

February 5, 2003

FO:TP:TEC:OGA CD

TO : Directors, Field Operations
FROM : Assistant Commissioner
Office of Field Operations
SUBJECT: Safe Explosives Act

BACKGROUND:

On November 25, 2002, President Bush signed new legislation, known as the Safe Explosives Act. This legislation amends Title XI of the Organized Crime Control Act of 1970. The Act amends several provisions of the Federal explosives law to include, among other things, additional categories of persons who may not lawfully possess or receive explosive materials. **UNDER THE EXISTING FEDERAL EXPLOSIVES LAW IT IS UNLAWFUL FOR ANY PERSON TO RECEIVE OR POSSESS EXPLOSIVE MATERIALS:**

- a) who is under indictment for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;
- b) who is a fugitive from justice; who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or
- c) who has been adjudicated as a mental defective or who has been committed to a mental institution.

The new legislation establishes three additional categories of persons who will be prohibited from receiving or possessing explosive materials:

- (1) aliens (with limited exceptions);
- (2) persons who have been dishonorably discharged from the military; and
- (3) citizens of the United States who have renounced their citizenship.

Thus, it will be unlawful for these persons to receive or possess explosives on or after February 3, 2003, except to the extent that the U.S.

Transportation Security Administration (TSA) authorizes receipt and possession for purposes of transportation in commerce. The Transportation Security Administration (TSA) will be the agency responsible for identifying persons other than citizens or resident aliens of the U.S. who may transport explosives in commerce by rail or highway from **Canada or Mexico** to the United States. The TSA will then provide those names with appropriate identifying information to the U.S. Customs Service on a continual basis.

Effective February 3, 2003, implementation began for explosive materials transported by rail or highway, entering the U.S. from Canada or Mexico.

Explosive materials are defined as the following:

Propellant powders 3601.00.0000
prepared explosives
other than propellants

Dynamite & other high
explosives in cartridges,
sticks & other forms 3602.00.0030

Other 3602.00.0060

Safety fuse 3603.00.3000

Percussion caps 3603.00.6000

Detonating caps, igniters
or electronic detonators 3603.00.9000

Fireworks, signal flares,
rain rockets, fog signals
and other pyrotechnic
articles:

Display fireworks 3604.10.1000

Other 3604.10.9050

Other pyrotechnic articles 3604.90.0000

ACTION:

Effective **February 3, 2003**, ports must deny entry of any explosive materials (as identified above) intended for commerce, being transported by rail or highway, by any person who is not a U.S. citizen/resident, attempting to enter the U.S. from **Canada or Mexico**, unless that person's name and driver's license number appears on the list provided by the TSA. The list, entitled, the **Safe Explosives Act**, will be continually updated and posted on the Automated Commercial System (ACS) Bulletin Board, located under OTO1 – Trade Enforcement – Internal Use.

ANY explosives being transported by **truck** will now require the inspector to verify the driver against the TSA-approved list.

ANY driver who is not a U.S. citizen/resident or whose name is not on the TSA-approved list may not proceed into the U.S. and the explosives are denied entry.

ANY explosives being transported by **rail**, must be stopped at the border. Inspectors must verify crew members against the TSA-approved list. **ANY** train crew member who

is not a U.S. citizen/resident or whose name is not on the TSA-approved list, must disembark the train.

In the event that Customs personnel observe suspicious activity by a person attempting to import or export explosives or have other reason to suspect that the person may intend to use the explosives for criminal activity, ATF should immediately be contacted at 1-888-ATF-BOMB.

INFORMATION:

Questions regarding this matter may be directed to the Transportation Security Administration (TSA) 24-hour number at (202) 366-1863 or the Bureau of Alcohol, Tobacco and Firearms's (ATF) Public Safety Branch at (202) 927-2310 or the ATF 24-hour hotline number at 1-888-ATF-BOMB. Questions may also be directed to Carla D'Onofrio at (202) 927-0801, Howard Duchan at (202) 927-0639, Office of Field Operations, Other Government Agencies Branch or Alfred S. Morawski, Chief, Other Government Agencies Branch at (202) 927-0402.