

Safety Devices, Cartridges, Igniters, and Squibs



Identifying Under-Appreciated Regulations Governing Explosives



Thank You!

- Aviation Suppliers Association
- Modification and Replacement Parts Association
- Aircraft Fleet Recycling Association

What are “Explosives”?

- Explosives are more common than many realize
 - Explosive squibs and actuators in fire suppression systems or emergency escape systems
 - Cartridge assemblies (Cartridge, Power Device)
 - Signal flares, hand-held flares, and signaling devices in first aid kits
- Always check the MSDS/SDS to determine if the article is an explosive



Hazardous Materials and Dangerous Goods Regulations

- International Civil Aviation Organization (ICAO)
 - International law providing uniform procedures for air traffic and cargo transportation around the world
- International Air Transport Association (IATA)
 - Trade association that publishes a compendium of ICAO regulations and national practices
- U.S. Department of Transportation (DOT)
 - Regulations for all hazardous materials offered for transportation in commerce in the U.S.
 - Provide consistent regulation for the safe transport of hazardous materials and is applicable to anyone involved in the shipment of hazardous materials

Hazardous Materials and Dangerous Goods Regulations

- Most shippers of explosives recognize hazmat compliance requirements apply when they offer hazmats for transportation in commerce...
 - Transportation in commerce includes any use of an instrumentality of commerce (roads, waterways, air)
 - Transportation includes loading, unloading, and storage incidental to movement

Hazardous Materials and Dangerous Goods Regulations

- Shippers of explosives have certain responsibilities
 - Recognize the hazmat and what methods of shipment are allowable
 - Package properly
 - Communicate clearly
 - Understand hazards and be able to respond
- U.S. shippers must follow DOT Hazardous Materials Regulations (and may follow ICAO as allowed)
- Training is required: Every three years for hazmat employees (ICAO recommends two, air carrier hazmat employees every two)

What about the explosives, already?!

- Hazardous materials are divided into nine categories
- Explosives are Hazard Class 1
 - Six divisions, e.g., 1.4, 1.6
- Miscellaneous Hazard Class 9 may also contain explosives
 - E.g., first aid kit, life-saving appliances, self inflating
 - Check the MSDS, as articles within a first aid kit may have different hazard class



DOT EX Numbers



- Explosives are assigned EX Numbers by the DOT (49 C.F.R. § 173.56)
 - EX Numbers are required marks on packages in US
 - May be required on shipping papers
- Manufacturers of explosives apply to DOT for EX Numbers recommending shipping description, division, and compatibility group
- Cannot offer an explosive for transport without an EX Number
- Check the MSDS; manufacturers will have a copy of DOT letter issuing EX Number

Get Trained

- This is complicated; training can help!
- Training is also required for any employee who affects hazardous material transportation and safety
 - Loading, unloading, handling, shippers, packers, and shipping agents
- Online hazmat training for new and recurrent trainees September 30 – October 1 is available:
<http://dangerousgoodstraining.net/>



Bureau of Alcohol, Tobacco, Firearms, and Explosives



- The ATF is a law enforcement agency under the Department of Justice
- Tasked with preventing diversion of alcohol and tobacco, illegal use and trafficking of firearms, and illegal use and storage of explosives, among other missions
- Responsible for licensing of permanent import of defense articles listed on the USMIL
- For our purposes regulation of explosives is key



ATF Laws and Regulations

- Explosives are already regulated by DOT as hazmat. Why is the ATF involved?
 - DOT only regulates the transport of the explosives
- Statutory Authority arises from Chapter XI – Explosives (codified at 18 U.S.C. §§ 841-848) of the Organized Crime Control Act of 1970
 - Congress: “It is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, storage, or use of explosive materials for . . . lawful purposes”

Some important definitions

- Explosives: includes but is not limited to dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters
- Importer: Any person engaged in the business of importing or bringing explosive materials into the United States for purposes of sale or distribution.
- Dealer: Any person engaged in the business of distributing explosive materials at wholesale or retail.
- “Explosive materials” includes explosives and detonators

Licenses Required

- It is unlawful to engage in the business of importing, manufacturing, or dealing in explosive materials without a license (18 U.S.C. § 842).
- Also unlawful to distribute to anyone who is not a licensee, holder of a user permit, or holder of a limited permit
- Penalties: up to \$250,000 for individual or \$500,000 for organization and up to 10 – 20 years imprisonment

ATF Regulations

- 27 C.F.R. part 555 implements Chapter XI of the Organized Crime Control Act
- Reproduces much of the Statute, but has additional provisions promulgated under the Statute
 - Establishes license and permit requirements
 - Establishes storage requirements
 - Establishes record and reporting requirements

CODE OF FEDERAL REGULATIONS

27

Parts 40 to 399
Revised as of April 1, 2017

Alcohol, Tobacco Products
and Firearms

License and Permit Requirements

- Importer/Dealer: Must obtain the required license and pay required fee
 - Application for license: License, Explosives, ATF F 5400.13 is available online with detailed instructions
 - Identifying information of each responsible person including names, photographs, and fingerprints
- If fewer than 6 transactions in a 12-month period, limited or user permits can be obtained instead of license

Storage Requirements

- 5 types of magazines; applicable magazine depends upon type of explosive
- 3 types of explosives for purposes of magazine determination: high explosive; low explosive; blasting agent
- Type 4 magazines apply to low explosives
 - May be indoor or outdoor; masonry, metal-covered wood, fabricated metal; double locked; welded, riveted, or internally bolted hinges

Record and Reporting Requirements

- Importers/dealers and others must keep records
 - Date of import/acquisition and disposition
 - Name/brand of manufacturer and country of manufacture
 - Manufacturer's marks of identification
 - Quantity
 - Description
 - License/permit of person to whom sold
- Daily tracking of magazine transactions

Are you serious? I sell safety equipment

- Remember Congress: “It is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens”
- Exemptions for explosive devices can be obtained! Many commonly sold articles in the industry are exempt. Articles which “as designed do[] not constitute a public safety or security hazard” may be exempted from the requirements of the regulations upon application to the ATF (See 27 C.F.R. § 555.32)

Exempt articles

- Exempt articles will be issued a letter
 - Exemption applies to the world
- Unfortunately, this doesn't typically appear on the MSDS/SDS
- BUT most manufacturers (Kidde, L'Hotellier, Pacific Scientific) will make these available on request
- You can also apply yourself! Section 555.32 lists the requirements
- ATF is also willing to help if you think an article is probably exempt

DOT EX Number vs. ATF Exemption

- Don't confuse EX Number with ATF Exemption!
- EX Number means the DOT has reviewed for the purposes of determining hazard risk to shipment and assigning proper subdivision/compatibility for hazmat purposes; this is often on the MSDS/SDS
- ATF Exemption means the requirements of the ATF explosives regulations (e.g., licensing, checking license/permit of customer) do not apply for the exempt article
- These are completely unrelated to one another!

State and Local Law



- State and local laws may also apply
- Congress specifically elected not to preempt state and local laws unless a state/local law is irreconcilably in conflict (18 U.S.C. § 848)
- This mean your state or local jurisdiction may impose more restrictive or additional requirements

State and Local Law

- Review your state and local laws relating to explosives and/or consult with an attorney to help you review
- Examples:
 - California Vehicle Code: “Explosive” does not include any division 1.4 explosive for the purpose of transport
 - CA Fire Code: Licenses generally apply to fireworks/pyrotechnic displays and model rocket launching; Magazine requirements broadly apply per ATF
 - CA Fire Code: must keep records of transactions; must report loss, theft, or unauthorized removal to fire code official, local law enforcement, and ATF within 24 hours

How do I keep this straight?

- First, review the articles you sell that are, or may be, explosive. Determine whether this even applies
- Confirm or obtain exemptions for articles; many will probably have an exemption. Keep this confirmation in accordance with your record keeping practices and linked to the part number
- Establish procedures to ensure exemptions or obtain necessary license for your operation; establish procedure to review permit/license of customers
- Segregate explosives; review magazine requirements to see if your facility complies
- Consult with an attorney to determine any risk/liability and develop compliance procedures

Questions?

Thank you!

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