

The Bureau of Alcohol, Tobacco, Firearms, and Explosives' Proposed Rule on Commerce in Explosives

On July 7, 2003, the U.S. Small Business Administration's Office of Advocacy filed a comment letter on a rule proposed by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). The rule proposed changes to requirements for record keeping and storage facilities for explosives.¹ Advocacy urged ATF to better identify the small entities that would be affected by the proposed rule and to perform an economic analysis that would more accurately measure the economic impact of the proposed rule on those small entities.

- **ATF has improperly certified that the proposed rule will not have a significant economic impact on a substantial number of small entities.**

The proposed rule lacks a discussion of the factual basis supporting the agency's decision to certify the proposed rule. The ATF notice indicates that the rule as proposed will have a minimal economic impact on the explosives industry and that the certification is based on the fact that it has receive little response from small entities on previous rulemakings. Advocacy believes the ATF must be more specific. At a minimum, a certification must include a description of the affected entities and the reasoning and assumptions underlying the certification

- **ATF does not go far enough in identifying the industry that it proposes to regulate. The explosives industry includes many small businesses.**

Statistics indicate that the commercial explosives and fireworks manufacturing industries are dominated by small firms. Of the 57 firms manufacturing explosives in the United States, 45 have fewer than 500 employees, and 20 have fewer than 20 employees. The SBA size standard for NAICS 325920 is 750 employees. The Institute of Makers of Explosives (IME), a commercial explosives industry trade group, states that over 70 percent of its members are small firms.²

- **The proposed rule may have a significant economic impact on small entities.**

The proposed rule will force manufacturers and users to relocate storage facilities. ATF is proposing changes in criteria for storage, including new storage unit construction material and new lock specifications. Both relocating storage facilities and the new criteria for construction materials and locks will entail significant one-time capital expenditures.

Advocacy's comment letter on ATF's proposed rule on commerce in explosives is located at www.sba.gov/advo. For more information, call Charles Maresca at (202) 205-6978.

¹ Notice of Proposed Rulemaking, Notice No. 968, 68 *Federal Register* 4406, January 29, 2003.

² Comment No. 821, Institute of Makers of Explosives, June 13, 2003.