



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 EXPLOSIVE MATERIALS
27 CFR 555.22: ALTERNATE METHODS OR PROCEDURES
27 CFR 555.214: STORAGE WITHIN TYPES 1, 2, 3, AND 4 MAGAZINES

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) authorizes an alternate method or procedure from the provisions of Title 27, Code of Federal Regulations (CFR), section 555.214(b) and (c) that require containers of explosive materials to be visibly marked and closed while being stored. Specifically, ATF authorizes Federal explosives licensees and permittees to store display fireworks in fixed, unmarked, and uncovered bins inside explosive materials storage magazines provided all of the requirements stated in this ruling are met.

ATF Rul. 2012-2

ATF has received requests from Federal explosives licensees (FELs) and permittees in the display fireworks industry for authorization from ATF to store display fireworks in fixed, unmarked, and uncovered “picking” bins inside explosive materials storage magazines.

Fireworks companies generally have multiple explosive materials storage magazines that are organized to maximize efficiency in preparing fireworks display shows. Display fireworks companies commonly designate specific magazines as “picking” magazines, used primarily for display show preparation and provide employees with easier and more efficient access to display fireworks. The preparation and design of fireworks display shows involves the selection of a wide variety of display fireworks. Employees typically use display show “picking” sheets or customer orders to handpick numerous fireworks from the designated “picking” magazines. To expedite this manual process and reduce the movement of cardboard fireworks cases, some FELs cut flaps in the front of the cases. Others construct permanent (fixed) wooden shelves in magazines to serve as “picking” bins without lids or covers. It is common industry practice for FELs to designate a separate category of display fireworks for each bin (e.g., by manufacturer, size, and display effect). FELs then transfer the display fireworks from their original cardboard cases to these bins until they are ready to be hand selected for a fireworks show.

Under Federal law, Title 18, United States Code, section 842(j), all persons must store explosive materials, to include explosive devices, in compliance with Federal regulations.

The regulation at 27 CFR 555.214(b) requires that: (1) containers (including cardboard cases and bins) of explosive materials are to be stored so that marks are visible, and (2) stocks of explosive materials are to be stored so they can be easily counted and checked upon inspection. The regulation at 27 CFR 555.214(c) requires, in part, that containers (including cardboard cases and bins) of explosive materials must be closed while stored.

Licenses 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, under certain conditions, there is good cause for authorizing the storage of display fireworks in fixed, unmarked, and uncovered bins. First, storing display fireworks in fixed, uncovered bins significantly reduces the movement of firework cases in a storage magazine, and thereby reduces the chances of an accident or a sparking hazard occurring in an enclosed space during fireworks show preparation (*i.e.*, “picking”) and inventory. Second, storing display fireworks in well-constructed fixed bins improves safety conditions in magazines because such bins have greater structural integrity than cardboard storage containers. Third, marks of identification for display fireworks stored in fixed, uncovered bins are readily visible and the display fireworks are easily counted and checked upon inspection. Fourth, storing display fireworks in fixed, uncovered bins maximizes efficiency when handpicking fireworks for show preparation and inventory. Fifth, requiring lids or covers for all bins may cause licensees and permittees to completely empty magazines of explosive materials to install lids or covers, which increases the risk of accidents and sparking hazards.

ATF also finds that, under certain conditions, the storage of display fireworks in fixed, unmarked, and uncovered bins is substantially equivalent to, within the purpose of, and consistent with the effect intended by, the specifically prescribed requirements in 27 CFR 555.214(b) and (c). The purpose of 27 CFR 555.214(b) is to ensure that licensees, permittees, and ATF personnel may efficiently and safely conduct explosive materials inventories and inspections while minimizing the movement of explosive materials. Display fireworks stored in fixed, uncovered bins are readily visible, thereby facilitating inventory accountability and inspection, and providing similar product identification as the marks of identification on cardboard containers. The purpose of the 27 CFR 555.214(c) closed container requirement, in part, is to ensure safety by protecting container contents from sparking hazards caused by their movement in a storage magazine. Under certain conditions, display fireworks stored in fixed, uncovered bins are safe from sparking hazards and provide better protection to the display fireworks they contain because: (1) the fixed bins eliminate the need to move cardboard cases, and (2) well-constructed fixed bins are not susceptible to damage or collapse as cardboard cases. Further, the alternate methods or procedures authorized by this ruling are not contrary to any provision of law,

will not increase costs to ATF, and will not hinder the effective administration of the regulations.

Held, pursuant to 27 CFR 555.22, ATF authorizes an alternate method or procedure from the provisions of 27 CFR 555.214(b) and (c) that require containers of explosive materials to be visibly marked and closed while being stored. Specifically, ATF authorizes Federal explosives licensees and permittees to store display fireworks in fixed, unmarked, and uncovered bins inside explosive materials storage magazines, *provided* all of the following conditions are met at all times:

1. All display fireworks, including the quickmatch leaders, must be fully contained within the bins. The bins must prevent the spillage of display fireworks contents. Safety caps (fuse caps) must be securely affixed to the quickmatch leaders to prevent exposure of the black powder match (fuse);
2. The shelving and bin system must be stable and constructed of, or lined with, non-sparking materials (e.g., wood). Any sparking hazards, including exposed sparking nails or screws used to construct the bin system, must be countersunk or permanently covered with a non-sparking material;
3. The shelving and bin system must be constructed within the storage magazine to prevent the shelving and bin system from moving or falling during the storage, handpicking, inventory, and inspection processes; and
4. The magazine door(s) must remain closed and locked when the magazine is not attended.
5. The display fireworks inside the bins must be clearly identifiable (e.g. marks of identification on the shells, labels on the bins).

Provided further, any explosive materials storage magazines in which fixed, uncovered and unmarked bins are utilized for the storage of fireworks may not contain any of the following explosives, unless such explosives are separately stored and contained in covered containers or bins:

1. Exposed explosive materials (e.g., loose igniters, black powder, flash powder);
2. Damaged fireworks that have exposed black powder match or pyrotechnic powder;
3. Partially assembled fireworks (e.g., unfinished comets or crossettes) or firework components that have exposed black powder match or pyrotechnic powder; or
4. Quickmatch and other pyrotechnic fuses with exposed ends and that are not contained within a sealed bag.

Provided further, any display fireworks affixed with igniters in fixed, unmarked, and uncovered bins inside explosive materials storage magazines must meet the following additional conditions at all times:

1. Each igniter must be affixed with a protective shroud that covers the igniter head;
2. Each igniter must be shunted (establish contact between both wires) or contain an electrical cap or nut; and
3. The igniter wire and quickmatch leader must be secured to each other (*e.g.*, tied together) or otherwise attached to minimize entanglement with other wires and leaders inside the bins.

Licensees and permittees who comply with all of the conditions set forth in this ruling at all times are not required to obtain a separate, individual variance approval from ATF, pursuant to the regulations at 27 CFR 555.214(b) and (c), to use fixed, unmarked, and uncovered bins inside explosive materials storage magazines. Licensees and permittees are still required to comply with all other provisions of 27 CFR Part 555, as prescribed.

Held further, if ATF finds that a licensee or permittee has failed to comply with the conditions of this ruling, or uses any procedure that hinders the effective administration of the Federal explosives laws or regulations, ATF may notify the licensee or permittee that the licensee or permittee is no longer authorized to use fixed, unmarked, and uncovered bins authorized in this ruling.

This ruling supersedes all previous variance approvals for the storage of display fireworks in fixed, unmarked and uncovered bins.

Date approved: May 29, 2012

B. Todd Jones
Acting Director