



## Department of the Treasury

Bureau of Alcohol, Tobacco and Firearms

*Assistant Director*

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Washington, DC 20226

November 29, 2002

### **Open Letter to Blasting/Mining Educators**

The Bureau of Alcohol, Tobacco and Firearms (ATF) would like to provide you with information on the Safe Explosives Act (the Act), which was enacted on November 25, 2002. This legislation directly affects all persons who receive explosive materials by requiring that all persons have, at a minimum, a "limited permit" in order to acquire explosive materials. This requirement will become effective on May 24, 2003.

The Act also expands the list of individuals prohibited from possessing explosive materials. Unlike the provisions of the Act pertaining to the expanded permit requirement, the expanded list of persons prohibited from possessing explosive materials is effective on January 24, 2003. The Act adds three new categories of persons prohibited from receiving or possessing explosives: (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. These categories have been added to the pre-existing list of prohibited persons, which includes felons; fugitives; users of, and persons addicted to, controlled substances; and persons who have been adjudicated mental defectives or committed to mental institutions. Similarly, it will be unlawful to distribute explosives to these persons or to anyone currently prohibited from possessing explosives. Prohibited persons generally will be eligible to apply to ATF for relief from Federal explosives disabilities.

#### **Public Educational Institutions and Their Employees**

Because 18 U.S.C. 845 generally exempts Federal, State, and local government entities from most provisions of the Federal explosives law, educational institutions operated by Federal, State, or local governments (i.e., "public educational institutions") typically will not be required to obtain a license or permit to acquire explosive materials. Moreover, persons possessing explosives on behalf of public educational institutions (generally, employees of the institutions) will not be subject to the prohibited persons restrictions so long as their possession is within the scope of their employment. A nonimmigrant alien, for example, may possess explosives in the course of his employment with a public educational institution, and the public educational institution may provide explosives to the nonimmigrant alien for purposes of the alien's employment-related activities. However, it is not permissible for a nonimmigrant alien student at a public or private educational institution to possess explosives (or for the institution to knowingly provide explosives to him) for use in the course of his studies or for other purposes not related to his employment with the public educational institution.

#### **Private Educational Institutions and Their Employees**

Private educational institutions that acquire explosives will be subject to the provisions of the new explosives law and will, therefore, be required to obtain licenses or permits from ATF to lawfully receive explosive materials on or after May 24, 2003. Further, persons who fall within one of the categories of "prohibited persons" may not possess explosive materials on behalf of a private educational institution, and private educational institutions may not knowingly provide explosive materials to a prohibited person.

Please be advised that prohibited persons wishing to apply for relief from Federal explosives disabilities may request an application from the Firearms, Explosives and Arson Services Division at 202-927-2260.

For additional information regarding the newly enacted legislation, please visit <http://www.atf.gov/>, or contact the Public Safety Branch at (202) 927-2310.

Sincerely yours,

A handwritten signature in black ink that reads "John P. Malone". The signature is written in a cursive style with a large initial "J" and "M".

John P. Malone  
Assistant Director  
Firearms, Explosives and Arson