

**18 U.S.C. 842(j): STORAGE OF EXPLOSIVE MATERIALS**  
**27 CFR 555.22: ALTERNATE METHODS OR PROCEDURES**  
**27 CFR 555.214(b): STORAGE WITHIN TYPES 1, 2, 3, AND 4 MAGAZINES**

*ATF authorizes an alternate method or procedure from the explosive materials visible marks storage requirement of 27 CFR 555.214(b). Specifically, ATF authorizes Federal explosives licensees and permittees to store in magazines containers of explosive materials so that marks are not visible, provided all of the requirements stated in this ruling are met.*

**ATF Rul. 2010-2**

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has received questions from Federal explosives licensees and permittees (licensees and permittees) regarding the requirements under 27 CFR 555.214(b) pertaining to the storage of containers of explosive materials in magazines.

Licensees and permittees have informed ATF that it is often impractical to store explosive materials in such a way that the label on each container of explosive materials is visible. They have advised ATF that common industry practices—developed to maximize efficiencies of labor and space—often rely on storage configurations in which the labels on some containers of explosive materials are not visible.

For example, multiple containers of explosive materials may be stacked on pallets for shipment from an importer, manufacturer, or distributor. While such a stacked-pallet arrangement of explosive materials may be beneficial for shipping purposes, the arrangement does not lend itself to easy access to and identification of every container within a stacked formation on a pallet. More specifically, explosive materials containers positioned in the center of the pallet are not readily visible and therefore the labels and marks on such containers moved into a magazine on a shipping pallet are not visible when inventory is conducted.

Similarly, magazine space limitations may compel licensees and permittees to arrange containers of explosive materials in consecutive rows, with little or no space between the rows. As a result, and similar to the cube-pallet arrangement, the labels and marks on the containers of explosive materials that are not at the front of such stacked consecutive rows are not visible for inspection.

The Federal explosives laws, at Title 18, United States Code (U.S.C.), Chapter 40, require all persons to store explosive materials in a manner in conformity with regulations issued by the Attorney General. Under 28 CFR 0.130(a), the Attorney General has delegated his authority to administer and enforce the Federal explosives laws to the Director of ATF. The regulations in 27 CFR Part 555 implement the provisions of the Federal explosives laws. The regulation at 27 CFR 555.214(b) states: “Containers of explosive materials are to be stored so that marks are visible. Stocks of explosive materials are to be stored so

they can be easily counted and checked upon inspection.” Marks include, among other information, the manufacturer’s name and date/shift code.

Licensees and permittees may seek approval from ATF to use an alternate method or procedure in lieu of a method or procedure specifically prescribed in the regulations. Federal regulations at 27 CFR 555.22 provide that the Director of ATF may approve an alternate method or procedure, subject to stated conditions, 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 substantially equivalent to, within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure; and (3) it 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 recognizes that, provided certain conditions are met, stocks of the same explosive materials with identical marks can be stored so that even though all marks on containers are not visible, the stocks can still be counted and checked upon inspection to readily disclose the information required for inventory and inspection. ATF has determined that explosive materials storage consistent with these practices complies with the underlying purpose of the regulation at 27 CFR 555.214(b) so long as: (1) the explosive materials containers stored in close proximity to each other are the same explosive materials with identical marks; and (2) the stocks of explosive materials can reasonably be accessed, counted, and checked upon inspection in accordance with 27 CFR 555.214(b). This storage configuration is acceptable because: (1) an accurate accounting can be conducted with minimal movement of explosive materials; and (2) randomly sampling several containers with identical marks to verify that the explosive materials are the same does not impose a significant burden on the ATF official who conducts the inventory.

A mixed storage configuration is one in which stacked containers hold different quantities, sizes and/or types of explosive materials; or hold the same quantities, sizes and types of explosive materials, but are labeled with different date/shift codes. In these configurations, the containers are often stacked so that the labels on some of the containers are hidden from view by other stacked containers. ATF has determined that such a mixed storage configuration is acceptable so long as: (1) the licensee or permittee maintains and keeps available for inspection an accurate, complete, and updated list of all the explosive materials on the pallet or in the stacked group, including the marks for each container (manufacturer’s name or brand name and date/shift code), and the quantity and description (type of explosive materials); and (2) the licensee or permittee ensures that the stocks of explosive materials can reasonably be accessed, counted, and checked upon inspection in accordance with 27 CFR 555.214(b). This storage configuration is acceptable because: (1) an accurate accounting can be conducted with minimal movement of explosive materials; and (2) randomly sampling several containers to verify the accuracy of the list does not impose a significant burden on the ATF official who conducts the inventory.

The purpose of the regulation at 27 CFR 555.214(b) is to ensure that explosive materials inventories can be efficiently conducted by the licensee or permittee and by ATF officials

during an inspection while minimizing the movement of explosive materials during such inventory and inspection activities. In storage scenarios like those described above, under the conditions set forth in this ruling, the fact that the marks on some containers are not immediately and readily visible does not negatively affect the ability of the ATF official or the licensee or permittee to conduct an inventory verification. ATF therefore finds there is good cause to authorize a variance from the provisions of 27 CFR 555 that require the marks on all containers of explosive materials stored in magazines to be visible. Further, this alternate method or procedure is not contrary to any provision of law, will not increase costs to ATF, and will not hinder the effective administration of the regulations.

*Held*, licensees and permittees may store in their magazines containers of explosive materials that have identical marks on the labels, such that the labels on some of the containers are not readily visible, so long as the stocks of explosive materials can reasonably be accessed, counted, and checked upon inspection in accordance with 27 CFR 555.214(b).

*Held further*, licensees and permittees may store in their magazines containers of different explosive materials, or containers of the same explosive materials with different date/shift codes on the labels, such that the labels on some of the containers are not readily visible, so long as the licensee or permittee: (1) maintains and keeps available for inspection an accurate, complete, and updated list of all the explosive materials on the pallet or in the stacked group, including the marks for each container (manufacturer's name or brand name and date/shift code), and the quantity and description (type of explosive materials); and (2) ensures that the stocks of explosive materials can reasonably be accessed, counted, and checked upon inspection in accordance with 27 CFR 555.214(b).

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