INDUSTRY CIRCULAR

DEPARTMENT OF THE TREASURY
Bureau of Alcohol, Tobacco and Firearms
Washington, D.C. 20226

Number: 77-11 (Amended) Date: July 28, 1977

THEFT OR LOSS OF EXPLOSIVES

Federal Explosives Licensees, Permittees, Carriers, and Users of Explosives, and Others Concerned:

Purpose. This circular is to inform those involved in the manufacture, distribution, storage or use of explosives that ATF Ruling 77-13, which deals with reporting theft or loss of explosive materials, was published in the Alcohol, Tobacco and Firearms Bulletin for May 1977.

Amendment. This amended circular changes the toll-free telephone number for reporting thefts and losses of explosive materials reported in the original Industry Circular 77-11. Unforeseen technical difficulties made implementation of the original number impossible.

Problem. The Bureau of Alcohol, Tobacco and Firearms has a vital interest in preventing the illegal acquisition of explosives by terrorists and other criminal elements employing the bomb to intimidate society. The following ruling was developed to modify shortcomings and deficiencies in the Bureau's present control system, and improves the system by strengthening coordination of the Bureau's efforts to deprive those who would perpetrate bombings of their access to stolen explosives. The ruling reads substantially as follows:

> The Bureau has been asked to state the requirements for reporting thefts or losses of explosive materials by persons who possess such materials. These persons include, but are not limited to, licensees, permittees, carriers who transport or otherwise possess explosive materials, and persons who use these materials.
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> Section 842(k) of Title 18, United States Code, makes it unlawful for any person who has knowledge of the theft or loss of any explosive materials from his stock to fail to report such theft or loss within 24 hours of discovery thereof to ATF and to appropriate local authorities. Regulations at 27 CFR 181.30 implementing section 842(k) require that the report of theft or loss be made by telephone and in writing to ATF.

It is clear from the legislative history of Title XI of the Organized Crime Control Act of 1970 (18 U.S.C. Chapter 40) that the Congress believed that the total coverage of all stolen explosive materials was necessary for the effective operation of any Federal explosives regulatory statute because of the special problem presented by such stolen explosive materials and the persons possessing them. The statute and the regulations refer to the reporting of thefts or losses of explosive materials from the "stock" of a person. With reference to that requirement, the House Judiciary Committee report makes it clear that this provision was intended to place an affirmative duty on all possessors of explosive materials to report a theft or loss of such explosive materials. Thus, the reporting requirements were not meant to apply only to thefts or losses from business inventories.

It is, therefore, held that all persons possessing explosive materials who suffer a theft or loss of such materials shall report the theft or loss within 24 hours after the discovery thereof to ATF and to appropriate local authorities. Such persons include, but are not limited to, licensees, permittees, carriers who transport or otherwise possess explosive materials, and users of such materials. Licensees and permittees must make such report to ATF by telephone to the nearest ATF office and in writing on Form 4712 in accordance with the instructions of the form. All other persons subject to the reporting requirement must report by telephone and in writing, by letter, to the nearest ATF office.

Application. The importance of receiving this information on a timely and accurate basis cannot be overemphasized. At the same time the Bureau feels that if the program is to be truly effective there must be a high level of voluntary compliance on the part of those subject to the reporting requirement. In order to facilitate reporting we have established a nationwide toll-free number *(800-424-9555)*; all calls will then be routed to an ATF officer in the caller's area. The number will be in operation sometime during July 1977, and will be used to report all thefts of explosive materials. Representatives of ATF will also be contacting various industry groups involved with explosives, particularly those involved in the transport of explosives, for the purpose of providing additional assistance in complying with this requirement.

Inquiries. Inquiries concerning this circular should refer to its number and be addressed to the Assistant Director (Regulatory Enforcement), Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226.

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Director

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