

GENERAL INFORMATION

EFFECT OF TITLE XI ON THE FIREWORKS INDUSTRY

[CAUTION! This Item Discusses the Federal "Point of View," Only! Please Contact Your State/Local Authority For Any Additional Requirements!]

Title XI of the Organized Crime Control Act of 1970 (18 U.S.C. Chapter 40) establishes controls over explosive materials, including black powder and other pyrotechnic compositions commonly used in fireworks. Part 55 of Title 27, Code of Federal Regulations (CFR), contains the regulations which implement Title XI.

Section 55.141(a)(7) exempts "the importation and distribution of fireworks classified as Class C explosives and generally known as 'common fireworks,' and other Class C explosives, as described by U.S. Department of Transportation regulations in 49 CFR 173 .100(p),(r),(t),(u), and (x)."

Section 55.141(a)(7) does not exempt "special fireworks" (often referred to as "display fireworks") which are classified by the Department of Transportation as Class "B" explosives. The exemption applies **only** to "common fireworks" in a finished state classified by the Department of Transportation as Class "C" explosives (49 CFR § 173.100).

With Respect to Fireworks . . . Who Needs a License?

1. Manufacturers of black powder;
2. Manufacturers of any other explosive material used in manufacturing "special fireworks" (Class "B" explosives) or "common fireworks" (Class "C" explosives); and
3. Importers of, or dealers in, "special fireworks."

With Respect to Fireworks . . . Who Needs a Permit?

1. A person acquiring or transporting "special fireworks" interstate for his own use and not for resale. [Agencies of the United States or of any State or political subdivisions thereof are exempt from permit requirements.]; and
2. A person, other than a licensee, acquiring or transporting explosive materials interstate for use in manufacturing "special fireworks" or "common fireworks."

With Respect to Fireworks . . . Who May Not Need a License or Permit?

Frequently, persons contracting for display fireworks (such as would be appropriate for Fourth of July observances) from an out-of-State dealer receive a **total service**, including the services of a pyrotechnician who transports display fireworks in interstate commerce to the site of the display and conducts or supervises the display. In these instances, the customers purchase the dealer's services rather than the explosive materials themselves, and the cost of the services includes the dealer's expense in providing the fireworks utilized.

When business is transacted in this manner, the customers purchasing and receiving the services need not obtain Federal licenses or permits since they are not actually acquiring explosive materials outside their States of residence, and they are not receiving such materials or causing them to be transported in interstate commerce.

If the dealer furnishing the services is a licensee, his interstate transportation of explosive materials to the display sites would be conduct authorized by his license.

With Respect to Fireworks . . . Types of Permits

1. **User permit:** Allows a permittee to acquire, transport, ship and receive "special fireworks" in interstate or foreign commerce for his own use and not for resale. This permit is issued at a cost of \$20 for a one-year period and is renewable at a cost of \$10 for a three-year period.

2. **User-limited permit:** Identical to the user permit but issued for a single transaction, only. The fee is \$2; the permit is nonrenewable. A new permit must be obtained for each transaction. This type of permit is advantageous to civic and veterans organizations who wish to conduct a single display such as on the Fourth of July.

With Respect to Fireworks . . . Storage

The law prohibits any person from storing any explosive materials in a manner not in conformity with the regulations promulgated by the Secretary of the

Treasury (18 U.S.C. 842(J)). Pursuant to this section, the Secretary has prescribed storage regulations in 27 CFR Part 55, Subpart K. Since display fireworks are not exempt from regulations, they must be stored in conformity with the regulations.

Display fireworks generally contain perchlorate mixture explosives, potassium chlorate base explosive mixtures, and black powder, which are entered on the **List of Explosive Materials** with numerous others. (The **List** is annually compiled and readily available without charge from the address set out in § 55.23.)

Display fireworks should be stored as low explosives in facilities meeting the requirements for type 4 storage facilities, prescribed by 27 CFR § 55.210 unless they contain other classes of explosives.

The manufacturer of exempt or nonexempt fireworks having stocks of explosive materials on hand to be used in the manufacture of fireworks must store his stocks in conformity with applicable storage requirements. In storage facilities where weight restrictions apply, the net weight of the explosive materials may be used. To determine the actual weight of the explosive materials, it may be necessary to contact their manufacturers.

EXPLOSIVES LICENSE AND PERMIT NUMBERING SYSTEM

The **Basic Number** of your Federal explosives license or permit consists of digits 2 and 3, and 11 through 15.

This basic number may be useful for letterheads, business cards, invoices, records, etc. (unless you are a manufacturer-limited licensee, or a user-limited permittee, as these licenses/permits are nonrenewable).

DIGIT	STANDS FOR
1	Alcohol, Tobacco and Firearms Region
2,3	State—Alpha Designation
4,5,6	County of the State
7,8	Type of license or permit
9,10	Expiration date code
11–15	Sequence number of license or permit

EXAMPLE:

5 TX 057 29 2E 00002

5	=	Southwest Region
TX	=	Texas
057	=	Dallas County
29	=	Dealer in Black Powder
2E	=	May 1992 Expiration Date
00002	=	Sequence Number

EXPLOSIVES DEALER'S AND USER'S BASIC GUIDE TO FEDERAL EXPLOSIVES REGULATION

■ EXPLOSIVES MAY NOT BE DISTRIBUTED BY LICENSEES TO ANY PERSON WHO:

- Is under 21 years of age.
- Has been convicted of a crime punishable by imprisonment for a term exceeding one year.
- Is under indictment for a crime punishable by imprisonment for a term exceeding one year.
- Is an unlawful user of, or addicted to, marijuana or any depressant or stimulant drug or narcotic drug (as these terms are defined in the Controlled Substances Act; 21 U.S.C. 802).
- Has been adjudicated as a mental defective or has been committed to a mental institution.
- Is a fugitive from justice.
- May not lawfully purchase, possess or use explosives under State or local laws applicable at the place of distribution.

■ DEALERS IN EXPLOSIVES MUST:

- Have a Federal license.
- Have proper storage facilities.
- Keep accurate and complete records.
- Verify that each out-of-State buyer has a Federal permit.
- Have nonlicensees/nonpermittees execute Forms 5400.4, "Explosives Transaction Record."
- Have employees of buyers or carriers to whom delivery is made at a distributor's premises execute Forms 5400.8, "Explosives Delivery Record."
- Verify buyers' identities.

■ USERS OF EXPLOSIVES—PERMITTEES AND NONPERMITTEES:

- Federal permits are required of those who purchase explosives from outside their State of residence and/or transport them interstate. The permittee must keep complete and accurate records of his acquisitions and dispositions of explosives.

Nonpermittees may buy and use explosives in their State of residence without obtaining a Federal permit. They must give proper identification to the dealer and execute Form 5400.4, "Explosives Transaction Record."

■ **NO PERSON SHALL STORE ANY EXPLOSIVE IN A MANNER NOT IN CONFORMITY WITH REGULATIONS**

■ **ALL PERSONS WILL PROMPTLY REPORT TO ATF AND LOCAL AUTHORITIES ANY LOSS OR THEFT OF THEIR EXPLOSIVES**

■ **A FEDERAL LICENSE OR PERMIT DOES NOT CONFER ANY RIGHT OR PRIVILEGE TO VIOLATE ANY STATE LAW OR LOCAL ORDINANCE**

The above summary is general and does not purport to convey fully the Federal explosives law and regulations pertaining to dealers and users.

BLACK POWDER TRANSACTIONS

- Public Law 93-639 (1975) allows nonlicensees/nonpermittees to purchase commercially manufactured black powder, in quantities of 50 pounds or less, solely for sporting, recreational or cultural purposes for use in antique firearms or antique devices outside of Federal controls.
- A nonlicensee or nonpermittee purchasing black powder under the exemption need not be a resident of the State in which the dealer is located. Also, the categories of persons to whom the distribution of explosive materials is prohibited do not apply to black powder transactions made under the exemption.
- Acquisitions of black powder not qualifying under this exemption are subject to the same regulatory requirements that govern any other low explosive.

- All persons who sell black powder, regardless of quantity, must be licensed as explosives dealers and must provide adequate storage.

EXPLOSIVES SECURITY

Through prompt reporting of losses and thefts of explosives and increased emphasis on physical security, explosives licensees and permittees can contribute greatly to efforts by Federal, State and local authorities to reduce the incidence of bombings in the United States.

The following actions are of prime importance:

REPORT . . . thefts or losses of explosives from magazines, premises and job sites promptly, by telephone, to ATF (**toll free: 800-424-9555**) and to appropriate local and/or State authorities. Because the States and many municipalities have designated specific agencies to investigate the theft or loss of explosives, licensees and permittees are urged to be familiar with State and local reporting procedures and appropriate contact points.

FOLLOW . . . telephone notification with a written report on ATF Form 5400.5, Report of Theft or Loss—Explosive Materials, to the nearest ATF District Office.

OBSERVE . . . activity around magazines, within business premises, and on job sites, particularly if strangers appear to be loitering in the area in which explosives are being kept. On-site users should take special care to assure that explosives removed from storage for use on the job are either detonated or accounted for and returned to storage.

REVIEW . . . recordkeeping practices to assure that no discrepancies exist and that no figures in reported inventories have been manipulated, and correct any clerical errors promptly.

Should any questions arise concerning explosives security procedures or any aspect of explosives regulation coming under the jurisdiction of ATF, do not hesitate to contact the Bureau.

ADDITIONAL INFORMATION

The flow of useful information is an essential ingredient in the effective administration of regulatory programs. The Treasury Department's Bureau

of Alcohol, Tobacco and Firearms is the Federal agency charged with the responsibility of administering laws impacting four different industries. Two publications warrant mention:

A. The Alcohol, Tobacco and Firearms Quarterly Bulletin

The Alcohol, Tobacco, and Firearms Quarterly Bulletin is the authoritative instrument of the Bureau for announcing official rulings and procedures, and for publishing Treasury decisions, legislation, administrative matters, and other items of general interest. It incorporates, into one publication, matters of the Bureau which are of public record.

This publication may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The ATF Bulletin currently costs [in 1990] \$13.00 (domestic) and \$16.25 (foreign) for a one-year subscription. A single copy is \$3.75 (domestic) and \$4.69 (foreign). Checks should be made payable to the Superintendent of Documents.

ADVANTAGES: The official ATF publication; Continuously compiled, printed and sold since 1973. Fees charged and broad coverage ensures continued flow of information.

B. The Explosives Industry Newsletter

During 1989 ATF developed the Explosives Industry Newsletter, an information service for Federal explosives licensees and permittees which is intended to help explosives industry members better understand the Federal laws under which they must operate. It also includes other items of particular interest to the explosives industry. There is no charge for the Explosives Newsletter; licensees and permittees automatically receive copies when new editions are published.

Explosives industry members wishing to express ideas or obtain answers to questions concerning any of the topics covered may address suggestions and inquiries to:

Bureau of Alcohol, Tobacco and Firearms
ATTN: Editor, Explosives Newsletter
P.O. Box 189
Washington, DC 20044-0189

ADVANTAGES: Explosives Industry-specific, providing useful explanation of law, regulations, situations; Includes data consisting of charts and graphics.