

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: ALTERNATE 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 Rul. 2007-3

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has received inquiries from members of the explosives industry concerning the preloading and temporary storage of blasting agents on bulk delivery vehicles.

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 case-hardened 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

Michael J. Sullivan
Acting Director