

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

TRIPOLI ROCKETRY ASSOCIATION, INC.,)	
)	
and)	
)	
NATIONAL ASSOCIATION OF ROCKETRY,)	
)	
Plaintiffs,)	
)	Civil Action No. 00-273 (RBW)
v.)	
)	NEXT SCHEDULED EVENT:
UNITED STATES BUREAU OF ALCOHOL,)	Status Conference
TOBACCO, FIREARMS AND EXPLOSIVES,)	July 26, 2005 at 9:00 a.m.
)	
Defendant.)	
_____)	

DEFENDANT’S STATUS REPORT

Pursuant to the Court’s Order, dated April 20, 2006, the defendant Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) respectfully reports as follows:

I. ATF’s Efforts to Comply With the D.C. Circuit’s Mandate in No. 04-5453 (D.C. Cir. February 10, 2006) and This Court’s April 10, 2006 Remand Order

ATF selected the United States Air Force Research Laboratory (“AFRL”) located at Tyndall Air Force Base in Florida, to conduct testing to determine the reaction rate of ammonium perchlorate composite propellant (“APCP”) when used for its primary or common purpose (i.e., as a rocket propellant). The AFRL also conducted testing to measure the reaction rates of known deflagrating materials, to determine a threshold between the reaction rate at which materials deflagrate and the reaction rate at which materials burn, in the ordinary sense of atmospheric burning. This testing is completed. ATF is currently waiting for AFRL to provide a written report of the test results.

In addition, ATF's Fire Research Laboratory in Beltsville, Maryland, conducted testing to determine the reaction rates of known combustible materials. These tests were also conducted to compile scientific information relevant to the threshold between the reaction rate at which materials deflagrate and the reaction rate at which materials burn. This testing is complete and the results have been compiled in a report.

Upon receipt of the AFRL report, the Bureau expects that it would complete its reconsideration of the proper classification of APCP, and execute a document reflecting its decision, within approximately the next sixty days.

II. Status of Ongoing Related Rulemakings

In its previous status report filed on December 9, 2005, ATF reported that, following the Court's March 19, 2004 ruling in this case, it decided to prepare a final rule (separate from the other matters set out in Notice No. 968, Department of the Treasury; Bureau of Alcohol, Tobacco and Firearms; Notice of Proposed Rulemaking, 68 Fed. Reg. 4406 (January 29, 2003)), that would address only the amendment to the list of explosives exemptions set out at 27 C.F.R. § 55.141 (re-designated § 555.141) to include certain model rocket motors ("final rocket motor rule"). ATF further reported that, on November 9, 2005, the Department of Justice submitted the final rocket motor rule to the Office of Management and Budget, Office of Information and Regulatory Affairs, for review pursuant to Executive Order 12,866 (1993), and that the Department of Justice was waiting for the Office of Management and Budget ("OMB") to complete this review.

OMB completed its review on or about January 10, 2006. The final rocket motor rule is now pending additional review at the Department of Justice. As of July 6, 2006, the final rocket

motor rule was under review by high level officials within the Department of Justice prior to final approval and publication which requires the approval of the Attorney General. Because ATF lacks sufficient familiarity with the matters and priorities of high officials within the Department of Justice, ATF is unable to provide the Court with an informed estimate of when final approval may be expected; however, this process is not likely to be concluded prior to ATF's decision concerning APCP.

In its previous status report, ATF also reported that it had commenced rulemaking with respect to the regulatory definition of the term "propellant actuated device" ("PAD"), that its Notice of Proposed Rulemaking ("NPRM") was being reviewed within the Department of Justice, and that ATF expected that the NPRM would be published in the Federal Register in December of 2005 or January of 2006.

On January 10, 2006, ATF received comments from the Department of Justice, Office of Legal Counsel regarding the PAD NPRM. On January 17, 2006, ATF submitted a revised PAD NPRM to the Office of Legal Counsel for review. After that review is complete, the revised PAD NPRM will undergo further review by other officials within the Department of Justice and ultimately be submitted to the Attorney General for final approval and publication. This process is also not likely to be concluded prior to ATF's decision concerning APCP.

Dated: July 19, 2006.

Respectfully submitted,

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