



ATF EXPLOSIVES Industry Newsletter

September 2008

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Carson W. Carroll Named Assistant Director (Enforcement Programs and Services)

In June 2008, Carson W. Carroll, formerly the Deputy Assistant Director for the Office of Field Operations, was appointed as Assistant Director for the Office of Enforcement Programs and Services. Mr. Carroll replaces former Assistant Director Lewis P. Raden who retired earlier this year.

Mr. Carroll joined ATF as a criminal investigator in 1987. In addition to his experience as Special Agent in Charge and Assistant Special Agent in Charge for the Seattle Field Division, he also served as Special Agent in Charge of the Critical Incident Management Branch, Special Agent in Charge of the Tactical Response Branch, Group Supervisor in the Los Angeles Field Division and Special Response Team Leader, Los Angeles Field Division. Mr. Carroll became chief of the Arson and Explosives Programs Division in 2002 before his appointment as Deputy Assistant Director for the Office of Field Operations in 2005.

Arson & Explosives Programs Division (AEPD)
Division Chief **Joseph M. Reihl**
Deputy Division Chief **Gregory D. Plott**
Explosives Industry Programs Branch (EIPB)
Branch Chief **Debra Satkowiak Clowry**
Explosives Technology Branch
Branch Chief **Kenneth C. Coffey**
Arson and Explosives Enforcement Branch (AEEB)
Branch Chief **Gilbert C. Bartosh**

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Safer America**

As Assistant Director for the Office of Enforcement Programs and Services, Mr. Carroll directs the development of policy guidance, exercises oversight of program implementation and technical and enforcement support to firearms, explosives and arson, and alcohol and tobacco related mission functions. He is responsible for oversight of the regulation in commerce of the firearms and explosives industries and provides technical guidance to the industry. The Arson and Explosives Programs Division welcomes Mr. Carroll and looks forward to working with him once again. We are certain that the industry will welcome Mr. Carroll's return to our collaborative efforts in service of the explosives industry.

Changes in the Arson and Explosives Programs Division

Gregory Plott Selected as Arson and Explosives Programs Division Deputy Chief

In October 2007, Gregory Plott was selected as the Deputy Chief for the Arson and Explosives Programs Division. Greg replaces former Deputy Chief Mark Jones, who transferred to the Chicago Field Division earlier this year.

Mr. Plott began his career with ATF in 1983 as a Criminal Investigator in Greenville, South Carolina. As a criminal investigator, he received advanced training in the arson and explosives areas and was a member of ATF's National Response Team (NRT). In 1991, he transferred to Washington, DC, to work as a Project Officer in the Explosives Enforcement Branch where he was involved in the Certified Explosives Specialist and NRT Programs. After serving for 4 years in this capacity, he returned to the field as the Resident Agent in Charge of the Greensboro Field Office in North Carolina. In 2002, Greg was transferred to the Internal Affairs Division in the Office of Professional Responsibility and Security Operations, where he served until his return to the Arson and Explosives Programs Division as Deputy Chief.

Greg looks forward to working with members of the explosives industry in continuing efforts to improve the safety and security of industry practices as well the public safety of the community.

Gary Bangs Leaves the Explosives Industry Programs Branch

Gary L. Bangs, who served as Chief of the Explosives Industry Programs Branch from December of 2003 until July of 2008, has left the branch to become Deputy Chief of the Firearms Programs Division. Gary's tenure in the Explosives Industry Programs Branch took place during a time of great changes stemming from the implementation of the Safe Explosives Act. His knowledge of the explosives industry and his efforts to improve public safety have been hallmarks of his work with both the ATF community and industry members. The Arson & Explosives Programs Division would like to thank Gary for a job well done, and we wish him well on his new assignment.

Explosives Industry Liaison Analyst

William O'Brien

Mr. O'Brien began his career with ATF in 1993 as an Inspector in Cleveland, Ohio. In 1998, he moved to Washington, DC, where he served with the Public Safety Branch (now the Explosives Industry Programs Branch) on regulatory explosives issues. In 2001, he transferred to Charleston, West Virginia, where he served as an Area Supervisor for 3 years. In 2004, Bill returned to ATF Headquarters to work with ATF's Field Management Staff on implementing ATF's explosives programs and to work with industry and ATF field personnel on explosives inspection issues.

In August 2007, he was named the Explosives Industry Liaison Analyst for the Explosives Industry Programs Branch. He will be working with the industry to ensure clear communications between ATF and the explosives industry. He will be strategically located in the middle of the country to best serve the needs of all geographic areas.

New Headquarters Building

The Bureau of Alcohol, Tobacco, Firearms and Explosives has moved across town to its new home at 99 New York Avenue, NE., in Washington, DC. Please note the following changes in contact information for explosives industry concerns.

Explosives Industry Programs Branch
Bureau of Alcohol, Tobacco, Firearms and Explosives
99 New York Avenue, NE
Mail Stop 6E405
Washington, DC 20226
Phone Number: (202)648-7120
Email inquiries: EIPB@ATF.GOV

Explosives Relief of Disabilities Section
Bureau of Alcohol, Tobacco, Firearms and Explosives
99 New York Avenue, NE
Mail Stop 6E405
Washington, DC 20226
Phone Number: (202)648-7110

Two New Field Divisions

ATF has established the Denver Field Division to service the States of Colorado, Montana, Utah, and Wyoming, and the Newark Field Division, to service the State of New Jersey. All previously existing criminal enforcement and industry operations offices located in these States now report to the Denver or Newark Field Division.

These States were previously under the Phoenix, St. Paul, or New York Field Divisions, but these realignments of responsibility will enhance ATF's efforts to serve the 700 Federal explosives licensees and permittees in these large geographic regions and will improve ATF's capability to reduce violent crime, prevent terrorism, and protect our Nation.

New "Orange Book"

ATF has recently updated ATF P 5400.7, Federal Explosives Law and Regulations, more commonly referred to as "the orange book." While all Federal explosives licensees and permittees should have received a copy in the mail, an electronic version is also available at <http://www.atfgov/explarsion/fedexplolaw/2007edition/index.htm>. Revisions to Federal Explosives Law and Regulations include changes stemming from the Safe Explosives Act, updated Questions and Answers and recent rulings.

Storage Rulings

In 2007, ATF issued two rulings affecting preloading and temporary storage. The following are brief summaries of those rulings—licensees and permittees should read the entire ruling when determining their need for a temporary variance.

ATF Ruling 2007-2

ATF recognized the need for licensees and permittees to preload fireworks on trucks prior to shipment and to temporarily store fireworks at fireworks display sites and derived a ruling that eliminates the need to apply for a variance each year. ATF Ruling 2007-2 held that ATF will approve alternate methods or procedures for the temporary storage of display fireworks in locked and attended vehicles at explosives magazine sites, as well as at the fireworks display sites, under the following conditions:

1. The doors to each storage compartment containing explosive materials must be locked with at least one steel padlock having at least five tumblers and a case-hardened shackle of at least 3/8" diameter. The padlock does not need to be protected by a steel hood. However, each temporary storage magazine must be attended at all times for security purposes. The vehicle is considered "attended" when an authorized individual is within 100 feet of all temporary storage and has an unobstructed view of the vehicle(s) containing the explosive materials. The individual must remain awake and observant of activities around the vehicle(s).
2. The person who temporarily stores the explosive materials must notify in writing the authority having jurisdiction for fire safety in the locality in which the explosive materials are stored no less than 3 Federal office business days prior to utilizing the additional temporary storage magazine(s).
3. The person who temporarily stores the explosive materials must notify ATF in writing of the location of this storage no less than 3 Federal office business days prior to utilizing the additional temporary storage magazine(s). ATF suggests you notify your local ATF industry operations office.

In applying ruling 2007-2, all other provisions of 27 CFR, Part 555, must be complied with as prescribed. Further, this ATF-approved alternate method or procedure for the temporary storage of display fireworks in locked and attended vehicles will not expire unless the holder of said variance is so advised by ATF or no longer holds a Federal explosives license or permit.

ATF Ruling 2007-3

ATF also eliminated the need to apply for a variance for the preloading and temporary storage of blasting agents on bulk trucks with ATF Ruling 2007-3. This ruling held that ATF will approve alternate methods or procedures for the preloading and temporary storage of bulk blasting agents in delivery vehicles at explosive magazine site(s), when its security and immobilization meet the following criteria:

1. All doors on the vehicle are locked, the ignition key is removed, and the key is secured away from the truck.
2. When the site is not in operation, outer perimeter security is established. This may be by a variety of means such as a locked gate, security guards, fence, natural features, or a combination of these.
3. Each potential access point to explosive materials on a storage vehicle will be secured with a minimum of one padlock that has at least five tumblers and case hardened shackle of at least 3/8" diameter.
4. Each vehicle shall be immobilized by a steering wheel locking device, lockable battery disconnect switch, or both.
5. All vehicles preloaded with blasting agents shall be parked in a company-designated area not susceptible to fire propagation such as bare dirt, gravel, rock, paving, or closely mowed parking lot.

In applying ruling 2007-3, all other provisions of 27 CFR, Part 555, must be complied with as prescribed. Licensees and permittees who wish to use the alternate method or procedure set forth in this ruling are not required to obtain advance approval in accordance with 27 CFR 555.22. Further, this ATF-approved alternate method or procedure for the temporary storage of bulk blasting agent products in locked and properly secured vehicles shall not be withdrawn unless the holder of said variance is so advised by ATF in writing or no longer holds a Federal explosives license or permit.

Those industry members complying with the provisions of these rulings need not obtain a written variance response from ATF. However, persons desiring alternate methods or procedures aside from these rulings or the prescribed regulations still must obtain a variance approval prior to utilizing the alternate procedures.

Fireworks Recordkeeping and Marks of Identification

ATF has responded to a proposal made by the American Pyrotechnics Association (APA) for alternative recordkeeping and marks of identification. ATF is committed to issuing variances to some of the prescribed recordkeeping requirements, if proprietors can meet the proposed guidelines for improved tracking, tracing, and accountability of display fireworks.

Fireworks proprietors may obtain a variance from recordkeeping and marking requirement provisions as proposed if they can provide access to alternate records that would assist in criminal investigations or inspections

ensuring compliance. Such records may include invoices, pull sheets, packing lists, shipping manifests, packaged display show descriptions, colors or effects of the shells, and any other commercially generated records that would provide descriptive information regarding fireworks materials shipped or otherwise disposed of from the premises. Additionally all display fireworks items will be marked with the required marks of identification.

Information Resources

ATF is dedicated to working in conjunction with the explosives industry to ensure public safety with as little disruption to the explosives industry as possible. To that end, the Explosives Industry Programs Branch provides regulatory guidance through rulings, interpretations, special notices, newsletters, and responses to individual inquiries.

Guidance is also available on the EIPB web page at <http://www.atf.gov/explarson/eipb.htm>. This site contains links to publications such as the "Federal Explosives Law and Regulations" and "Safety and Security Information for Federal Explosives Licensees and Permittees". In addition, ATF Rulings, newsletters, Safe Explosives Act information and Explosives Frequently Asked Questions from industry members are also available on-line. Any questions pertaining to the explosives laws and regulations or questions to the industry liaison analyst may be sent via email to EIPB@ATF.GOV.

Important Interpretation Letters

ATF receives numerous requests for clarification or interpretation of the regulations codified under 27 CFR, Part 555. Occasionally, the subject of the interpretation is pertinent, or timely, enough that we believe it may provide information useful to a broad range of industry members or the public, e.g., pyrotechnic or hobby rocket club activities. In these cases, we have posted copies of ATF's interpretation letters on the ATF web site. These can be viewed at <http://www.atf.gov/explarson/eipb/letters.htm>.

ATF Website Update Notices

In an effort to improve the communication of explosives-related information, ATF is introducing an E-mail Updates feature to the ATF website: www.atf.gov. This feature allows Federal explosives licensees and permittees (FELs/FEPs) to receive email notices when new explosives information is posted to the ATF site.

FELs/FEPs may subscribe to this service by clicking on

Receive Explosives Industry Updates at the Explosives Industry Programs Branch website <http://www.atf.gov/explarson/eipb.htm> and completing the requested e-mail and preference information. By following the instructions on the prompted pages, Subscribers may choose from the various categories on the ATF site. The Explosives Industry News category allows FELs/FEPs to receive automatic email notices anytime the Explosives Industry News, Newsletter, Open Letter and What's New pages are updated. Additional categories are available for updates concerning ATF News, Most Wanted Persons, press releases from ATF Headquarters and any of our 25 field division offices, as well as many other content areas. Subscription to this service is free and may be changed or cancelled at any time.

This e-mail subscription service is one enhancement ATF is making as we strive to improve the communication of pertinent information to explosives industry members.

Variance Request Guidelines

Licensees or permittees who wish to use an alternate method or procedure, including alternate magazine construction standards, must submit a request for variance from the regulations. To avoid delays in processing, requests must include the reason(s) for necessitating the variance and a specific description of the proposed alternate construction, equipment, method or procedure. Per 27 CFR 555.22, each variance request must include sufficient detailed information for ATF to determine that the proposed variation(s):

- Will afford security and protection that are substantially equivalent to those prescribed by Federal explosives law and regulations;
- Will not hinder the effective administration of Federal explosives law and regulations nor result in an increase in cost to the Government; and
- Will not be contrary to any provisions of law.

The following are examples of the types of information which must be documented for common variance requests. These examples are not all inclusive but are provided as guides to demonstrate the type(s) of information which should be included in a request to ensure a timely ATF response. Licensees and permittees should review 27 CFR, Part 555, to determine what information should be provided in demonstrating how the requested variance would provide levels of safety and security substantially equivalent to the regulatory requirements.

Example 1: A variance request to use an alternate marking system on explosive products must include the following information:

The license or permit number of the requesting person(s);

- A description of the explosive materials affected by the proposed marking system;
- An explanation of the circumstances which prevent the use of the marking system specified under 27 CFR, Part 555, Subpart F;
- A full description of the proposed marking system to show that these markings will not hinder the record-keeping, inspection or explosives tracing process; and
- Any other pertinent information.

Example 2: A variance request for indoor storage of explosives in the attached garage portion of a residence or dwelling must be accompanied by a certification signed under penalty of perjury (see ATF Rulings 2002-3 and 2002-4). The certification must:

- Identify the license or permit number of the requestor;
- Certify that the proposed alternative storage method will comply with all applicable State and local law;
- Provide the name, title, address, and phone number of the authority having jurisdiction for fire safety of the locality in which the explosive materials are being stored;
- Provide proof or copy of notification (of the proposed alternative storage) made to local fire safety officials;
- Identify the explosive materials to be stored in such magazine; and
- Pertinent information similar to that in Example 1.

Example 3: A variance request for the indoor (inside workshop) or outdoor storage of pre-loaded oil well perforating devices outside of an approved magazine must include the following information:

The license or permit number of the requesting person(s);

- The storage location (physical address);
- Description of how the perforating devices (guns) are loaded and stored (i.e. do they contain initiating charges; will they be stored in a rack or placed directly on the floor, etc.);
- Net explosive weight (NEW) to be stored;
- The name, mailing address and phone number of the first responding fire department for the location; and
- Any additional security measures in place at the proposed storage site.

Example 4: A variance request to use alternate construction or equipment, e.g., magazines or locks should be accompanied by:

- A full description of the requested variance;
- A list of manufacturer's specifications, if applicable;
- Photographs illustrating alternate construction, locks, or other devices; and
- Any other pertinent information.

Variations from the regulations may not be employed by the requestor until he or she has received a formal, written approval of the variance request, except when an emergency requires immediate action to correct a situation that threatens life or property. Corrective action may then be taken concurrent with the filing of the application to EIPB and notification of approval of the request via telephone.

Authorization of any alternate method or procedure may be withdrawn whenever the effective administration of Federal explosives law and regulations is hindered by the continuation of the authorization.

Requests for variances generally should be submitted to the Director of Industry Operations for the ATF Field Division where your business premises are located. However requests may be sent directly to the Explosives Industry Programs Branch (EIPB@ATF.GOV) which will coordinate with the local field office. Please provide the name and telephone number of the individual(s) who may be reached to answer any questions concerning the request.

Determination Request Guidelines

Industry members often require guidance from ATF as to the classification of a product or magazine, the exemption status of a particular explosive material, or whether a particular activity or recordkeeping method is in compliance with the regulations. Determination requests may also be submitted to receive clarification regarding an item or area not clearly addressed by the regulations. Requests should include the following information:

- Requests for classification of explosive materials or items should include information on the chemical composition and intended use of the product, and any other information relevant to the identification of the explosive materials (e.g., Material Safety Data Sheets (MSDS), sensitivity and detonation/deflagration characteristics, etc.).
- Requests concerning construction or equipment, e.g., magazines or locks, should be accompanied by a full description of the item(s), including photographs showing exposed angles, manufacturer's specifications, designs or information, if available, and the item's intended use.

Exemption Request Guidelines

Requests to exempt a specific product or device from the Federal explosives regulations contained at 27 CFR, Part 555 should be accompanied by a full description of the product or device and its intended use. Information should include the type and amount (NEW-Net Explosive Weight) of explosives contained in the completed device; photographs, diagrams and/or schematics of the completed device; Material Safety Data Sheets (MSDS), and the Department of Transportation (DOT) classification.

Requests for exemptions or determinations should be submitted to the Explosives Industry Programs Branch at the address listed below. Please provide the name and telephone number of a person(s) who may be contacted to answer any questions concerning the request.

Explosives Industry Programs Branch
 Bureau of Alcohol, Tobacco, Firearms and Explosives
 99 New York Avenue, NE
 Mailstop 6E405
 Washington, DC 20226
 EIPB@atf.gov

Who Should Complete a Theft or Loss Report?

Any person who has knowledge of the theft or loss of any explosive materials must report such theft or loss within 24 hours of discovery to ATF and to appropriate local authorities. In addition, industry members should complete ATF Form F 5400.5, Report of Theft or Loss—Explosive Materials, and mail or fax the form to the nearest ATF office. This form, available at <http://www.atf.gov/forms/pdfs/f54005.pdf>, must be completed by the industry member rather than by an ATF investigator. This will help ensure that all information accurately reports the industry member's records and observations. Information obtained from this form is used to aid law enforcement officials in identifying suspects involved in criminal violations; to establish the stolen status of explosive materials; to prove ownership; and to aid in identifying trends, weaknesses in regulations, or ways to aid industry in preventing thefts.

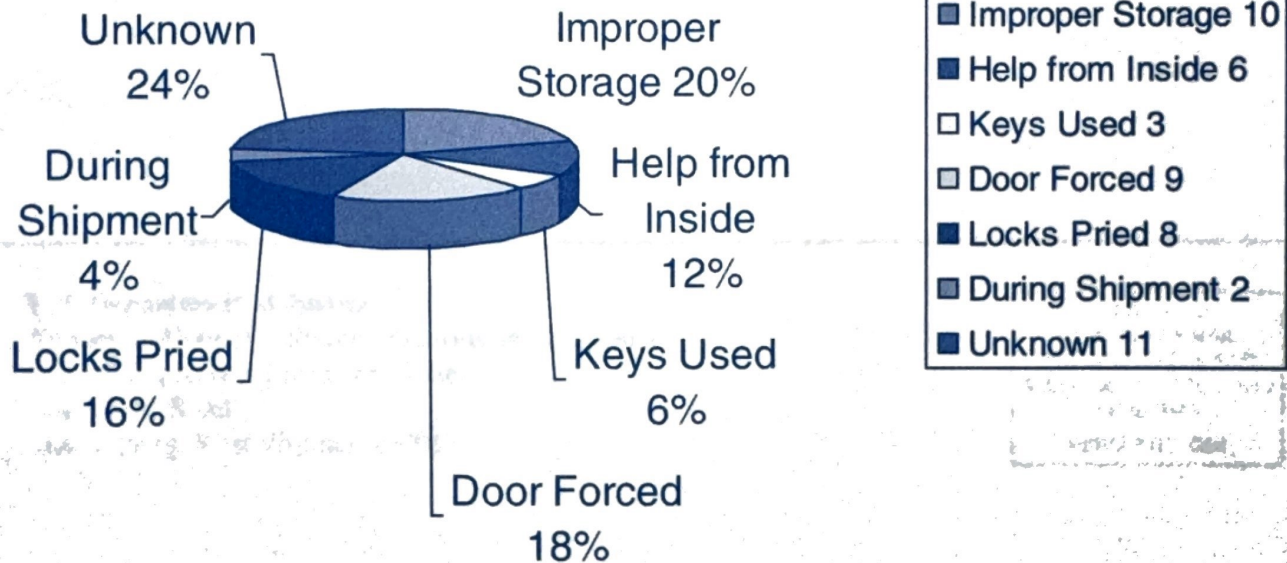
ATF field personnel are available to provide guidance to industry members on how to properly complete reports of theft or loss. In addition, The U.S. Bomb Data Center staff is also available to assist with any questions you may have regarding the reporting of theft or loss of explosive materials. Industry members may contact the U.S. Bomb Data Center at 1-800-461-8841 during normal business hours.

2007 Explosives Thefts

ATF is committed to investigating all thefts of explosives. Explosives thefts severely impact public safety. As always, you are reminded of the need to promptly report thefts or losses of explosive materials to ATF, as well as to State and local authorities. Given the number of storage magazines and the numbers of explosives transactions daily in the United States, the percentages of thefts are quite low. However, ATF and industry's joint goal must be zero thefts. An analysis of recent thefts indicates that simply complying with the current regulations could have reduced the numbers of thefts in 2007. Additionally,

utilizing simple voluntary measures laid out by ATF and industry groups in ATF Publication 5400.15 Safety and Security Information for Federal Explosives Licensees and Permittees (http://www.atf.gov/pub/fire-explo_pub/p540015.pdf) would additionally reduce the incidents of thefts. The following chart provides information on methods of entry for the 49 explosives thefts that occurred in 2007 as reported to the United States Bomb Data Center and as investigated by ATF.

2007 Explosives Thefts



Newsletter Distribution

Have you recently changed your address, or do you know someone not currently on the distribution list that may wish to receive the ATF Explosives Industry Newsletter? If so, please notify the Explosives Industry Programs Branch by phone, fax, or e-mail with the following information:

Name: _____

Company: _____

Address: _____

City/State _____ Zip Code _____

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

U.S. Department of Justice

Bureau of Alcohol, Tobacco, Firearms and Explosives
Federal Explosives Licensing Center
244 Needy Road
Martinsburg, West Virginia 25401

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