

**18 U.S.C. 842(j): STORAGE OF EXPLOSIVES**  
**18 U.S.C. 845(a): EXCEPTIONS; RELIEF FROM DISABILITIES**  
**27 CFR 555.22: ALTERNATE METHODS OR PROCEDURES**  
**27 CFR 555.29: UNLAWFUL STORAGE**  
**27 CFR 555.141: EXEMPTIONS**  
**27 CFR 555.205: MOVEMENT OF EXPLOSIVE MATERIALS**

*Under specific conditions, State and local bomb technicians and explosives response teams may store a limited amount of explosive materials within official response vehicles.*

**ATF Rul. 2009-3**

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has received requests from State and local law enforcement agencies to store explosive materials overnight in official response vehicles. The agencies assert that authorization for this alternate storage procedure would increase public safety and ensure that their responses to critical incidents are conducted more efficiently. Explosive storage magazines are often located several miles away from a response vehicle's location. Without a storage variance, prior to reporting to a critical incident, State and local bomb technicians and explosives response teams are often required first to travel to the explosive storage magazine location, retrieve the necessary explosive materials required to perform their duties, and then proceed to the incident scene. This situation may hinder the agency's ability to rapidly respond to critical incidents.

Under Title 18, United States Code (U.S.C.), Section 842(j), all persons must store explosive materials in compliance with the 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 contained within Title 27, Code of Federal Regulations (CFR), Part 555 implement the provisions of the Federal explosives laws. Section 555.205 provides that all explosive materials must be kept in locked magazines meeting the standards in Part 555, Subpart K, unless they are in the process of manufacture, being physically handled in the operating process of a licensee or user, being used, or being transported to a place of storage or use by a licensee or permittee or by a person who has lawfully acquired explosive materials under Section 555.106. State and local governments are not exempt from the requirement to store explosives in conformity with ATF regulations.

The regulations at 27 CFR 555.22 allow the Director, ATF, to approve the 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: (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 finds that, provided certain conditions are met, there is good cause for authorizing storage of explosive materials in official response vehicles. For purposes of this ruling, the term “official response vehicle” is limited to State and local law enforcement department-issued vehicles specially designated for use by bomb technicians and explosives response teams. Allowing State and local bomb technicians and explosives response personnel the flexibility to store explosive materials overnight in official response vehicles, whether or not attended, would increase public safety and facilitate quick and efficient incident response and law enforcement operations. In addition, ATF finds that the additional security protocols provided in this ruling, such as enhanced storage security features, limited overall explosive materials load, magazine inspections, and increased inventory requirements are consistent with the effect intended by, and are substantially equivalent to, the specifically prescribed methods and procedures prescribed in Part 555, Subpart K. Further, this alternate method 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*, State and local bomb technicians and explosives response teams may store explosive materials in official response vehicles parked inside a secured building, provided the conditions set forth below are met at all times. A building is considered “secured” if it is a law enforcement or other government facility not accessible by unauthorized personnel. A secured building has law enforcement or other government personnel present at all times, or the building has an additional security feature such as an alarm, camera, or card entry system.

- (1) Official response vehicles and buildings must be locked and secured at all times when not in use; and
- (2) No more than 50 pounds Net Explosives Weight total may be stored in each building. This means that the combined Net Explosives Weight stored in official response vehicles and other explosives storage magazines located in the building may not exceed 50 pounds. Note that the Net Explosives Weight of explosive materials stored is not to be confused with the TNT equivalency weight of explosive materials.

*Held further*, State and local bomb technicians and explosives response teams may store explosive materials in unattended, official response vehicles parked at an outdoor location, provided the conditions set forth below are met at all times. The outdoor location may be an unsecured area accessible by civilians or unauthorized personnel.

- (1) When not in use, official response vehicles must be locked at all times and have at least one additional security feature, such as a vehicle alarm, vehicle tracking device, or vehicle immobilization mechanism, or other equivalent alternative; and
- (2) Official response vehicles located at an outdoor location may not store explosive materials in excess of:

- a. 20 detonators (electric, non-electric, or electronic); and
- b. 2.5 pounds Net Explosives Weight of all other explosive materials.

Note that the above list does not limit the amount of disruptor ammunition or unmixed binary explosives carried on a response vehicle.

*Held further*, all State and local law enforcement agencies intending to store explosive materials in official response vehicles, whether attended or unattended, must meet the following criteria at all times:

- (1) Explosive materials must be stored in at least a Type-3 magazine;
- (2) Magazines must be secured with one steel padlock (which need not be protected by a steel hood) having at least five tumblers and a case-hardened shackle of at least 3/8-inch diameter. Alternatively, the magazine may be secured by placing it inside a locked compartment within the vehicle designed to meet law enforcement construction standards for weapons storage within the vehicle;
- (3) Agencies must securely bolt or otherwise affix the magazines, or the locked compartments in which the magazines are stored, to the vehicle. Nuts must be located on the inside of the magazine or compartment where they cannot be removed from the outside. The nuts must be covered with a non-sparking material, such as epoxy paint or plywood;
- (4) If a magazine placed in a vehicle uses a secondary locking system containing a chain or cable and a padlock, the agency need not bolt it to the trunk or cargo area of the vehicle or lock it with one steel padlock. Rather, the agency must close and stabilize the magazine securely within the trunk or cargo area of the vehicle using the secondary lock's chain or cable and padlock;
- (5) Agencies may store detonators in the same magazine as delay devices, electric squibs, safety fuse, igniters, igniter cord, and shock tube, but not in the same magazine with other explosive materials;
- (6) Agencies may not store any amount of loose or free-flowing explosive powders, irrespective of the packaging configuration. This does not prohibit the transport of necessary amounts of black or smokeless powders for use at specifically planned operations or the transport of seized black or smokeless powders as a result of operations;
- (7) Agencies may not store any tools or other metal devices in the same magazine as the explosive materials;

(8) Officers storing explosive materials within official response vehicles must maintain an inventory storage record. The record must contain the name of the explosive material's manufacturer, the quantity on hand, and the dates that the materials are received, removed, or used. Officers must maintain a copy of this record within the vehicle and at an off-site location, such as with the Bomb Squad Commander;

(9) Officers must conduct a quarterly inventory of the explosive materials on hand and compare it to the inventory storage record. Officers must note this inventory in the inventory storage record;

(10) Officers must inspect the magazine once every 7 days to determine whether there has been any attempted or unauthorized entry into the magazine, or unauthorized removal of the contents stored in the magazine; and

(11) In the event of the theft or loss of explosive materials, law enforcement officers must report the theft or loss to ATF within 24 hours of discovery by calling 1-800-800-3855 and completing an ATF Form 5400.5, Report of Theft or Loss of Explosive Materials. You may obtain this form from the ATF Distribution Center by calling 301-583-4696, or through the ATF website at <http://www.atf.gov/forms/pdfs/f54005.pdf>.

Any other alternate methods or procedures not permitted by this ruling may be requested through a variance request addressed to the ATF Explosives Industry Programs Branch (EIPB). Requests may be made by sending an email to [EIPB@ATF.GOV](mailto:EIPB@ATF.GOV) or letter to:

Explosives Industry Programs Branch  
Bureau of Alcohol, Tobacco, Firearms and Explosives  
99 New York Avenue, NE.  
Mailstop 6E403  
Washington, DC 20226

To request a copy of ATF's Federal Explosives Laws and Regulations, ATF P 5400.7, you may contact the ATF Distribution Center at 301-583-4696, or your local ATF office. You may also download a copy of this publication from ATF's website at <http://www.atf.gov/explarson/eipb.htm>.

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Kenneth E. Melson  
Acting Director