



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 555.29: UNLAWFUL STORAGE
27 CFR 555.210: CONSTRUCTION OF TYPE 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 555.210(a)(2) that require outdoor type 4 magazines with wood floors to be covered on the outside with metal. Specifically, ATF authorizes Federal explosives licensees and permittees to store explosive materials in outdoor type 4 magazines with wood-only floors, provided all of the requirements stated in this ruling are met.

ATF Rul. 2012-5

ATF has received requests from Federal explosives licensees (licensees) and Federal explosives permittees (permittees) for authorization to store explosive materials in outdoor type 4 explosive storage magazines with wood-only floors.

In late 1999, field inspection activities by ATF revealed that some explosives industry members were storing explosive materials in outdoor type 4 magazines with wood floors not covered by metal. These magazines did not meet the fire-resistance standards prescribed in the regulations because the wood flooring was not covered on the outside with metal. After discussions with industry members, and in some cases, modifications to industry members' magazines, ATF began approving variance requests for outdoor type 4 magazines with wood-only floors when the magazines provided levels of theft and fire-resistance substantially equivalent to the methods prescribed by the regulations.

Under Federal law, Title 18, United States Code, section 842(j), all persons must store explosive materials in a manner in compliance with Federal regulations. The regulations at 27 CFR 555.210(a)(2) for outdoor type 4 magazines state, in relevant part, that “[o]utdoor magazines are to be constructed of masonry, metal-covered wood, fabricated metal, or a combination of these materials. Foundations are to be constructed of brick, concrete, cement block, stone, or metal or wood posts. If piers or posts are used, in lieu of a continuous foundation, the space under the building is to be enclosed with fire-resistant material.”

Licenseses 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(a) 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) the alternate method 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 explosive materials in outdoor type 4 magazines with wood-only floors. The cost of retrofitting existing magazines with steel exteriors or purchasing new type 4 magazines can be prohibitive. ATF believes that providing industry members with the latitude to use type 4 magazines with wood-only floors results in a greater availability of acceptable storage facilities. This reduces the amount of explosive materials stored contrary to the regulations (e.g., in garages, warehouses, vehicles not qualifying as magazines, overloaded magazines, buildings not disclosed to ATF), and thereby increases public safety. ATF also finds that the storage of explosive materials in type 4 magazines with wood-only floors, provides fire-resistance substantially equivalent to that provided by the construction requirements prescribed at 27 CFR 555.210(a)(2), provided that certain conditions are met. Further, the alternate method or procedure authorized by this ruling 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, pursuant to 27 CFR 555.22, ATF authorizes an alternate method or procedure from the provisions of 27 CFR 555.210(a)(2) that require outdoor type 4 magazines with wood floors to be covered on the outside with metal. Specifically, ATF authorizes licenseses and permittees to store explosive materials in type 4 magazines with wood-only floors, *provided* all of the following conditions are met at all times:

1. The ground under the magazine must be completely covered with gravel or another nonflammable material (e.g., concrete);
2. Any gap between the magazine and the ground must be covered with mounded gravel or another nonflammable material such as metal skirting;
3. If skirting is used, it must be securely attached; and
4. The gravel or skirting between the magazine and the ground must remain intact around the perimeter of the magazine so that the underside of the magazine does not become exposed or accessible (i.e., there must be no gaps in the gravel or skirting).

Licenseses 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 555.210(a)(2) to use wood flooring in type 4 outdoor 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 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 use type 4 outdoor magazines with wood-only floors as stipulated under this ruling.

This ruling supersedes all previous variance approvals for the storage of explosive materials in outdoor type 4 magazines with floors constructed of wood, but not covered with metal.

Date approved: July 24, 2012

B. Todd Jones
Acting Director