

ATF Explosives Rulings (Revised 1/07)

Table of Contents

1. ATF Ruling 75-20: Meaning of Terms, “Inhabited Building”
2. ATF Ruling 75-21: Construction of Storage Facilities by the Department of Defense— Concrete Floors
3. ATF Ruling 75-31: Meaning of Terms, “Engaged in the Business”
4. ATF Ruling 75-35: Identification of Explosive Materials
5. ATF Ruling 76-4: Meaning of Terms, “State of Residence”
6. ATF Ruling 76-10: One Sale with Multiple Deliveries
7. ATF Ruling 76-18: Alternate Magazine Construction Standards
8. ATF Ruling 77-24: Storage of Electric Blasting Caps with Other Explosive Materials
9. ATF Ruling 2002-3; Indoor storage of explosives in a residence or dwelling
10. ATF 2002-4; ATF requires approval of variances for indoor storage of explosives in business premises directly adjacent to a residence or dwelling.
11. ATF Ruling 2003-5; Distribution of explosives to limited permittees
12. ATF Ruling 2005-2; ATF provides guidance on three different private roads and whether they are “highways”
13. ATF Ruling 2005-3; ATF provides guidance on two situations involving structures and whether they are “inhabited buildings”
14. ATF Ruling 2007-1; Use of computerized records as required records under 27 CFR 555, Subpart G.
15. ATF Ruling 2007-2; Temporary storage of display fire works in locked and attended motor vehicles; fuel tanks located on temporary storage vehicles; notification requirements to ATF and local fire officials.
16. ATF Ruling 2007-3; Storage of blasting agents in mobile type 5 magazines (bulk delivery trucks)

1. 27 CFR 55.11: Meaning of Terms (Also § 55.206)

An office or repair shop used in connection with the manufacture, etc. of explosive materials is not an “inhabited building.”

ATF Ruling 75-20

ATF has held that a building, such as an office or repair shop, which is a part of the premises of an explosives manufacturer and is used in connection with the manufacture, transportation, storage, or use of explosive materials, is not an “inhabited building.” Section 55.11 of 27 CFR defines inhabited building as “any building regularly occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other structure where people are accustomed to

assemble, except any building occupied in connection with the manufacture, transportation, storage, or use of explosive materials.”

Regulations in 27 CFR §§ 55.206 and 55.218 set forth provisions concerning the location of storage facilities and the minimum distances such storage facilities may be located from, among other things, “inhabited buildings.” These provisions are intended to provide protection to persons who inhabit buildings located near premises where explosives are manufactured, stored, etc. However, it is the intent of § 55.11 to exempt buildings used by the explosives industry in connection with the manufacture, transportation, storage, or use of explosive materials from the table of distance requirements on “inhabited buildings.” [75 CB 64]

2. 27 CFR 55.207: Construction of Type 1 Magazines (Also § 55.210)

Certain explosives storage facilities meeting standards of construction prescribed by the Department of Defense Explosives Safety Board for such storage are approved by the Bureau.

ATF Ruling 75-21

ATF has held that explosives storage facilities with smooth-finished concrete floors that were constructed under contract for the use of the Department of Defense (DOD) and that are presently being leased to licensees and permittees for the storage of commercial explosives are considered to be in compliance with the requirements for nonsparking floors, as set forth in 27 CFR §§ 55.207(a)(4), 55.207(b), and 55.210, for the storage of all types of fully packaged explosives, pyrotechnics and propellants, with the exception of black powder. Any other such magazines which have smooth finished concrete floors and which meet or exceed DOD construction specifications will also be considered to be in compliance with the requirements of Part 555 with respect to nonsparking floors. It is the responsibility of the licensee or permittee to provide verification that such facilities were manufactured under DOD specifications or that the facilities meet or exceed such specification standards. If the Division Director determines that the concrete floors of type 1 or type 4 magazines do not meet the preceding requirements, he will require such floors to be covered with a nonsparking material, such as epoxy paint or mastic. [75 CB 67]

3. 27 CFR 55.41: Licenses and Permits-General

Certain companies that manufacture explosive materials for use in their own operations are required to obtain licenses as manufacturers of explosive materials.

ATF Ruling 75-31

ATF has held that companies, such as public utility companies engaged in line and facility construction, which manufacture explosives on a regular or continual basis are considered to be engaged in the business of manufacturing explosive materials and must be appropriately licensed as required by 18 U.S.C. 842. The term “manufacturer” is defined in 18 U.S.C. 841(h) as “any person engaged in the business of manufacturing explosive materials for purposes of sale or distribution or for his own use.” Although the term “engaged in the business” is not susceptible to a rigid definition within 18 U.S.C. §§ 841-848, it is interpreted to imply an element of continuity or habitual practice; an element clearly present in the operations of companies described herein. Therefore, these companies are considered to be “engaged in the business” and must be licensed as explosives manufacturers. [75 CB 65]

4. 27 CFR 555.109: Identification of Explosive Materials

Methods of marking containers of explosive materials are prescribed.

ATF Ruling 75-35

Editors note: ATF Ruling 75-35 was rendered obsolete pursuant to ATF 5F, 70 Federal Register 30626 (May 27, 2005), and effective July 26, 2005.

5. 27 CFR 55.11: Meaning of Terms- State of Residence

“State of residence” of business entities who use explosive materials; distribution of explosive materials by licensees to out-of-State business entities other than licensees and permittees; and distribution to nonresident employees of such entities are discussed.

Editor’s Note: Provisions of ATF Ruling 76-4 were modified, in part, by the Safe Explosives Act.

Effective May 24, 2003, it is unlawful for any person to receive explosive materials unless such person holds an ATF license of permit. It is also unlawful for any licensee or permittee to knowingly distribute explosive materials to any person who does not hold a license or permit. The only relevance remaining in the

term “State of residence” is for distribution of explosive materials to, and receipt by, limited permit holders. Pursuant to 18 U.S.C. 842(a)(3) and (a)(4), limited permit holders may, on not more than 3 separate occasions, lawfully receive explosive materials from a licensee or permittee whose premises are located within the state of residence of the limited permit holder. ATF Rule 76-4 continues to apply in determining whether a limited permit holder has acquired a “State of residence” for purposes of receipt of explosives under 18 U.S.C. 842(a)(4)(B).

6. 27 CFR 55.126: Explosives Transaction Record

Under certain conditions, a single Form 5400.4 may be used to cover a series of deliveries.

Editor’s Note: The provisions of ATF Rule 76-10 were rendered obsolete by ATF No. 1, 68 FR 13791, Mar. 20, 2003.

7. 27 CFR 55.207: Construction of Type 1 Storage Facilities (Also § 55.208)

Alternate construction standards for storage facilities for explosive materials are prescribed.

ATF Ruling 76-18

Section 842(j) of 18 U.S.C. states: “It shall be unlawful for any person to store any explosive material in a manner not in conformity with regulations promulgated by the Secretary. In promulgating such regulations, the Secretary shall take into consideration the class, type, and quantity of explosive materials to be stored, as well as the standards of safety and security recognized in the explosives industry.” The regulations in 27 CFR §§ 55.207 and 55.208 prescribe types of storage facilities for explosive materials and provide (among other things) that such storage facilities shall be bullet resistant.

Section 55.201(b) provides that alternate storage facilities may be authorized for the storage of explosive materials when it is shown that such alternate facilities are or will be constructed in a manner substantially equivalent to the standards of construction contained in the applicable regulations.

The term “bullet-resistant” means resistant to penetration of a bullet of 150 grain M2 ball ammunition having a nominal muzzle velocity of 2700 feet per second fired from a .30 caliber rifle from a distance of 100 feet perpendicular to the wall or door. It has been determined that a wide range of construction criteria meet the bullet-resistant requirements of regulations for construction of storage facilities for explosive materials. In order to promote standards of safety and security in the storage of explosive materials while allowing the industry a wide latitude in the selection of construction materials, it is held that storage facilities (magazines) that are constructed according to the following minimum specifications are bullet-resistant and meet the

requirements of the regulations as set forth in 27 CFR Part 55 (All steel and wood dimensions are actual thicknesses. To meet the concrete block and brick dimensions indicated, the manufacturers' represented thicknesses may be used).

(a) Exterior of $\frac{5}{8}$ inch steel, lined with an interior of any type of nonsparking material.

(b) Exterior of $\frac{1}{2}$ inch steel, lined with an interior of not less than $\frac{3}{8}$ inch plywood.

(c) Exterior of $\frac{3}{8}$ inch steel, lined with an interior of two inches of hardwood.

(d) Exterior of $\frac{3}{8}$ inch steel, lined with an interior of three inches of softwood or $2\frac{1}{4}$ inches of plywood.

(e) Exterior of $\frac{1}{4}$ inch steel, lined with an interior of three inches of hardwood.

(f) Exterior of $\frac{1}{4}$ inch steel, lined with an interior of five inches of softwood or $5\frac{1}{4}$ inches of plywood.

(g) Exterior of $\frac{1}{4}$ inch steel, lined with an intermediate layer of two inches of hardwood and an interior lining of $1\frac{1}{2}$ inches of plywood.

(h) Exterior of $\frac{3}{16}$ inch steel, lined with an interior of four inches of hardwood.

(i) Exterior of $\frac{3}{16}$ inch steel, lined with an interior of seven inches of softwood or $6\frac{3}{4}$ inches of plywood.

(j) Exterior of $\frac{3}{16}$ inch steel, lined with an intermediate layer of three inches of hardwood and an interior lining of $\frac{3}{4}$ inch of plywood.

(k) Exterior of $\frac{1}{8}$ inch steel, lined with an interior of five inches of hardwood.

(l) Exterior of $\frac{1}{8}$ inch steel, lined with an interior of nine inches of softwood.

(m) Exterior of $\frac{1}{8}$ inch steel, lined with an intermediate layer of four inches of hardwood and an interior lining of $\frac{3}{4}$ inch plywood.

(n) Exterior of any type of fire-resistant material which is structurally sound, lined with an intermediate layer of four inches of solid concrete block, OR four inches of solid brick OR four inches of solid concrete; AND, an interior lining of $\frac{1}{2}$ inch plywood placed securely against the masonry lining.

(o) Standard eight inch concrete block with voids filled with well-tamped sand/cement mixture.

(p) Standard eight inch solid brick.

(q) Exterior of any type of fire-resistant material which is structurally sound, lined with an intermediate six inch space filled with well-tamped dry sand or well-tamped sand/cement mixture.

(r) Exterior of $\frac{1}{8}$ inch steel, lined with a first intermediate layer of $\frac{3}{4}$ inch plywood, a second intermediate layer of $3\frac{3}{8}$ inches of well-tamped dry sand or sand/cement mixture and an interior lining of $\frac{3}{4}$ inch plywood.

(s) Exterior of any type of fire-resistant material, lined with a first intermediate layer of $\frac{3}{4}$ inch plywood, a second intermediate layer of $3\frac{3}{8}$ inches well-tamped dry sand or sand/cement mixture, a third intermediate layer of $\frac{3}{4}$ inch plywood, and a fourth intermediate layer of two inches of hardwood OR 14 gauge steel AND an interior lining of $\frac{3}{4}$ inch plywood.

(t) Eight inch thick solid concrete. [76 CB 106]

8. 27 CFR 55.213: Quantity and Storage Restrictions(Also § 55.208)

Alternate magazine construction standards for storage of electric blasting caps with other explosive materials are prescribed.

ATF Ruling 77-24

Section 842(j) of 18 U.S.C. states: "It shall be unlawful for any person to store any explosive material in a manner not in conformity with regulations promulgated by the Secretary. In promulgating such regulations, the Secretary shall take into consideration the class, type, and quantity of explosive materials to be stored, as well as the standards of safety and security recognized in the explosives industry." The regulations in 27 CFR § 55.213 restrict the storage of blasting caps with other explosive materials. Section 55.201(b) provides that alternate storage magazines may be authorized for the storage of explosive materials when it is shown that such alternate magazines are or will be constructed in a manner substantially equivalent to the standards of construction contained in the applicable regulations.

ATF recognizes that the transportation and storage of explosive materials in the same

vehicle along with electric blasting caps is often desired. The Institute of Makers of Explosives established a recommended standard for such transport in their Safety Library Publication No. 22, dated November 5, 1971 [revised January 1985]. This standard prescribes the minimum construction criteria for:

(a) A container securely attached—

(1) Above the cab of the vehicle (see Figure 1, Appendix A), and

(2) To the vehicle frame under the cargo space (see Figure 2, Appendix A), or

(b) A built-in compartment in the cargo space of the vehicle (see Appendix B).

In addition to motorized vehicles, consideration was also given for the use of similar criteria on portable wheeled trailers being used as magazines under § 55.208(a) of the regulations (see

Appendix E). In order to insure standards of safety and security in the storage of explosive materials while allowing the industry a proper latitude in the construction of magazines, it is held that vehicles used for transporting and for storing explosive materials that are constructed in conformity with the standards listed below, and in compliance with all other safety and security provisions contained in Part 55 (e.g., effectively immobilized when unattended) will meet the requirements of ATF regulations. Even though constructed on the same vehicle, each compartment will be considered as a separate magazine. The two magazines on the vehicle will, however, be considered as one magazine when applying the American Table of Distances [see Table at § 55.218].

Construction Standards For Storage of Electric Blasting Caps (Non Mass-Detonating)

- a. The container or compartment must provide for total enclosure of the electric blasting caps.
- b. The partition between the explosives storage compartment and the electric blasting cap compartment must be of laminate construction consisting of A/C grade or better exterior plywood, gypsum board [sheetrock] and low carbon steel plates. In order of arrangement, the laminate must conform to the following, with minimum thickness of each lamination as indicated:
 - ½ inch plywood
 - ½ inch gypsum board [sheetrock],
 - ⅛ inch low carbon steel, and,
 - ¼ inch plywood, with the ¼ inch plywood facing the explosives storage compartment. See Appendix C for details of laminate construction. The door to the electric blasting cap compartment must be of metal construction or solid wood covered with metal; the outside walls and top must be of the same construction as the rest of the vehicle or trailer. If high explosives or bullet sensitive explosive materials are stored in the vehicle, then the storage compartment of the vehicle must be constructed so as to be bullet-resistant.
- c. As an alternative to the construction requirements shown in paragraph b, a container for use only as illustrated in Appendix A may be used when constructed as follows:
 1. The top, lid or door, and the sides and bottom of each container must be of laminate construction consisting of A/C grade or better exterior plywood, solid hardwood, gypsum board [sheetrock], and sheet metal. In order of arrangement, the laminate must conform to the following, with minimum thickness of each lamination as indicated:
 - ¼ inch plywood,
 - 1 inch solid hardwood,
 - ½ inch plywood,
 - ½ inch gypsum board [sheetrock] (OR ¼ inch particle board), and 22 gauge sheet metal, constructed inside to outside in that order.

See Appendix D for details of laminate construction.

2. The hardwood must be fastened together with wood screws, the ½ inch plywood must be fastened to the hardwood with wood screws, the inner ¼ inch plywood must be fastened to the hardwood with adhesive, and the 22 gauge sheet metal must be attached to the exterior of the container with screws.
- d. The laminate composite material must be securely bound together by waterproof adhesive or other equally effective means.
- e. The steel plates at the joints of laminations must be secured by continuous fillet welds.
- f. All interior surfaces of the container or compartment must be constructed so as to prevent contact of contents with any sparking metal.
- g. There must be direct access to the container or into a compartment from outside the vehicle.
- h. Each container or compartment must have a snug fitting continuous piano-type hinged lid or door equipped with a locking device (or devices).
- i. Without permitting direct access to contents under normal conditions, the locking or hinging mechanisms must permit at least one edge of the lid or door to rise or move outward at least ½ inch when subjected to internal pressure.
- j. The exterior of the container or compartment must be weather-resistant. [77 CB 191]

9. 18 U.S.C. 842(j): Storage of Explosives

27 CFR 55.208(b)(1), 55.210(b)(1), and 55.211(b)(1): Indoor Storage of Explosives in a Residence or Dwelling

ATF will approve variances to store explosives in a residence or dwelling only upon certain conditions including, but not limited to, receipt of a certification of compliance with State and local law, and documentation that local fire safety officials have received a copy of the certification.

ATF Ruling 2002-3

Section 842(j) of 18 U.S.C. states: "It shall be unlawful for any person to store any explosive material in a manner not in conformity with regulations promulgated by the Secretary."

The regulations in 27 CFR 55.208(b)(1), 55.210(b)(1), and 55.211(b)(1) specify that no indoor magazine is to be located in a residence or dwelling. Section 55.22 specifies that the Director may allow alternate methods or procedures in lieu of a method or procedure specifically prescribed in the regulations. Specifically, section 55.22(a)(3) provides that such "variances" are permissible only in certain circumstances, including where "[t]he alternate method or procedure will not be contrary to any provision of law and will not . . . hinder the effective administration of this part."

ATF has been advised that certain variances previously approved for storage of explosives in residences or dwellings are in violation of State or local zoning law. ATF believes it is important to ensure that approval of variances is in compliance with all State and local provisions.

To obtain a variance for indoor storage of explosives in a residence or dwelling, ATF has determined that a person must submit to ATF a certification signed under penalty of perjury along with the request for the variance. The certification must:

1. State that the proposed alternative storage method will comply with all applicable State and local law;
2. Provide the name, title, address, and phone number of the authority having jurisdiction for fire safety of the locality in which the explosive materials are being stored; and,
3. Demonstrate that the person has mailed or delivered the certification to the authority identified in (2).

When required by the Director, such persons must furnish other documentation as may be necessary to determine whether a variance should be approved.

Held, ATF will approve variances to store explosives in a residence or dwelling only upon certain conditions including, but not limited to, receipt of a certification of compliance with State and local law, and documentation that local fire safety officials have received a copy of the certification.

Date signed: August 23, 2002

10. 18 U.S.C. 842(j): Storage of Explosives 27 CFR 55.208(b)(1), 55.210(b)(1), and 55.211(b)(1): Indoor Storage of Explosives in Business Premises Directly Adjacent to a Residence or Dwelling

ATF Ruling 2002-4

ATF requires approval of variances for indoor storage of explosives in business premises directly adjacent to a residence or dwelling.

Section 842(j) of 18 U.S.C. states: "It shall be unlawful for any person to store any explosive material in a manner not in conformity with regulations promulgated by the Secretary."

The regulations in 27 CFR 55.208(b)(1), 55.210(b)(1), and 55.211(b)(1) specify that no indoor magazine is to be located in a residence or dwelling. Section 55.22 specifies that the Director may allow alternate methods or procedures in lieu of a method or procedure specifically prescribed in the regulations. Specifically, section 55.22(a)(3) provides that such "variances" are permissible only in certain circumstances, including where "[t]he alternate method or procedure will not be contrary to any provision of law and will not ... hinder the effective administration of this part."

ATF has been asked whether businesses that are directly adjacent to living quarters may lawfully store explosive materials in the business premises. The issue presented is whether the premises amount to a "residence or dwelling" within the meaning of the regulations cited above.

Even where the business premises are segregable from the living quarters by the existence of a door or a common wall, the business premises retain their character as a residence or dwelling. Accordingly, indoor storage of explosives in such premises is generally prohibited and can be allowed only pursuant to an approved variance.

Held, ATF requires approval of variances for indoor storage of explosives in business premises directly adjacent to a residence or dwelling. ATF may approve such variances upon receipt of all appropriate certification and other documentation as may be requested.

Date signed: August 23, 2002

11. 18 U.S.C. 842(f): Unlawful Acts, 27 CFR 555.105(b)(6)(iii): Distribution of Explosives to Limited Permittees

Distributors distributing explosive materials to holders of limited permits via common or contract carrier may verify receipt of the explosive materials by telephone, facsimile, e-mail, or other means within three business days of shipment in lieu of requiring the common or contract carrier to verify the identity of the person accepting delivery of the explosives. The distributor shall make a notation on ATF Form 5400.4 indicating whether the shipment was received and the date and time of the contact with the distributee.

ATF Ruling 2003-5

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has received questions from the explosives industry regarding the requirement under 27 CFR 555.105(b)(6)(iii) that, effective May 24, 2003, a common or contract carrier hired by a Federal explosives licensee or permittee verify the identity of the distributee, note the type and number of the identification document, and provide this information to the distributor. The distributor is required to record this information on ATF Form 5400.4, Limited Permittee Transaction Report (LPTR). Industry members have informed ATF that this requirement places an undue burden on common and contract carriers. Drivers are concerned that verifying the identity of persons accepting delivery of explosive materials by examining an identification document and providing the identification information to the distributor will be overly time consuming. Drivers are also concerned that they could be held personally liable for delivering explosives to persons not authorized to receive them.

ATF imposed the verification requirements of section 555.105(b)(6)(iii) to ensure that when explosive materials are sold by a distributor to a holder of a limited permit and transported by a common or contract carrier hired by the distributor, the explosive materials are delivered only to a person authorized to receive

them. ATF continues to believe it is important that sellers of explosive materials verify that such materials are delivered to persons authorized to receive them.

However, it was not ATF's intention to impose an undue burden on common or contract carriers.

Section 555.22, Title 27, CFR, provides that the Director may approve an alternate method or procedure in lieu of a method or procedure specifically prescribed in the regulations when he finds that:

(1) Good cause is shown for the use of the alternate method or procedure;

(2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure and that the alternate method or procedure is substantially equivalent to that specifically prescribed method or procedure; and

(3) The alternate method or procedure will not be contrary to any provision of law and will not result in an increase in cost to the Government or hinder the effective administration of Part 555.

ATF finds that there is good cause to authorize a variance to the provisions of section 555.105(b)(6)(iii) due to the undue burden placed on common or contract carriers by the verification requirement. Accordingly, ATF authorizes the following alternate method or procedure to the identification verification requirements of section 555.105(b)(6)(iii):

The distributor shall, no later than three business days after shipment of the explosive materials, contact the distributee by telephone, facsimile, e-mail or any other means to ensure that the shipment has been received. The distributor shall make a notation on ATF Form 5400.4 indicating whether the shipment was received and the date and time of the contact with the distributee.

ATF finds that the above alternate method is consistent with the verification provisions of section 555.105(b)(6)(iii), because it will ensure that delivery has taken place and document the information in the distributor's records.

The alternate method is not contrary to any provision of law, will not increase the costs to ATF, and will not hinder the effective administration of the regulations in 27 CFR Part 555.

Held, pursuant to 27 CFR 555.22, ATF authorizes a variance from the requirements of 27 CFR 555.105(b)(6)(iii) for Federal explosives licensees and permittees making distributions of explosive materials to holders of limited permits via common or contract carrier. As an alternate method or procedure, distributors distributing explosive materials to holders of limited permits via common or contract carrier may verify receipt of the explosive materials by telephone, facsimile, e-mail or other means within three business days of shipment in lieu of requiring the common or contract carrier to verify the identity of the person accepting delivery of the explosives. The distributor shall make a notation on ATF Form 5400.4 indicating whether the shipment was received and the date and time of the contact with the distributee.

Date signed: May 23, 2003.

12. 27 CFR 555.11: Meaning of Terms

ATF provides guidance on three different private roads and whether they are "highways" as defined in 27 CFR 555.11.

ATF Ruling 2005-2

The Federal explosives laws, 18 U.S.C. Chapter 40, require all persons to store explosive materials in a manner in conformity with regulations issued by the Attorney General. 18 U.S.C. 842(j). The Attorney General has delegated his authority to administer and enforce the Federal explosives laws to the Director, ATF. 28 CFR 0.130. Regulations in 27 CFR Part 555 implement the provisions of the Federal explosives laws. Storage regulations in 27 CFR Part 555, Subpart K, provide that outdoor magazines in which high explosives are stored must be located no closer to inhabited buildings, passenger railways, public highways, or other magazines in which high explosives are stored than the minimum distances specified in the table of distances for storage of explosive materials in section 555.218 of the regulations. 27 CFR 555.206.

Section 555.11 of the regulations defines the term "highway" as "any public street, public alley, or public road, including a privately financed, constructed, or maintained road that is regularly and openly traveled by the general public."

In Scenario A, a private road owned by a corporation is used by the general public as an access road to a parking lot owned by the corporation. The road is near an explosives magazine. The road does not have a gate, sign, or other means of restricting access to the road. The road is also used by the general public on a daily basis to gain access to other public streets.

In Scenario B, a company that manufactures display fireworks, a logging company, and an individual who owns buildings utilized to store his collection of automobiles all occupy property to which the only access is a privately owned road. A separate party that leases to these three entities owns the property. The road is located on private property, and a locked gate at the entrance to the road prevents access by the general public. The display fireworks company, the logging company, and the individual storing automobiles all have keys to unlock the gate and travel on the road when needed. The gate is locked at all times, and there is no evidence that the road is open to anyone other than the two businesses and one individual who require access to their property.

In Scenario C, an explosives company maintains explosives magazines in a quarry area that has a roadway traversing through the quarry. The quarry owns the property, and the road is maintained by the quarry. The road has a gate and there are signs advising no trespassing. However, when ATF officials visited the location on several occasions, the gate was left open and members of the public regularly utilized the roadway as a shortcut between

two major highways. There were no indications the owner of the property took any steps to prevent members of the public from utilizing the roadway.

Applying the regulatory definition of “highway” to the three scenarios, the road in Scenario A is clearly a highway that is subject to the tables of distance in Part 555. Although it is privately owned, it is regularly and openly traveled by members of the general public without restriction.

The roadway in Scenario B is not a “highway” as defined. Access is restricted at all times and there is no evidence the general public regularly travels on the roadway. Access to the road is provided to only a limited number of persons who have a legal right to travel the road. Accordingly, this road is not regularly and openly traveled by members of the general public.

ATF concludes that the roadway described in Scenario C is a “highway” as defined in 27 CFR 555.11. Although access to the roadway is restricted by a gate and “No trespassing” signs are posted, the gate is not closed at all times. Furthermore, ATF observation indicates that the roadway is regularly and openly traveled by members of the general public. Based on these facts, the roadway is a highway which is subject to the tables of distance in 27 CFR Part 555.

Held, a private road with no gate, signs, or other means of restricting access that is used by the general public as an access road to a parking lot and as access to other public streets is a “highway” as defined in 27 CFR 555.11.

Held further, a private road with a locked gate at the entrance that is locked at all times and used by a limited number of persons leasing or owning property accessed by the road is not a “highway” as defined in 27 CFR 555.11.

Held further, a private roadway traversing a quarry with a gate restricting access and a “no trespassing” sign is a “highway,” as defined in 27 CFR 555.11, because the gate is not locked at all times and the general public regularly utilizes the roadway as a shortcut between two public highways.

Date approved: September 8, 2005

13. 27 CFR 555.11: Meaning of Terms

ATF provides guidance on two situations involving structures and whether they are “inhabited buildings” as defined in 27 CFR Part 555.

ATF Ruling 2005-3

The Federal explosives laws, 18 U.S.C. Chapter 40, require all persons to store explosive materials in a manner in conformity with regulations issued by the Attorney General. 18 U.S.C. 842(j). The Attorney General has delegated his authority to administer and enforce the Federal explosives laws to the Director, ATF. 28 CFR 0.130. Regulations in 27 CFR Part 555 implement the provisions of the Federal explosives laws. Storage regulations in 27 CFR Part 555, Subpart K, provide that outdoor magazines in which high explosives are stored must be located no closer to

inhabited buildings, passenger railways, public highways, or other magazines in which high explosives are stored than the minimum distances specified in the table of distances for storage of explosive materials in section 555.218 of the regulations. 27 CFR 555.206.

The regulation at 27 CFR 555.11 defines the term “inhabited building” as “any building regularly occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other structure where people are accustomed to assemble, except any building occupied in connection with the manufacture, transportation, storage, or use of explosive materials.”

In Scenario A, an explosives licensee leases explosives magazines to an individual who uses the magazines for storage of goods other than explosive materials. The magazines are located adjacent to magazines used by the explosives licensee for the storage of explosive materials. The magazines used by the lessee are not separated by the minimum distances required for the separation of magazines from “inhabited buildings” as required by the regulations in 27 CFR Part 555.

The magazines are visited regularly by the individual who stores property in the magazines, but no additional persons accompany the individual when he is present at the magazine. However, the individual hires contractors to repair equipment stored in the facilities from time to time, and 1-3 employees of the contractor may occasionally be present for short periods of time at the storage site. However, such visits occur no more than 3-5 times per year. In addition, an employee from the water company visits the storage site once a month to read the water meter, an employee from the power company reads the power meter once a month, and other vendors may be present at the site for short periods of time for other legitimate purposes.

In Scenario B, a licensed manufacturer of explosives X leases a unit in an industrial park that shares a common wall with a unit leased by licensed manufacturer Y. Both licensees store explosives in magazines located inside and outside the units. The magazines of Manufacturer X and the building used by Manufacturer Y are not separated by the minimum distance prescribed in 27 CFR Part 555 for the separation of magazines and inhabited buildings. Likewise, the magazines of Manufacturer Y and the building used by Manufacturer X are not separated by the minimum distance prescribed in 27 CFR Part 555 for the separation of magazines and inhabited buildings. In both structures, employees and contractors are regularly present during work hours for purposes of carrying on the manufacturing and distributing businesses of the two licensees. This includes personnel who work in the manufacturing plant, those who work on the loading dock to load and ship explosives products to customers, and those who work in the office taking orders, sending out invoices, and handling other clerical work for the businesses.

Applying the law and regulations to the facts of Scenario A, ATF concludes that the leased structures used by the individual to store items other than explosives are not being used as a

habitation for human beings and are not buildings occupied in connection with the manufacture, transportation, storage, or use of explosive materials. Accordingly, the sole issue remaining is whether the structure is one where people are accustomed to assemble.

Noteworthy, the regulation uses the term “people,” which is the plural version of “person.” Thus, ATF believes that more than one person must “assemble” at the structure for it to be an “inhabited building.” In addition, the word “assemble” is defined, in part, as “To bring or gather together in a group or whole.” The word “assembly” is defined, in part, as “A group of persons gathered for a common purpose.” The American Heritage Dictionary, Second College Edition, Houghton Mifflin Co., 1982. It is clear that the presence of one person at a structure or location cannot be an assembly of any sort. Accordingly, in situations where one person is present at a particular structure, whether on a regular or infrequent basis, such a structure is not an “inhabited building” as defined in 27 CFR 555.11.

Likewise, occasional visits to the storage facility by mail delivery persons or employees of public utility companies for brief periods of time would not be an “assembly” that would make the facility an inhabited building. However, if 2 or more repair persons are present at the facility to make repairs to equipment stored there, such persons would be there for a common purpose, and would have “assembled” at the structure. However, the structure would be an “inhabited building” only if it is a structure where people are accustomed to assemble. The word “accustom” is defined as “To familiarize, as by constant practice, use, or habit: accustomed himself to working long hours.” The word “accustomed” is defined as “Usual, characteristic, or normal: worked with her accustomed thoroughness.” The American Heritage Dictionary, Second College Edition, Houghton Mifflin Co., 1982. These definitions indicate that a structure will be one where people are accustomed to assemble only if there is some degree of continuity, regularity, or frequency to such assembly.

Infrequent, occasional visits to the storage site by 2 or more repair persons would not make the storage facility an “inhabited building,” because such intermittent visits would not be “customary.” Only where 2 or more persons are present at the site for a common purpose and on a regular basis would the building fit within the definition of “inhabited building.”

To address Scenario B, it is apparent that the building leased by Manufacturer X is exempt from the definition of “inhabited building” as to the magazines of Manufacturer X, and the building leased by Manufacturer Y is likewise exempt as to the magazines of Manufacturer Y. This is because both buildings are occupied in connection with the manufacture, transportation, and storage of explosive materials. Clearly, the employees of both licensees are aware that explosive materials are present on the premises and they assume the risk of any such operation. A more difficult question is presented by the buildings of Manufacturer X and the magazines of Manufacturer Y and vice versa. ATF cannot assume

that all employees are cognizant of the activities of their neighbors in the industrial park. Thus, it cannot be assumed that the employees are knowingly assuming the risk of explosive materials stored in magazines owned by the other licensee.

Given the plain language of the regulation, however, ATF does not believe it is appropriate to deny the coverage of the regulatory exemption to adjoining licensees on the basis of an assumption of the risk analysis. The current regulatory definition excludes from the definition of “inhabited building” any building occupied in connection with the manufacture, transportation, storage, or use of explosive materials, regardless of the knowledge of the building’s occupants. Accordingly, ATF concludes that the industrial units occupied by Manufacturer X and Manufacturer Y are both exempted from the definition of “inhabited building” as to the magazines of each other as well as to their own magazines.

Held, a structure used to store items other than explosive materials that is visited on a regular basis by one individual is not an “inhabited building” as defined in 27 CFR 555.11, because it is not a structure where people are accustomed to assemble. Where 2 or more persons are present at the structure to repair equipment stored therein and such visits to the site are occasional and infrequent, the structure is not an “inhabited building” because the visits are not “customary.” However, where 2 or more persons make regular visits to the structure for a common purpose, the structure is an “inhabited building,” and explosives magazines may not be stored closer to the structure than the minimum distances specified in the regulations in 27 CFR Part 555.

Held further, buildings occupied by licensed explosives manufacturers in connection with the manufacture, transportation, storage, or use of explosive materials are not included within the definition of “inhabited building” as to magazines located on their own premises. In addition, buildings occupied by licensed explosives manufacturers in connection with the manufacture, transportation, storage, or use of explosives are not included within the definition of “inhabited building” as to magazines located on property owned by another licensee.

Date approved: November 25, 2005

14. 18 U.S.C. 842(f): Records Required for Explosives Licensees and Permittees

27 CFR 555, Subpart G: Records and Reports

27 CFR 555.22: Alternate Methods or Procedures; Emergency Variations from Requirements

Under specified conditions, approval is granted to utilize computerized records as required records under 27 CFR 555, Subpart G.

ATF Ruling 2007-1

Section 842(f), Title 18, United States Code, makes it unlawful for any licensee or permittee to willfully manufacture, import, purchase, distribute, or receive explosive materials without making such records as the Attorney General may by regulation require, including, but not limited to, a statement of intended use, the name, date, place of birth, social security number or taxpayer identification number, and place of residence of any natural person to whom explosive materials are distributed.

Regulations implementing section 842(f) are in 27 CFR Part 555, Subpart G. The regulations in this subpart specify the records required to be created and maintained by licensed importers (section 555.122), licensed manufacturers (section 555.123), licensed dealers (section 555.124), and permittees (section 555.125). The regulation in section 555.121 provides that licensees and permittees must keep records pertaining to explosive materials in permanent form (i.e., commercial invoices, record books) and in the manner required in Subpart G. In addition, sections 555.122-555.125 specifically allow licensees and permittees to use an alternate record to record the distribution of explosive materials when it is shown that the alternate records would accurately and readily disclose the information required by the regulations. These regulations require licensees and permittees who propose to use alternate records to submit a letter application to ATF describing the proposed alternate records and the need for them. Alternate records are not to be employed until approval from ATF is received.

Regulations at 27 CFR 555.22 allow for the approval and use of an alternate method or procedure in lieu of a method or procedure specifically prescribed in Part 555. ATF may approve an alternate method or procedure when it is found that—

- (1) Good cause is shown for the use of the alternate method or procedure;
- (2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure and that the alternate method or procedure is substantially equivalent to that specifically prescribed method or procedure; and

(3) The alternate method or procedure will not be contrary to any provision of law and will not result in an increase in cost to the Government or hinder the effective administration of 27 CFR Part 555.

With advances in technology and the dramatic decrease in the cost of computers, many businesses rely upon computers to maintain records of their inventory, sales, customer lists, and other business information. Even the smallest home-based business utilizes computers to record and maintain business information. Creating and maintaining records in a computer database, rather than paper form, makes it easier to ensure accuracy of records and makes it less likely that records will be lost or misplaced. In addition, maintaining records via computer generally saves time and money in bookkeeping and auditing expenses. This utilization of computers has allowed companies to automate inventories, utilizing technology such as bar codes or RFID (radio frequency identification) chips. This facilitates better accountability of product overall, reducing the potential of everyday accounting errors. Over the years ATF has seen a significant increase in the number of requests from explosives licensees and permittees for authorization to utilize computerized records rather than paper records of acquisition and distribution and other required records, such as magazine transaction records. ATF routinely approves requests to utilize computerized records, with certain conditions, finding that the use of such records is substantially equivalent to methods of record keeping set forth in the regulations in 27 CFR Part 555, Subpart G.

Several explosives industry members have asked whether computerized records may be maintained without obtaining written approval from ATF if they contain all the required information specified in the regulations and are maintained in a permanent form. Additionally, industry members have questioned whether computer records in combination with paper records may be maintained if they are permanent and contain all the information required by the regulations.

ATF has determined that records of acquisition and disposition, magazine summary records, and the other records required by 27 CFR Part 555, Subpart G, satisfy the standard of permanency and are substantially equivalent to paper records if they meet the following criteria:

1. All data entered into the computer system must be recorded into the database and cannot be capable of being edited or modified at a later date. The software system must retain any correction of errors as an entirely new entry, without deleting or modifying the original entry. The system may allow for entries in a notes column to explain any correction.
2. The system must have a reliable daily memory backup capability to protect the data from accidental deletion or other system failure.

It is also acceptable for licensees/permittees to maintain required records using a combination of a computer program, commercial invoices, and other documents, provided that all of the required information is maintained in the records in

permanent form. Any use of a computer for any portion of the required records must comply with the standards outlined above. However, each particular transaction must be self-contained with all the required information in the same recordkeeping medium. As one example, dispositions of explosives by a dealer cannot be separated by keeping the dates of disposition and the manufacturer's name or brand name in the computer, and all the other required information for that disposition on separate written documents.

ATF finds that good cause exists for authorizing the use of a computer to create and maintain the records required by 27 CFR Part 555, Subpart G, as the use of computers is accepted throughout the business community as a reliable, cost-efficient means of maintaining business records. ATF also finds that the use of a computer to maintain required records, contingent upon the requirements outlined above, is consistent with the effect intended by the requirements of Subpart G, as it will result in a permanent, reliable record that will accurately indicate acquisitions and dispositions of explosive materials.

Finally, ATF finds that the use of computer records properly containing all the required information should not hinder the effective administration of the Federal explosives laws or regulations – use of such records generally makes it easier for ATF to conduct inventories of product on hand and to audit required records. Accordingly, ATF concludes that the requirements for approval of an alternate method or procedure in accordance with 27 CFR Part 555, sections 555.22 and 555.122-555.125, are met.

Held, persons holding licenses and permits issued under 18 U.S.C., Chapter 40, may use computers to create and maintain all or any portion of the records required by 18 U.S.C. 842(f) and 27 CFR Part 555, Subpart G, if the following conditions are satisfied:

1. All data entered into the computer system must be recorded into the database and cannot be capable of being edited or modified at a later date. The software system must retain any correction of errors as an entirely new entry, without deleting or modifying the original entry. The system may allow for entries in a notes column to explain any correction.

2. The system must have a reliable daily memory backup capability to protect the data from accidental deletion or other system failure.

Held further, licensees and permittees who wish to use computers to create and maintain all or a portion of their required records in accordance with the requirements set forth in this ruling are not required to obtain advance approval in accordance with 27 CFR 555.22 or 555.121-125.

Held further, licensees and permittees utilizing a combination of a computer program, commercial invoices, and other paper documents as required records must ensure that the required information for a particular transaction is fully contained in the same recordkeeping medium.

Held further, this ATF approved alternate method or procedure for computerized records shall not be withdrawn unless the holder of said variance is so advised by ATF in writing or no longer holds a Federal explosives license or permit.

Date approved: January 18, 2007

15. 18 U.S.C. 842(j): Storage of Explosives

27 CFR 555.210: Construction of Type 4 Magazines

27 CFR 555.215: Housekeeping

27 CFR 555.201: Notification of Local Fire Officials

27 CFR 555.63: Explosives Magazine Changes

27 CFR 555.22: Alternative Methods or Procedures; Emergency Variations from Requirements

Under specified conditions, display fireworks may be temporarily stored in locked and attended motor vehicles at the explosives magazine site(s) and at fireworks display site(s) without meeting the locking requirements of 27 CFR 555.210 provided certain additional security measures are in place. Additionally, allowance per 27 CFR 555.215 is made for the fuel tanks containing volatile materials that may be on the temporary storage vehicles. Finally, slight variation is provided for notification requirements to ATF and local fire officials.

ATF Rule. 2007-2

The Federal explosives laws, 18 U.S.C. Chapter 40, require all persons to store explosive materials in a manner in conformity with regulations issued by the Attorney General. 18 U.S.C. 842(j). The Attorney General has delegated the authority to administer and enforce the Federal explosives laws to the Director, ATF. 28 CFR 0.130. Regulations in 27 CFR Part 555, implement the provisions of the Federal explosives laws.

The regulation at 27 CFR 555.210(a) states, in part, “[o]utdoor magazines are to be fire-resistant, weather-resistant, and theft-resistant.” Partly to satisfy the theft-resistant requirement, this section requires that each door be equipped with two mortise locks; two padlocks fastened in separate hasps and staples; a combination of a mortise lock and a padlock; a mortise lock that requires two keys to open; or a three-point lock. Padlocks must have at least five tumblers and a case-hardened shackle of at least

3/8-inch diameter. Padlocks must be protected with not less than 1/4-inch steel hoods constructed so as to prevent sawing or lever action on the locks, hasps, and staples.

The regulation at 27 CFR 555.215 states, in part, “[v]olatile materials are to be kept a distance of not less than 50 feet from outdoor magazines.”

The regulation at 27 CFR 555.201 requires, in part, that any person storing explosive materials notify local fire authorities orally before the end of the day on which storage of the explosive materials began and in writing within 48 hours from the time such storage began.

The regulation at 27 CFR 555.63 requires that any licensee or permittee who acquires (adds) a storage magazine must notify ATF at least five business days in advance of using any added explosives storage magazine.

Regulations at 27 CFR 555.22 allow for the approval and use of an alternate method or procedure in lieu of a method or procedure specifically prescribed in Part 555. ATF may approve an alternate method or procedure when it is found that—

(1) Good cause is shown for the use of the alternate method or procedure;

(2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure and that the alternate method or procedure is substantially equivalent to that specifically prescribed method or procedure; and

(3) The alternate method or procedure will not be contrary to any provision of law and will not result in an increase in cost to the Government or hinder the effective administration of 27 CFR Part 555.

ATF has approved a significant number of variances for temporary storage for a specified amount of time before a display fireworks event, as well as during and after the event until the remaining explosive materials can be placed back into the appropriate storage magazine.

Preparation of display fireworks shows and the transportation of explosive materials to numerous show sites often take place over a period of several days. Preparing and temporarily storing the fireworks for these shows ordinarily take place on delivery trucks and trailers in one storage location where the proprietor already maintains storage of explosives materials with a high degree of security and safety by complying with the provisions of 27 CFR Part 555.

Many display fireworks shows also take several days to prepare at the show site. During preparation and after the show is completed, explosive materials frequently must be temporarily stored. This is often either extra product that was brought to the show or misfires that have been maintained and must be returned to permanent storage.

Allowing flexibility through alternate methods or procedures for specific regulations increases both safety and security at these show sites. These procedures are needed to increase public safety,

as well as facilitate smooth operations for the display fireworks industry. The highest risk of incidents involving the accidental ignition of display fireworks is during handling, with the next highest risk being transportation. Providing no flexibility to allow storage in the delivery vehicles would require the industry to dangerously load and unload from storage magazines to vehicles and back into a storage magazine. Additionally, ATF believes that providing this guidance allows for preplanning by the proprietor and consistency of regulatory application nationwide.

One of the major dangers around explosives is fire. Therefore, the regulations require that volatile materials be maintained a distance of not less than 50 feet from outdoor explosives storage magazines. ATF believes that requiring attended storage for display fireworks temporarily stored in vehicles will ensure public safety, in lieu of the 50 foot separation requirement. The attendee should be able to alert the proper authorities if needed to ensure that a fire does not compromise this storage, or may relocate these temporary storage magazines to a safe location away from an identified fire.

Held, ATF will approve alternate methods or procedures for the temporary storage of display fireworks in locked and attended vehicles at explosives magazine site(s), as well as at the fireworks display site(s), under the following conditions:

1. The doors to each storage compartment containing explosive materials must be locked with at least one steel padlock having at least five tumblers and a casehardened shackle of at least 3/8-inch diameter. The padlock does not need to be protected by a steel hood. However, each temporary storage magazine must be attended at all times for security purposes. The vehicle is considered “attended” when an authorized individual is within 100 feet of all temporary storage and has an unobstructed view of the vehicle(s) containing the explosive materials. The individual must remain awake and observant of activities around the vehicle(s).

2. The person who temporarily stores the explosive materials must notify in writing the authority having jurisdiction for fire safety in the locality in which the explosive materials are stored no less than 3 Federal office business days prior to utilizing the additional temporary storage magazine(s).

3. The person who temporarily stores the explosive materials must notify ATF in writing of the location of this storage no less than 3 Federal office business days prior to utilizing the additional temporary storage magazine(s).

All other provisions of 27 CFR Part 555 must be complied with as prescribed.

Held further, this ATF-approved alternate method or procedure for the temporary storage of display fireworks in locked and attended vehicles shall not expire unless the holder of said variance is so advised by ATF or no longer holds a Federal explosives license or permit.

Date approved: January 18, 2007

16. 18 U.S.C. 842(j): Storage of Explosives

27 CFR 555.211(a): Immobilization of Outdoor Type 5 Mobile Storage Magazines

27 CFR 555.215: Housekeeping

27 CFR 555.22: Alternative Methods or Procedures; Emergency Variations from Requirements

Under specified conditions, blasting agents may be stored in mobile type 5 magazines (bulk delivery trucks) without meeting the prescribed immobilization requirements of 27 CFR 555.211.

ATF Rule 2007-3

The Federal explosives laws, 18 U.S.C. Chapter 40, require all persons to store explosive materials in a manner in conformity with regulations issued by the Attorney General. 18 U.S.C. 842(j). The Attorney General has delegated his authority to administer and enforce the Federal explosives laws to the Director, ATF. 28 CFR 0.130. Regulations in 27 CFR

Part 555 implement the provisions of the Federal explosives laws.

The regulation at 27 CFR 555.211(a)(1) states, in part, “[o]utdoor magazines are to be weather-resistant and theft-resistant.” This section further states, “[w]hen unattended, vehicular magazines must have wheels removed or otherwise be effectively immobilized by kingpin locking devices or other methods approved by the Director.”

The regulation at 27 CFR 555.215 states, in part, “[v]olatile materials are to be kept a distance of not less than 50 feet from outdoor magazines.”

The regulation at 27 CFR 555.22 allows for the approval and use of an alternate method or procedure in lieu of a method or procedure specifically prescribed in Part 555. ATF may approve an alternate method or procedure when it is found that—

- (1) Good cause is shown for the use of the alternate method or procedure;
- (2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure and that the alternate method or procedure is substantially equivalent to that specifically prescribed method or procedure; and
- (3) The alternate method or procedure will not be contrary to any provision of law and will not result in an increase in cost to the Government or hinder the effective administration of 27 CFR Part 555.

ATF has approved a significant number of variances for an alternate means of immobilizing preloaded bulk delivery vehicles when some additional security measures were put in place.

Bulk delivery vehicles are routinely utilized for on-site delivery of blasting services. Often these trucks contain a blasting agent as defined under 27 CFR 555.11. Utilization of these bulk products delivered on-site and used immediately has increased safety and security by reducing the number of remotely located storage trailers containing packaged blasting agent products. These delivery vehicles generally leave the explosives storage locations at unusual times of day or night, and for safety reasons they are loaded the day before for next day’s delivery. These trucks are incapable of being disabled by a kingpin locking device, and the requirement to remove the wheels for immobilization is obviously not feasible. Additionally, there are times when explosive material remains on the vehicle when it returns from use. Most of these products degrade during handling, therefore, removing them from the bulk vehicle would not be an option.

One of the major dangers surrounding explosives is fire. Therefore, the regulations at 27

CFR 555.215 require that volatile materials be maintained a distance of not less than 50 feet from outdoor explosive storage magazines. Because these preloaded storage vehicles contain a fuel tank filled with volatile materials, they must remain in an area protected from fire such as gravel, paved, or closely mowed designated parking area.

ATF believes that the following alternate method of operation is substantially equivalent to the prescribed methods. Increased safety for employees and the public provides good cause for this alternate method. It is not contrary to law and will not result in any increased cost to the Government. Overall, ATF believes allowing for this flexibility assists with the effective administration of 27 CFR Part 555.

Held, ATF will approve alternate methods or procedures for the preloading and temporary storage of bulk blasting agents in delivery vehicles at explosive magazine site(s), when the security and immobilization meets the following criteria:

1. All doors on the vehicle are locked, the ignition key is removed, and the key is secured away from the truck.
2. When the site is not in operation, outer perimeter security is established. This may be by a variety of means such as a locked gate, security guards, fence, natural features, or a combination of these.
3. Each potential access point to explosive materials on a storage vehicle will be secured with a minimum of one padlock that has at least five tumblers and casehardened shackle of at least 3/8-inch diameter.
4. Each vehicle shall be immobilized through the use of a steering wheel locking device, lockable battery disconnect switch, or both.
5. All vehicles preloaded with blasting agents shall be parked in a company designated area not susceptible to fire propagation such as bare dirt, gravel, rock, paving, or closely mowed parking lot.

All other provisions of 27 CFR Part 555 must be complied with as prescribed.

Held further, licensees and permittees who wish to use the alternate method or procedure set forth in this ruling are not required to obtain advance approval in accordance with 27 CFR 555.22.

Held further, this ATF-approved alternate method or procedure for the temporary storage of bulk blasting agent products in locked and properly secured vehicles shall not be withdrawn unless the holder of said variance is so advised by ATF in writing or no longer holds a Federal explosives license or permit.

Date approved: January 26, 2007