



IMPACTS TO THE ECONOMY OF USER TAXES & FEES ON COMMERCIAL EXPLOSIVES

ISSUE: Should the commercial explosives industry be subject to a user tax and ten-fold increase in licensing/permitting fees?

DISCUSSION: Commercial explosives are essential to the economy of the United States and the well being of its people. Recovery of energy resources, such as coal and oil, cannot be accomplished without explosives. Our transportation system, which underpins our economy, is built on materials mined with explosives. Demolition and construction, as well as specialty applications for fire and avalanche control, rely on commercial explosives. Even consumer goods – cosmetics, laundry detergent, kitty litter, sand paper, toothpaste, and baby powder – derive from explosives operations. In 2003, 5 billion pounds of explosives were consumed in the United States. (2004 data is pending.) The value of this indispensable industry to the economy is \$1 billion per year.

- **USER TAX** – The President’s budget request has laudable goals of reducing the deficit without raising taxes. However, the President proposes a number of “user fees” which will generate several billion dollars in new revenue. Among those “user fees” is a proposal to assess a fee on users of explosives that would generate in FY 2006 \$120 million. This revenue would be used to pay the salaries of Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) employees who regulate the explosives industry – a population that will have to be increased to include a cadre of tax collectors. As ATF costs rise, the Attorney General would have authority to increase the tax rate. While on its face, the fee may seem a small thing – \$0.02/pound – its impact is enormous. ATF regulates a number of industries, but none of them has such pervasive impact on the economy of our nation as explosives. In this regard, it is a “tax”, not a “fee.” A \$120 million tax would be a 12 percent increase to the assessed annual commercial value of explosives. The government will not be able to generate \$120 million at a rate of \$0.02/pound given latest statistics on explosives use; therefore, the tax rate will have to be raised. If the tax is assessed on the broadest definition of commercial explosives and pyrotechnics, the per pound tax will have to be increased 25 percent to roughly \$0.025/pound. Using a narrow definition of detonator sensitive explosives only, the tax would need to be \$1.50/pound, a 75-fold increase, to raise the called for \$120 million. Approximately 80 percent of commercial explosives is ANFO. ANFO typically retails for \$0.14/pound. A \$0.025 tax would represent roughly an 18 percent increase to the cost of this product. If the tax were restricted to detonator sensitive explosives, the cost of products like dynamite, that retail for about \$1.00/pound, would simply increase 150 percent. This tax is supposed to be assessed on “users”. Who is the “user” and how often will the tax be assessed? For example, explosives are “used” by airbag manufacturers, by auto manufacturers that purchase air bags, and by every consumer who purchases, on average, six air bags with every vehicle. Will all these “users” be subject to the tax? There are 61 million detonators used annually containing less than 1 gram of explosives each. All tolled, these devices would generate about \$550 in revenue, but the paperwork burden to assess this minuscule tax on a per detonator basis would be factors higher than the value of the tax.

- **LICENSING/PERMITTING FEES** – The President also proposes to ignore the statutory cap on fees for commercial explosive licenses and permits thereby allowing ATF to impose a 10-fold increase on the cost of obtaining these credentials. The justification for this substantial increase is that it “will discourage certain individuals from taking advantage of the minor fee currently being charged to gain access to explosives for criminal or terrorist activity.” It is unbelievable that ATF argues that criminals and terrorists can buy their way to access commercial explosives. Irrespective of the amount of the fee, the Bureau’s thoroughness in the processing of license/permitting applications, inspection of those applicant business operations, and processing of background checks of key employees and persons who may possess explosives is what should deter criminals and terrorists. The proposed license/permit fee increase is supposed to fully fund these credentialing activities. Again, ATF regulates a number of industries, but none of them has such pervasive

impact on the economy of our country. Such license/permits are required of all explosives users including the farmer who wants to remove a tree stump and multi-sited manufacturing companies whose annual fees would top \$20,000. ATF needs to do a better job of explaining why, of all the industries it regulates, commercial explosives is singled out for this fee increase. Commercial explosives are not the preferred weapon of criminals or terrorists. Criminal use of explosives results in 5 or 6 deaths per year. Other products regulated by ATF have killed thousands annually. Where terrorists have used explosives, they are mostly self-manufactured from commonly available materials, not commercial products. Licensing and permitting are necessary for safety and security and should not be dependent on fee collection, and the conduct of these activities should continue to be subject to congressional oversight.

The President's accounting of the disposition of these funds raises a number of questions that are contradicted by data in the budget request. The President's budget states that the "new user fee, when combined with the [ATF licensing/permitting] fees, would provide full offset for the Bureau's regulation of the explosives industry." The budget analysis goes on to report that this funding would support 877 FTE. However, ATF's budget submission makes clear that only 374 FTE are requested in FY 2006 to handle the Bureau's arson and explosives regulatory compliance workload. Moreover, budget documentation does not allow one to parse out of the 374-FTE workload what portion is attributable to arson, as opposed to explosives, activities. No less surprising, the ATF's FY 2006 budget request for its arson and explosives regulatory compliance workload is \$61.9 million, not the \$123 million that the President proposes to generate in new taxes and fees.

RECOMMENDATION: The President's proposals are not fair or equitable. It is a travesty to propose to fund programs of law enforcement let alone programs so important to safety and security on fees that will fluctuate with the economy and bear no relationship to the need for government oversight or intervention. These revenue enhancers cannot be justified as a "user" fee, as opposed to a "tax", given the critical importance of explosives to the entire economy. These initiatives should be rejected.

February 2005