



U.S. Department of Justice

Bureau of Alcohol, Tobacco,  
Firearms and Explosives

AUG 02 2004

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Dear [REDACTED]

This is in response to your letter dated October 9, 2003, to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), in which you asked if there are any regulatory distinctions between model rocket clubs and pyrotechnic clubs that may prevent your rocket club from conducting activities in the same manner as a pyrotechnic club. We apologize for the delay in our response.

In your letter, you state that you are the section advisor for your local model and high-power rocket club. Your club would like to sponsor monthly launches at which the club would provide rocket motors, and club members would assist in the launch activities and demonstrations. Your club would use model rocket motor reload kits, some of which would contain more than 62.5 grams of ammonium perchlorate composite propellant. The club would be responsible for ensuring that club members do not fall into any of the prohibited persons categories. Any unused motors would be stored either in a club magazine or contingency storage. You also attached a copy of a letter dated May 8, 2003, from ATF to [REDACTED]. You indicate that the letter states that "volunteer" pyrotechnic club members are not required to hold individual permits or to be listed as responsible persons on the club permit, and further, that volunteer club members may possess explosive materials while assisting at shoots under the appropriate club supervision.

In a conversation with ATF Specialist [REDACTED], you stated that non-club members with or without a permit could attend and participate in the monthly launches and would pay a flight fee, which had not been established. Club members would also pay an annual fee of \$20 and a flight fee, which would cover the use of equipment and motors. You stated that the club has been incorporated and has recently received its low explosives user permit and has approved storage. You also stated that you would not allow anyone without a permit to leave the field with motors and you would give only one motor at a time to each club member.

[REDACTED]

As an initial matter, there are no "regulatory distinctions" between a rocket club and a pyrotechnic club. However, your rocket club has asked about specific activities related to "volunteer club members" and "non-club members." As such, the following discussion will address the lawfulness of the specific activities you describe.

It is unlawful for any licensee or permittee to knowingly distribute explosive materials to any person other than a licensee or permittee. 18 USC 842(b). "Distribute" means "to sell, issue, give, transfer, or otherwise dispose of... The term does not include a mere change of possession from a person to his agent or employee in connection with the agency or employment." 27 CFR ~~555.11. In addition, it is unlawful to receive explosives without a Federal explosives license or permit.~~ 18 USC 842(a)(3)(A). The user permit is also not transferable. 27 CFR 555.53.

As a rocket club that holds a valid Federal explosives user permit, your club may sponsor monthly rocket launches. At such launches, a club "employee," as defined under applicable State law, must have submitted an ATF F 5400.28, Employee Possessor Questionnaire (EPQ) and be properly authorized to possess explosives. A non-employee club "member," as defined under your club's bylaws establishing club membership, is not required to submit an EPQ, and may possess explosive materials under the following circumstances:

- a. The club must have lawfully received the explosives pursuant to a valid Federal permit or license;
- b. An authorized club member must receive and possess the explosives used in the launch on behalf of the club;
- c. The club member's possession of explosives must be under the direction or control of one of the club's authorized members; and,
- d. The club must have no knowledge or reason to believe that the club member is prohibited from possessing explosives.

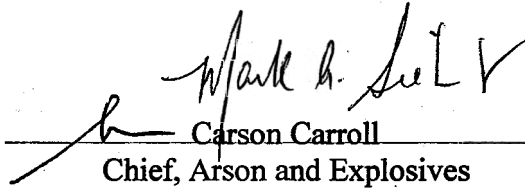
The above-described transactions are not unlawful distributions as they are changes of possession of explosives from the club to its employee in connection with the employment, or, in the case of the club member, a change of possession from the club to its agent in connection with the agency.

By contrast, the club cannot lawfully provide at the launches explosives to a non-authorized employee or non-club member. Additionally, the club cannot lawfully provide explosives to any person (including a club member) for his or her personal use. If either of these transactions were to occur, the club would be distributing explosives in violation of Federal law, and the distributees would be receiving explosives in violation of Federal law. Of course, the club may transfer explosives to a person who has his or her own valid Federal explosives license or permit.

[REDACTED]

We trust that the foregoing has been responsive to your request. Again, we apologize for the delay in our response. Please feel free to contact the Explosives Industry Programs Branch at 202-927-2310 if you have additional questions.

Sincerely yours,

  
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Mark H. Seely  
Chief, Arson and Explosives  
Programs Division

c: [REDACTED]  
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