

18 U.S.C. 842(f): RECORDS REQUIRED FOR EXPLOSIVES LICENSEES AND PERMITTEES
27 CFR PART 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 Rul. 2007-1

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has received inquiries from members of the explosives industry about maintaining their required Federal explosives records in computerized form rather than paper form.

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

Michael J. Sullivan
Director