



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

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This letter is in response to your inquiries to and December 11, 2006, meeting with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). You asked that we clarify how the Federal explosives regulations on transporting, manufacturing, and using explosive materials apply to fireworks "hobbyists." We sincerely apologize for the delay in our response.

ATF and personnel from the Department of Transportation met with officials of the [REDACTED] on December 11, 2006, to discuss issues involving pyrotechnic materials manufactured by individuals and then transported to the [REDACTED] conference. We have enclosed a series of questions and answers to clarify some of these issues.

We sincerely appreciate your efforts to facilitate safety when it comes to the use, transportation, and storage of pyrotechnic explosive materials. We look forward to continuing this dialog with [REDACTED], and encourage members with specific questions or scenarios to e-mail the Explosives Industry Programs Branch directly at eipb@atf.gov.

We trust the foregoing has been responsive to your question. Please feel free to contact us with any further questions you may have.

Sincerely yours,

Gary L. Bangs
Chief, Explosives Industry
Programs Branch

Enclosure

Hobbyist Fireworks Questions and Answers

Q1: I manufacture fireworks for my own personal use. I do not intend to sell or distribute the fireworks, nor sell a service in which the fireworks are used. I will be using the fireworks at the premises where I manufactured them. Do I need a manufacturer's license or any permit from ATF?

A: No. A manufacturer's license is needed only by persons engaged in the business of manufacturing fireworks for sale, distribution, or for a commercial use. A permit would be required if you were going to transport or cause to be transported the explosive materials. A permit would also be required if any materials you receive for use in manufacturing your fireworks are defined as explosive materials, such as black powder, flash powder, etc.

However, this does not exempt an individual from stricter State/local requirements. One must also abide by all storage requirements listed in 27 CFR, Part 555, Subpart K – Storage, including the table of distances requirements for fireworks process buildings. Under the law *any person* must store explosives in accordance with Part 555 regulations.

Q2: I have manufactured fireworks for my own personal use. I do not intend to sell or distribute the fireworks, nor sell a service in which the fireworks are used. However, I will be transporting the display firework to a location different than where I manufactured it. Do I need a Federal explosives license or permit?

A: A Federal explosives license or permit is required when persons transport explosive materials or cause explosive materials to be transported, even for one's own personal use. However, section 845(a)(1) provides an exception for common and contract carriers or other transportation entities regulated for safety and security by the Departments of Transportation and Homeland Security. While these entities are exempted, they are generally hired and controlled by either a licensee or permittee, causing the explosives to be transported. If you fall into this exempted category you would not need a permit from ATF for the transportation activities.

Please note, a limited (Type 60) permit only allows for the intrastate transportation of explosive materials. Persons may not use a Type 60 permit to transport explosive materials across State lines.

Q3: I have a user permit (not a limited permit), but I was told that I need a manufacturer's license to make and transport fireworks to an event location for my own personal use. Is this correct?

A: That is incorrect. Any Federal explosives license *or* a user permit would allow you to manufacture fireworks for your own personal use and then transport them to an event location. A limited permit would only allow the *intrastate* transportation of the explosive materials.

Q4: The Federal regulation 27 CFR 55.26 in my year 2000 "orange book" states that "no person, other than a licensee or permittee, shall transport, ship, cause to be transported, or receive in interstate or foreign commerce any explosive materials." I have manufactured fireworks for my own, non-business use to shoot at a different location in the State where I reside. I believe I am not transporting explosive materials in interstate or foreign commerce. Therefore, I do not need a license or permit. Is this correct?

A: That is incorrect. The Federal law and regulations were amended in 2003 by the Safe Explosives Act. The law, as stated under 18 U.S.C. 842(a)(3), now provides that "no person other than a licensee or permittee knowingly may transport, ship, cause to be transported, or receive any explosive materials." There is no requirement that the explosives move in interstate or foreign commerce. However, as stated previously, section 845(a)(1) provides an exception for common and contract carriers or other transportation entities regulated for safety and security by the Departments of Transportation and Homeland Security.

The "Orange Book" is being updated and will be available for all explosives licensees and permittees in the near future.

Q5: I do not have a license or permit. I would like to manufacture fireworks for my own personal use, but give them to a licensee or a user permittee to transport the fireworks for me to the event location. I will pick up the fireworks at the event location for my personal use. Is this acceptable, or am I causing it to be transported, which requires a license or permit?

A: You would not need a Federal explosives license or permit to have a licensee or permittee transport the materials to the event location on your behalf. However, no person other than a licensee or permittee may receive any explosive materials. Therefore, the licensee or permittee would not be able to provide (distribute) the materials back to you at the event.

That licensee or user permittee may transfer the display fireworks to a "club" at the event site, if the club has a license or permit. Additionally, if you are a club member in good standing, you may possess explosives at the show site if specifically authorized to do so by the club on behalf of the club. Persons prohibited under 18 U.S.C. 842 may not possess explosives under any circumstances, and the club must not allow possession by any members that the club knows or has reasonable cause to believe is prohibited from possessing explosives.

Q6: Would it be possible for the club to make all of its members employee possessors? This would allow the members to make and transport explosives under the club license without each member needing to obtain their own license or permit.

A: The members must be bona fide employees of the organization. Employees are generally on the payroll of the employer, the employer withholds Federal and/or State taxes, the employer withholds Social Security from pay, and the employees generally receive benefits, such as

health insurance or worker's compensation coverage. Only actual employees may be reported as employee possessors and undergo a background check.

Licensees or permittees who report persons as employee possessors knowing that the persons are not bona fide employees, would violate 18 U.S.C. 842(a)(2). This provision of law prohibits the making of any false statement intended or likely to deceive for the purpose of obtaining a license or permit.

Q7: If my hobby only involves small fireworks, items similar in size as defined by ATF as consumer fireworks, am I exempt from any ATF requirements?

A: No. The exemption under 27 CFR 555.141(a)(7) is only for consumer fireworks as defined under 27 CFR 555.11. Since your products would not be labeled and packaged as required by the Consumer Product Safety Commission and regulated by that agency, none of your hobbyist pyrotechnics would be exempt. This also means no person prohibited from possessing explosives materials may handle or possess these types of items.

Q8: Some of the products I manufacture for my own personal noncommercial use are rocket motors. Do the same answers to these questions apply whether I am manufacturing fireworks or rocket motors?

A: Yes, generally the same answers pertaining to hobby fireworks enthusiasts apply to model rocketry enthusiasts. However, certain completed single use hobby rocket motors are exempted under 27 CFR 555.141. If this is your situation, you would not need a permit to transport or receive those specific items.