

# Hobbyist Transportation of Fireworks

*This article has been vetted for legal accuracy and reviewed by PGI Attorney, John Brooke.*

If you are even thinking about bringing fireworks to the PGI, that are regulated as explosives by ATF (Bureau of Alcohol, Tobacco, Firearms and Explosives), please read this article thoroughly as there has been a major change in rules interpretation and enforcement by ATF. Let me also clarify and reiterate DOT (U.S. Department of Transportation) rules interpretation which has NOT changed.

## DOT

1) If you are NOT in commerce, DOT rules and regulations do NOT apply to you. You need not have a CDL, placards, log book, MCS 90 insurance certificate and \$5 million in coverage, hazardous materials registration, etc.

2) If you are in commerce, you need all of the above and more, which is described in the DOT's Slideshow on [Commercial Transport of Fireworks](#).

## Conclusions:

If you are bringing your own non-commercial fireworks to the PGI for your own enjoyment, DOT has no issue with you and you have none with them. This has not changed.

If PGI is paying you to do a display, EVEN if you are a club, you MUST find a qualified means to transport your pyrotechnic materials to the convention. This most likely means working with a display company as no club I know of, including the PGI, can afford to become a commercial transporter of display fireworks.

## ATF

Some history is required here:

On May 24, 2003, the Safe Explosives Act took effect. This required an ATF license for ALL transportation of regulated explosives on public roads. "Public roads" means anything off your personal property.

A User Limited ATF license will allow intrastate transportation. An ATF license, of any type greater than User Limited, is required for interstate transportation. In 2006, the ATF conducted an enforcement operation at the Appleton PGI convention. Though no material was seized and no persons were charged, this created a problem that we felt needed to be addressed.

To that end, on December 11, 2006, our attorney, John Brooke, Tom Handel, and I met with ATF and DOT personnel at ATF HQ. Representing ATF at that meeting were, among others, ATF Co-Chief Counsel, Teresa

Ficaretta, Arson and Explosives Division Explosives Industry Branch Programs Chief Gary Bangs, and his immediate superior, Mark Jones, the Deputy Division Chief.

An agreement was arrived at, endorsed by ATF Counsel, that a member of a club could transport hobbyist materials to a club event under the club ATF license. An agreement was also reached whereby it was determined that travel requiring an overnight stay would still be interpreted as transportation and that no magazine storage would be required. Table of distances requirements would be in force, however, but cars would not count as occupied structures, so parking lots would have sufficed so long as the vehicle was locked. The details of and permissions granted under this agreement have previously been published in some detail and I will not reiterate those details here.

Though we asked ATF to reduce this agreement to writing, no written response was ever provided to the questions we posed. These questions have now been answered in the June 2009 ATF Explosives Industry Newsletter.

For many years, this verbal agreement was honored. No other interpretation was offered and enforcement was consistent with the agreements reached in 2006 by ATF and PGI.

DOT did not offer any changes in regulatory interpretation at this meeting and none were requested of DOT by PGI.

The ATF regulation interpretation has now changed. The permissions previously afforded members to transport under a club license have been unilaterally rescinded and previous permissions granted must be considered as revoked.

If you are a non-ATF-licensed hobbyist:

- 1) You may continue to make and use regulated explosives for your own non-commercial enjoyment on your own property and must comply with lawful storage requirements.
- 2) You may NOT transport that material to a club event on the club license.
- 3) You may transfer your material to an ATF license holder. BUT, you may NOT transport the material off your property to that license holder. An ATF license holder may come to you, collect your material, create a record of acquisition, and then transport the materials to his magazine, logging them in properly. This is NO longer your material. The transfer must remain NON-COMMERCIAL. No payment for this service may be made by you to the license holder nor any payment made to you for the material. The license holder may bring this non-commercial material to an ATF-licensed-club event and transfer the material to the possession of the club. The club must create a record of acquisition. If you are a member of the club, with the club's permission, you may then be allowed to fire said material at that club event. But, the material can never be returned to your possession.
- 4) You may now, thanks to an agreement spearheaded by Aaron Enzer, supported by John Steinberg, and maintained by Paul Smith, become an RP (a responsible person) on a PGI ATF license obtained exactly and only for this one purpose. The application form to become an RP, the agreement you must execute between you and the PGI,

will also be posted on the web site and updated each year, as it must be renewed by you each year, prior to the convention. PGI will ensure that this license is renewed every three years as required.

From this point forward, with NO EXCEPTIONS:

You MUST have an ATF User Limited License for ANY intrastate (within your state, crossing NO state boundary lines) transportation of regulated explosive materials, whether in commerce or not OR become an RP on the PGI ATF license.

You must have an ATF license (yours or as an RP on the PGI ATF license), of any type greater than User Limited, which is required for ANY interstate transportation of regulated explosives.

Further, as if that news were not enough, you are now in transportation ONLY while en route and moving. Whether or not you are an ATF license holder, if you stop overnight, your material MUST either be placed in a lawful magazine or, in a locked and attended vehicle AT THE DISPLAY SITE.

I was pleased that we could work out the agreement that was in force for the last two and a half years. I am disappointed that an agreement that worked so well has been rescinded, but, we now offer members an alternative that to date has worked just as well. If you can find an ATF license holder to come collect your material and are willing to part with it, as described above, this is one option that allows you to be a non-licensed hobbyist manufacturer and shoot your material at club events held at sites other than on your property. Otherwise, your best course would be to obtain an ATF license yourself or become a Responsible Person on the PGI ATF license. If you obtain your own ATF license, you must obtain a contingency storage letter from a license holder or to establish proper storage on your own premises. If you become an RP on the PGI license, this status will only be granted for a period just prior to and just after the convention. Therefore, you will have to renew your PGI RP status annually.

Remember, a license holder may still grant you permission to store material in his or her magazine, so, while a license is required for transportation, you need not have storage on your property. As an example, a member of the CrackerJacks club could:

- 1) Obtain a user, non-limited ATF license
- 2) Make fireworks for his own enjoyment at the Crackerjacks club site
- 3) Store the material in the Crackerjacks magazines, after obtaining written permission to do so
- 4) Then collect the material and transport it, without any DOT constraints, to the PGI event or other event, so long as NO compensation is provided for your doing so (you must remain non-commercial)

In closing, there are still solutions that will allow you to continue to enjoy your hobby. Whatever you choose to do, please do so lawfully. If you have any questions, feel free to contact me by email. I will answer your questions and have our attorneys vet those answers for accuracy.

### **Three questions, with answers, follow as examples:**

#### **Question:**

I am Type 50 licensed and intend to transport my shells to the PGI convention for competition. I am a member of my regional fireworks club.

Several other club members (not licensed) intend to bring their fireworks as well.

I understand that for them to do so, I (or another licensed person) would have to assume ownership of their shells, log them in my (or their) book, fill out an acquisition form, and transport them myself (or licensed other).

Now the part I don't quite follow "If the club does NOT have a club license, how do I (or other licensed person) get the shells back to the non-licensed person that built them so they can compete with them? Does PGI have a club license that I (or other licensed person) could transfer them to so the builder could get them back to compete with or are the non licensed builders basically out of luck until they get licensed for next year?"

*~ Jerry Dixon - Iowa Pyrotechnic Association*

#### **Answer:**

1) You (the ATF license holder) collect the shell and establish the person's name as a maker's mark of registration. You record acquisition and log the shell in your magazine.

2) You bring it to PGI. The PGI's on-site magazine tender) creates a record of acquisition. The magazine tender will also need a copy of your ATF license. He or she will log this into the magazine and establish the name of the manufacturer member.

3) The member who manufactured the shell can retrieve it, as a club member, and shoot it at our event, in competition or in open shooting.

4) Alternatively, non-licensees may avail themselves of the privilege of becoming Responsible Persons on the PGI ATF license, for the time period around the convention.

#### **Question:**

That sounds rather complicated. Can't I, as an ATF license holder, simply transport the fireworks made by a non-license holder to the convention where my non-licensed friend and I can then shoot the material without all the PGI paperwork?

#### **Answer:**

Yes. That may be done. This makes life simpler for all of us. In fact, we prefer you to do the following:

- 1) The ATF licensed member collects the fireworks, creates a record of acquisition, and assures that the shell is labeled by type, size, and name of the manufacturer. No time/date/shift or other labeling is required for non-commercial material.
- 2) The ATF licensed member logs the material into the PGI magazine as we have done in years past. All that is required is that the magazine tender, log the material in and give you a ticket to retrieve it.
- 3) While at the PGI event, any PGI member may shoot display fireworks or make fireworks, consistent with our rules and procedures. No license is actually required for activities on private property, not involving transportation on a public road, commercial activity, and with proper storage provided.
- 4) You and your friend may retrieve the fireworks and shoot them in competition or open shooting.
- 5) Remember: You may NOT transfer the fireworks back to your non-licensed friend. They must either be used at PGI or returned by you to your magazine.
- 6) Remember: The fireworks remain your property. PGI only provides storage. Therefore, you are responsible for this material and its use at all times.

**Question:**

Throughout the paragraph you refer to "license" holders only being allowed to transport hobbyist fireworks to, in this case, convention. Several people I've talked to believe that holders of "Type 34 Permits" can also transport to convention. Are you using the term "license" as a figure of speech and also mean "permit holder" or am I mistaken? To break it down I guess I am asking a few questions since I know of people wondering whether to get a "license" or a "permit".

**Answer:**

A Type-34 "Permit" allows interstate transportation.

I had used the term license colloquially.

ATF means:

Permit: for users (33-34-35-54-36-37-38-55-60)

License: for manufacturers (19-20-21-22-50), dealers (26-27-28-53-29), importers (23-24-25-51)

Permit Types: 36-37-38-55-60 allow ONLY intrastate transportation.

Permit Types: 33-34-35-54 allow INTERSTATE transportation.

License Types: 19-20-21-22-50-23-24-25-51-26-27-28-53-29 allow INTERSTATE transportation.

*~ John Steinberg, MD Updated 3-27-2019*