole.■

1990 EXPLOSIVES INCIDENTS

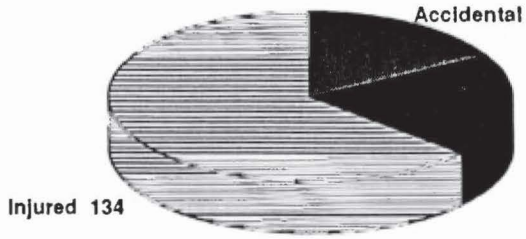
BOMBINGS





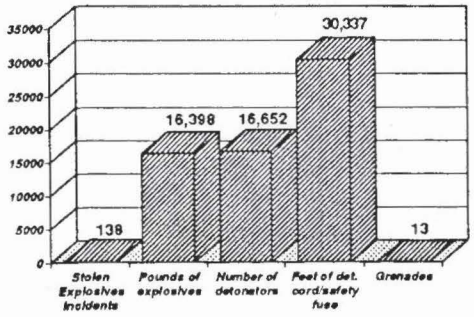
Property damage was $13.6 million

ACCIDENTAL EXPLOSIONS

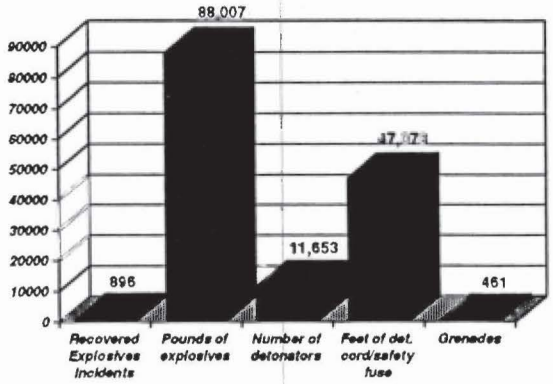


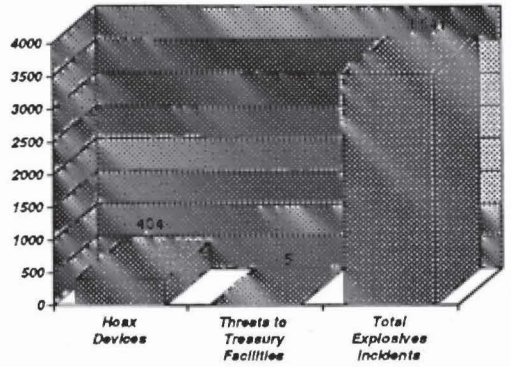
Property damage $2.6 million

STOLEN EXPLOSIVES INCIDENTS



RECOVERED EXPLOSIVES INCIDENTS





STATISTICAL ANALYSIS

* *Total bombings incidents increased 21% over 1989.*
* *Stolen explosives incidents increased 10% over 1989.*
* *Recovered explosives incidents increased 17% over 1989.*
* *The number of explosives incidents for 1990, 3,541 is the highest number reported in 15 years. This is 20% increase over 1989.*

* U.S. GOVERNMENT PRINTING OFFICE: 1991 - 618-069 - 1302/41156

WESTERN REGION REORGANIZATION

The Western Region of Compliance Operations is consolidating and reorganizing their field offices effective 10/1/91. The Santa Rosa Area Office will become a Post of Duty under the San Francisco Area Office an the Fresno Area Office. The State of Utah will now be the responsibility of the Sacramento Area Office and the Los Angeles Area Office will now have responsibility for the entire county of Los Angeles. A detailed listing of the changes may be obtained by contacting the Western Regional Office at (415) 744-9425 and ask for a copy of Industry Memorandum W-91-13. ■

QUESTIONS/SUGGESTIONS TO EDITOR: EXPLOSIVES NEWSLETTER

NAME AND ADDRESS

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QUESTION

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SUGGESTION FOR IMPROVEMENT OF EXPLOSIVES NEWSLETTER

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PLEASE USE THIS FORM IF YOU WOULD LIKE TO EXPRESS AN IDEA OR GET AN ANSWER TO A QUESTION. MAIL TO BUREAU OF ATF, ATTN: EXPLOSIVES NEWSLETTER, P.O. BOX 189, WASHINTON, DC 20044-0189.

Department of the Treasury
Bureau of Alcohol, Tobacco and Firearms
Firearms & Explosives Licensing Center
P.O. Box 2994
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3835 Presidential Prkwy
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ILLINOIS
1 South 450 Summit Ave.,
Ste. 225, Oakbrook Terrace
Oakbrook, Il. 60181

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Middleburg Hghts., OH 44130
216-522-3374

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Portland, OR 97218
503-231-2331

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