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Meeting Record Regarding: Patriot Act Rules

Date: 3/17/2003

Name	Affiliation	Client (if applicable)
Ed Clarke	OMB/OIRA	
Caroline Marriott	OMB/Transportation	
Julie Heckman	American Pyrotechnics Assoc.	
Cynthia Hier	IME	
Dave Madsen	NAAHAC	
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OMB-OIRA/Industry Meeting
March 17, 2003
Agenda

- I. Introductions
 - a. APA
 - b. IME
 - c. NAAHAC

- II. History and current status of transportation affected by ATF action
 - a. Rail
 - b. Vessel
 - c. Air
 - d. Truck

- III. Justification for DOT authority over explosives transportation
 - a. Scope of hazardous materials authority
 - b. Preemption

- IV. Rulemakings to be addressed
 - a. Final Canadian Rule (TSA/RIN: 2110-AA18)
 - b. Interim Final USA Patriot Act Rule (TSA/RIN: ???)
 - c. Interim Final MCSAP Rule (FMCSA/RIN: 2126-AA70)
 - d. Final HM Security Rule (RSPA/RIN: 2137-AD67)
 - e. Others: Proposed Motor Carrier Security Rule (FMCSA/RIN: 2126-AA71 & RSPA/RIN: 2137-AD70)

- V. Effecting the transportation exception – 18 USC 845(a)(1)
 - a. Certainty of Closure
 - 1. ATF/DOJ Veto
 - 2. Self-implementing effect of 18 USC 845(a)(1)
 - b. DOT exercise of authority and TSA transfer – PL 107-296 §1512(d)
 - c. Scope of rule(s)
 - 1. Hazardous materials/Regulated Explosives
 - A. ATF regulated explosives
 - B. DOT hazard classes
 - C. DOT placarding standards
 - 2. Applicability of Background Checks/Disqualifications
 - A. Persons who transport/possess explosives
 - i. Corporate felons
 - ii. Private/Common Motor Carrier
 - B. Individuals
 - d. DOT Standards/ATF Disqualifications
 - 1. Mode
 - 2. Function

- VI. Other issues
 - a. Redundant background checks
 - b. DHS/TSA access to databases
 - c. Form queries

- VII. Conclusion



ATF News Bureau of Alcohol, Tobacco and Firearms

Dept. of the Treasury, Washington, DC

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For Immediate Release

Contact: Jim Crandall

November 25, 2002

FY-03-02

Implementation Of the Safe Explosives Act, Applying Stricter Controls on The Purchase of Explosives in The Continuing Fight Against Terrorism

Washington, DC - The Bureau of Alcohol, Tobacco and Firearms (ATF) announces that on November 25, 2002, President Bush signed new legislation that restricts the availability of explosives to felons and other persons prohibited from possessing explosives, strengthens licensing and permitting requirements, and aids in the fight against terrorism. This legislation, the Safe Explosives Act, amends Title XI of the Organized Crime Control Act of 1970.

Previously, a Federal permit to purchase explosive materials was necessary if a person wished to transport, ship, or receive explosives in interstate commerce. A permit, however, was not necessary if a person acquired and used explosives within his or her State of residence. The new legislation now requires that any person who wishes to transport, ship, cause to be transported, or receive explosive materials in either interstate or intrastate commerce must first obtain a Federal permit issued by ATF. This requirement takes effect May 24, 2003.

The new legislation creates a new category of permit -- a "limited permit" -- designed for the intrastate purchaser who buys explosives infrequently and does not intend to transport or use the explosives interstate. This permit will allow the purchaser to receive explosive materials from an in-State explosives licensee or permittee on no more than six (6) occasions during the period of the permit. The permit will allow ATF to better monitor explosives commerce in an effort to enhance homeland security, but is designed to not be overly burdensome to legitimate purchasers. The limited permit is valid for one year and is renewable. ATF intends to set the application fee for the limited permit at \$25.

The new legislation requires that all applicants for explosives licenses and permits submit photographs and fingerprints so that ATF can perform thorough background checks. The legislation also requires that all applicants submit the names and identifying information of all employees who will possess explosive materials. In this way, ATF can conduct a thorough background check to ensure that these individuals are not prohibited from receiving or possessing explosives. Under previous law, no background checks were conducted for the employees of businesses that used explosives. The business owners or managers were required to be on record with ATF; employees such as warehousemen and drivers were not. The new legislation enables ATF to systematically identify and conduct background checks on such employees to reduce the risk that prohibited persons will gain access to explosives.

The new legislation also expands the categories of prohibited persons to include: (1) aliens (with limited exceptions); (2) persons dishonorably discharged from the military; and (3) citizens of the United States who have renounced their citizenship. The new prohibitions on possession of explosive materials are effective January 24, 2003.

Finally, the new legislation will require manufacturers and importers of explosive materials, including ammonium nitrate, to furnish samples of these materials to ATF, as well as information on their chemical composition or other information ATF may request. This will assist ATF in the identification of explosives found at crime scenes. This provision will be effective January 24, 2003.

Additionally, on January 24, 2003, ATF will be moved to the Department of Justice and will be known as the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATFE).

For further information, including proposed regulations and specific questions and answers about the effect of the new law, check the ATF web site at: www.atf.treas.gov.

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