U.S. Department
of Transportation

**Research and
Special Programs
Administration**

400 Seventh Street, S.W.
Washington, D.C. 20590

OCT 25 1990

DOT-E 10119

1. Crow Executive Air Charter, Inc., Millbury, Ohio, is hereby granted an exemption from certain provisions of this Department's Hazardous Materials Regulations to transport certain Class A, B and C explosives in commerce subject to the limitations and special requirements specified herein. This exemption authorizes the carriage of certain explosives by cargo aircraft only and provides no relief from any regulation other than as specifically stated.

2. BASIS. This exemption is based on Crow Executive Air Charter, Inc.'s application date January 5, 1989, submitted in accordance with 49 CFR 107.103 and the public proceeding thereon.

3. HAZARDOUS MATERIALS (Descriptor and Class). Class A, B and C explosives that are not permitted for shipment by air, or are in quantities greater than those prescribed for shipment by air, in 49 CFR Parts 100 through 178.

4. PROPER SHIPPING NAME (49 CFR 172.101). Specific commodity name or generic description, as appropriate.

5. REGULATION AFFECTED. 49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b). Also 49 CFR Part 107, Appendix B except as provided herein.

6. MODE OF TRANSPORTATION AUTHORIZED. Cargo-aircraft only.

7. SAFETY CONTROL MEASURES.

a. Authorized explosives. Class A, B and C explosives that are not permitted for shipment by air, or are in quantities greater than those prescribed for shipment by air in 49 CFR Parts 100 through 178, may be accepted and transported in cargo aircraft only subject to the conditions stated herein. Explosives carried under the terms of this exemption must be authorized to be transported by common carrier by highway by 49 CFR Parts 100 through 178.

b. Authorized aircraft. The aircraft to be used must be authorized by Crow Executive Air Charter Service Incorporated's FAA operations certificate.

c. Operations manual. Operations must be conducted in accordance with conditions and limitations specified in the certificate holder's operations manual accepted by the FAA.

d. Maximum weight. Not more than 2,000 pounds total net weight of explosives may be carried in the aircraft.

e. Authorized persons aboard aircraft. No person other than a required flight crewmember, an FAA inspector, the shipper or consignee of the material or a representative of the shipper or consignee so designated in writing, or person necessary for handling the material may be carried on the aircraft.

f. Advance Notice of FAA Civil Aviation Security Office (CASO). Notify the cognizant CASO at least 24 hours in advance of plans to operate under the exemption. The notification shall include the point of departure, intermediate stops and destinations and the approximate time schedule. Alternate notification procedures may be established subject to the written approval of the cognizant CASO.

g. Advance permission from airport. The operator of the aircraft must have advance permission from the owner or operator of each manned airport where the material is to be loaded or unloaded or where aircraft is to land while the materials is on board. When the destination is changed after departure because of weather or other unforeseen circumstances, permission from the owner or operator of the alternate airport shall be obtained as soon as practicable.

h. Flight plan. The operator of the aircraft shall include the following information in the "Remarks" section of each flight plan when the provisions of this exemption are exercised:

(1) The classification of each explosive aboard the aircraft.

(2) The net weight of each class of explosive aboard the aircraft.

i. Loading and unloading. Loading and unloading operations under this exemption shall comply with the following:

(1) The loading and unloading of the aircraft shall be conducted at safe distance from heavily populated areas and from any place of human abode or assembly. However, at an airport where the airport owner or operator or authorized representative thereof has designated a specific location for loading or unloading, the explosives may not be loaded or unloaded at any other location.

(2) The explosives shall be loaded, transported or stored as provided in 49 CFR 177.848 except that blasting caps (with or without fuses), including electric blasting caps, may not be loaded and carried in the same aircraft with any Class A explosive (other than blasting caps).

(3) The loading arrangement to be used aboard the aircraft must be approved for safe carriage of the particular materials concerned by the FAA Civil Aviation Security Office (CASO) charged with overall inspection of the air carriers hazardous materials operations, or the appropriate CASO serving the place where the materials are to be loaded.

This requirement may be fulfilled if the loading arrangements for the materials concerned are contained in the operator's operations manual and have been accepted by the local CASO.

(4) During loading or unloading, no person may smoke, carry a lighted cigarette, cigar or pipe, or operate any devices capable of causing an open flame or spark within 50 feet of the aircraft.

(5) No fueling operations of the aircraft may be done during loading and unloading of the explosives.

j. Requirements during operation of aircraft. Operation of the aircraft during takeoff, en route, and landing must be conducted at a safe distance from heavily populated areas.

(1) Before movement of the aircraft prior to take-off, the pilot of the aircraft shall notify the control tower of the class(es) of explosive(s) (including ammunition) on board.

(2) The pilot of the aircraft, prior to entering an airport traffic area, shall notify the control tower of the amount and class of explosives on board and request this information be relayed to the appropriate airport officials. For airports without control towers, this call shall be made to the Flight Service Station nearest the airport of intended landing.

(3) When under radar control during the approach and landing phase, the pilot shall request appropriate vectors so as to avoid heavily populated areas.

(4) Whenever explosives are on board the aircraft, the pilot shall ensure that no person on the aircraft may smoke, or operate any device capable of causing an open flame or spark.

k. Pilot requirements. The operator of the aircraft shall ensure the following with respect to pilots of aircraft operating under this exemption:

(1) A minimum of two pilots is required aboard any multi-engine aircraft carrying explosives under this exemption.

(2) Each pilot of the aircraft must be provided written instructions stating the conditions and limitations of the operations being conducted and the name of the official(s) granting the advance permission required by paragraph (g) above except when a landing permit has been granted by an agency of the Department of Defense for landing at a military installation.

(3) Each pilot of an aircraft being operated under this exemption must have received formal training on the requirements of 49 CFR 170-178 that are applicable to his duties and be thoroughly familiar with the specific requirements of this exemption.

1. Attendance of explosives. Class A and B explosives must be attended at all times they are in the possession of the operator (from the time of receipt from the consignor until time of receipt by the consignee) unless placed in an explosive storage magazine that is approved by the Federal, State or local authority or at a location on a military installation designated by appropriate military authorities.

8. SPECIAL PROVISIONS.

a. A copy of this exemption must be carried aboard each aircraft operating under this exemption.

b. The aircraft operator shall maintain permanent records of each flight during which explosives are carried under the authority of this exemption. This record shall be made available at its principal business office to representatives of the Federal Aviation Administration and submitted to the Office of Hazardous Materials Transportation (OHMT) upon request. The record for each flight shall include:

(1) Name of the shipper(s).
(2) Name of the consignee(s).
(3) Orgin airport(s).
(4) En route airport(s).
(5) Destination airport.
(6) Shipping name and class of each explosive.
(7) Net weight of each explosive.
(8) Name of each pilot and any other person aboard the aircraft.
(9) Registration number of the aircraft.
(10) Name of the individual representing the owner or operator of each manned airport who granted advance permission for the aircraft to land or take-off while it was being operated under this exemption.

The record required by this paragraph shall be maintained current to within 72 hours of each flight under this exemption.

c. The requirements of Appendix B to Part 107 with respect to the "Flight of Civil Aircraft" under DOT exemptions is hereby waived except as provided herein.

d. This exemption authorizes transportation of explosives in aircraft of United States registry. It does not grant authority to use foreign controlled airspace or airports outside the United States.

9. REPORTING REQUIREMENTS. Any incident involving fire, explosion or loss of packaging contents or packaging failure must be reported to the OHMT as soon as practicable.

10. EXPIRATION DATE. March 31, 1992.

Issued at Washington, D.C.:

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Alan I. Roberts
Associate Administrator
Hazardous Materials Safety

(DATE)

Address all inquiries to: Associate Administrator, for Hazardous Materials Safety, Research and Special Programs Administration, U.S. Department of Transportation, Washington, D.C., 20590. Attention: Exemptions Branch.

Dist: FAA