



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Office of the Director

Washington, DC 20226

18 U.S.C. 842(j): STORAGE OF EXPLOSIVES
27 CFR 555.22: ALTERNATE METHODS OR PROCEDURES
27 CFR 555.211(a)(4): LOCKING REQUIREMENTS OF TYPE 5 MAGAZINES

ATF authorizes an alternate method or procedure from the provisions of 27 CFR 555.211(a)(4) requiring the storage of explosives in outdoor type 5 magazines with doors equipped with the requisite locks. Specifically, ATF authorizes explosives licensees and permittees to store bulk blasting agents in outdoor type 5 bin or silo magazines without the specified locks provided all of the requirements stated in this ruling have been met.

ATF Rul. 2011-2

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has received numerous requests from Federal explosives licensees and permittees for variances from the locking requirements for outdoor type 5 bin and silo storage magazines.

Outdoor type 5 bin and silo magazines are used to store bulk blasting agents, typically bulk emulsion and ammonium nitrate-fuel oil (ANFO). Due to the nature of these bulk explosive materials, they cannot be stored in magazines with conventional doors that are easily padlocked and hooded. Instead, bulk blasting agents must be stored in magazines with filling and discharge systems that have small openings that are secured and controlled by hatches, valves, and nozzles. It is impractical to retrofit the locks used on these magazines with hoods because of the configuration of the filling and discharge systems. Additionally, access points, including ladders and hatch openings, cannot be hooded or secured with two padlocks without impeding access to the magazine.

Outdoor type 5 bin and silo magazines are also inherently less susceptible to theft than conventional magazines due to their design. Bin and silo access points are small, and entry to the top of the magazine can only be gained using a pull-down ladder. The discharge valve is typically located on the underside of the bin, making it difficult to access. Additionally, the nature of the bulk blasting agents stored in these types of magazines makes them more difficult to steal than packaged explosives products. They are difficult to remove from the bins or silos due to the height of a common silo and the lack of packaging for bulk products. For these reasons, pursuant to an ATF-approved variance, licensees and permittees generally use alternate locking configurations on their type 5 bin or silo magazines, subject to certain conditions.

Under Federal law, Title 18, United States Code, section 842(j), all persons must store explosive materials in compliance with regulations issued by the Attorney General. The

Attorney General has delegated the authority to administer and enforce the Federal explosives laws to the Director, ATF. The regulations promulgated by ATF to implement the provisions of the Federal explosives laws are codified at Title 27, Code of Federal Regulations (CFR), Part 555.

The regulation at 27 CFR 555.211(a)(4) addresses the locking requirements of outdoor type 5 magazines, providing that “[e]ach door is to be equipped with (i) two mortise locks; (ii) two padlocks fastened in separate hasps and staples; (iii) a combination of a mortise lock and a padlock; (iv) a mortise lock that requires two keys to open; or (v) a three-point lock. Padlocks must have at least five tumblers and a case-hardened shackle of at least $\frac{3}{8}$ inch diameter. Padlocks must be protected with not less than $\frac{1}{4}$ inch steel hoods constructed so as to prevent sawing or lever action on the locks, hasps, and staples.”

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 finds that there is good cause for licensees and permittees to store bulk blasting agents in outdoor type 5 bin or silo magazines with doors not equipped with the requisite locks. Due to the nature of bulk blasting agents, it is difficult for licensees and permittees to comply with the locking requirements of section 555.211(a)(4). Further, the design of outdoor type 5 bin and silo magazines, and the inaccessibility of the bulk blasting agents stored within them, provides protection from theft and loss that is substantially equivalent to the requirements of section 555.211(a)(4), provided certain conditions are met. This alternate method or procedure is also not contrary to any provision of law, will not increase costs to ATF, and will not hinder the effective administration of the regulations.

Federal Explosives Licensees (FELs) or Federal Explosives Permittees (FEPs) may store bulk blasting agents in outdoor type 5 bin or silo magazines with doors not equipped with the requisite locks, provided all of the following conditions are met at all times:

1. When not in operation, adequate security that restricts outer perimeter access must be provided. The use of a locked gate, security guards, fences, or a combination of these measures may be used.
2. Each outdoor bin or silo must be secured with at least one five tumbler padlock with a case-hardened shackle of at least $\frac{3}{8}$ inch diameter on the top hatch, the valves at the loading ports and points of discharge, and the elevated ladder to prevent anyone from climbing onto bins or silos.

3. Blasting agent storage silos and bins must meet all other construction requirements of type 5 magazines as described in 27 CFR 555.211.

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

Once the licensee or permittee has complied with all conditions set forth in this ruling, no separate, individual variance approval from ATF is required, and the licensee or permittee may store bulk blasting agents in outdoor type 5 bin or silo magazines with doors not equipped with the requisite locks.

Held, pursuant to 27 CFR 555.22, ATF authorizes an alternate method or procedure from the provisions of 27 CFR 555.211(a)(4) requiring the storage of explosives in outdoor type 5 magazines with doors equipped with the requisite locks. Specifically, ATF authorizes explosives licensees and permittees to store bulk blasting agents in outdoor type 5 bin or silo magazines without the specified locks provided all of the requirements stated in this ruling have been met.

Held further, if ATF finds that a licensee or permittee has failed to abide by the conditions of this ruling, or uses any procedure that hinders the effective administration of the explosives laws or regulations, ATF may notify the licensee or permittee that the licensee or permittee is no longer authorized to utilize this alternate method or procedure.

Date approved: February 18, 2011

Kenneth E. Melson
Acting Director