



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Assistant Director

Washington, DC 20226

May 16, 2003

Open Letter to All Federal Explosives Licensees and Permittees

The purpose of this letter is to remind you about the provisions of the Safe Explosives Act (the Act). The first provisions of the Act went into effect on January 24, 2003, and the remaining provisions go into effect on May 24, 2003. Interim regulations were published on March 20, 2003, and are in effect. These regulations are available at <http://www.atf.gov/>.

If you sell explosives, it is important that you become familiar with the new forms and procedures required as of May 24, 2003. See the new ATF Forms section below for additional information. Persons who do not currently hold a Federal explosives license or permit and who will receive explosives on or after May 24, 2003, must obtain from the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) an approved license or permit prior to receiving further shipments of explosives.

Explosives Provisions Effective May 24, 2003

Licensing and Permitting

Beginning May 24, 2003, all persons who seek to receive explosive materials must possess a license, a user permit, or a new intrastate "limited permit." The newly created limited permit will allow the purchaser to receive explosive materials on no more than six occasions during the period of the permit; however, unlike a user permit or a license, the limited permit will not allow the holder to ship, transport, receive, or possess explosive materials outside his or her State of residence.

Please be advised that persons utilizing a licensee's storage facilities for contingency storage will need a Federal explosives license or permit in order to pick up their explosive materials after May 24, 2003. Likewise, if a limited permittee utilizes a licensee's storage facilities for contingency storage a valid Intrastate Purchase of Explosives Coupon (IPEC) will be required for the limited permittee to take possession of the explosive materials. For further information on the IPEC, see below.

Background Checks

The new law also requires that all licensees and permittees, along with responsible persons, submit to ATF identifying information, fingerprints, and photographs. All employees who possess explosive materials on behalf of a licensee or permittee will be required to submit only identifying information. The only exception to this requirement is when the employee's sole contact with explosive materials is during

its transportation this exception would include truck drivers employed by explosive licensees/permittees. In turn, ATF is required to conduct background checks on all responsible persons and all employee possessors to determine whether such persons are, or are not, prohibited from possessing explosive materials. ATF will notify employers in writing or electronically of the result of each background check and will supply employees and responsible persons with “letters of clearance” where appropriate. If ATF determines that an employee or responsible person is subject to an explosives prohibition, ATF must provide information about the determination and appeal procedures.

The identifying information for responsible persons and employee possessors, as well as fingerprints and photographs for responsible persons, is required to be submitted at the time of application. If you are a current Federal explosives licensee or permittee, this information will need to be submitted at the time of your next renewal.

Please be advised that 18 U.S.C. 842(i) generally prohibits persons who are subject to any of the prohibiting categories from possessing explosive materials. Although licensees and permittees are not required to perform their own background checks on employees who will possess explosive materials in the course of their employment, they should attempt to ensure that current employees and prospective employees are not prohibited from possessing explosive materials. If employers do conduct background checks through a private or other entity, those checks cannot be used in lieu of the ATF background check.

New ATF Forms

ATF has revised Form 5400.4, formerly titled Explosives Transaction Record, now entitled Limited Permittee Transaction Report, and Form 5400.8, Explosives Delivery Record. These forms contain, among other things, new instructions and important notice sections in order to facilitate a better understanding of the requirements that apply to all persons who purchase and store explosive materials. The required use of the new forms will be effective on May 24, 2003. All previous versions of these forms are obsolete and may not be used. If you have not received a supply of these forms by May 24, 2003, you may obtain printable copies of these revised forms online at <http://www.atf.gov/>. You may also order the forms from the ATF Distribution Center at (703) 455-7801 or by contacting your local ATF office. We are making every effort to have these forms available to you by that date.

ATF Form 5400.4, Limited Permittee Transaction Report

This form was previously titled Explosives Transaction Record and was used in transactions involving the distribution of explosive materials to persons and business entities that did not hold a Federal explosives license or permit.

Effective May 24, 2003, the ATF F 5400.4, Limited Permittee Transaction Report (LPTR), is to be used for transactions with the new Limited permittees. The form must be completed by the Limited permittee and the dealer at the time of the receipt of explosive materials. The limited permittee must furnish the dealer with a valid coupon, ATF F 5400.30, Intrastate Purchase of Explosives Coupon, which the dealer affixes to copies 1 and 2 of the LPTR. After the form is complete, Copy 1 of the LPTR is sent to ATF and Copy 2 is retained as part of the licensee’s permanent records. Further instructions are on the form.

ATF Form 5400.8, Explosives Delivery Record

The requirement for the completion of this form is placed on the licensee. This form is to be used when a common or contract carrier hired by either the buyer or the seller takes possession of explosive materials

at a licensee's premises. This form is to be maintained as a part of the licensee's permanent records. Further instructions are on the form. Please check the website for the most updated version of the form.

Explosives Provisions Effective January 24, 2003

Prohibited Persons Categories

The Act also expanded the list of persons prohibited from possessing explosives. In addition to the already existing prohibited persons categories, the Act added: (1) aliens (with limited exceptions); (2) persons who have been dishonorably discharged from the military; and (3) persons who have renounced their United States citizenship. Effective January 24, 2003, it is unlawful to distribute explosive materials to these persons or to anyone currently prohibited from possessing explosives. Prohibited persons generally will be eligible to apply for relief from Federal explosives disabilities. For further information, please contact the Explosives Relief of Disabilities Section at 202-927-2260.

Sample Submissions

When requested by ATF in writing, manufacturers and importers of explosive materials, including ammonium nitrate, must furnish samples of these materials to ATF, as well as information on their chemical composition or other information. ATF will reimburse the manufacturer or importer for the fair market value of the product sample and shipping.

Failure to Report Theft or Loss of Explosives

Effective January 24, 2003, it became a felony to fail to report the theft or loss of explosives to ATF within 24 hours of discovery of the theft. The penalties include being fined not more than \$250,000, imprisoned not more than five years, or both.

If you need any additional information regarding the newly enacted legislation, please contact the Public Safety Branch at (202) 927-2310.

Sincerely yours,

A handwritten signature in black ink that reads "John P. Malone". The signature is written in a cursive, flowing style.

John P. Malone
Assistant Director
(Firearms, Explosives and Arson)