



**U.S. Department of Justice**  
Bureau of Alcohol, Tobacco,  
Firearms and Explosives

*Office of the Director*

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*Washington, DC 20226*

**ATF Rul. 2023-2**

Use of Commercial Records for Explosives

<b>18 U.S.C. 842(f):</b>	<b>RECORDS REQUIRED</b>
<b>18 U.S.C. 843(f):</b>	<b>INSPECTION OF RECORDS</b>
<b>27 CFR 555.22:</b>	<b>ALTERNATE METHODS OR PROCEDURES</b>
<b>27 CFR 555.121:</b>	<b>GENERAL RECORDS AND REPORTS</b>
<b>27 CFR 555.122(b)-(c):</b>	<b>RECORDS MAINTAINED BY LICENSED IMPORTERS</b>
<b>27 CFR 555.122(d):</b>	<b>AUTHORIZATION OF ALTERNATE RECORDS</b>
<b>27 CFR 555.123(b)-(c):</b>	<b>RECORDS MAINTAINED BY LICENSED MANUFACTURERS</b>
<b>27 CFR 555.123(e):</b>	<b>AUTHORIZATION OF ALTERNATE RECORDS</b>
<b>27 CFR 555.124(b)-(c):</b>	<b>RECORDS MAINTAINED BY LICENSED DEALERS</b>
<b>27 CFR 555.124(e):</b>	<b>AUTHORIZATION OF ALTERNATE RECORDS</b>

*The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) authorizes an alternate method or procedure for complying with the record keeping requirements for acquisition, distribution/disposition, and use of explosive materials contained in Title 27, Code of Federal Regulations (CFR), 555.122, 555.123, and 555.124. Specifically, ATF authorizes licensed explosives importers, manufacturers, and dealers to maintain commercial records instead of a separate record as a permanent record of acquisitions, distributions/dispositions, and use of explosive materials.*

ATF has been asked whether licensed importers, manufacturers, and dealers in explosive materials may maintain commercial records as permanent records instead of maintaining a separate record book of explosive materials acquisition, distribution/disposition and use. Commercial invoices and records often contain the same information that is required to be recorded in a permanent separate record.

Title XI of the Organized Crime Control Act of 1970, Pub. L. 91-452, 84 Stat. 922, added chapter 40 (Importation, Manufacture, Distribution and Storage of Explosive Materials) to title 18 of the United States Code. 18 U.S.C. 842(f), states in pertinent part that “[i]t shall be unlawful for any licensee or permittee willfully to manufacture, import, purchase, distribute, or receive explosive materials without making such records as the Attorney General may by regulation require ...”. In addition, section 843(f), provides that, “[l]icensees and holders of user permits shall make available for inspection at all reasonable times their records kept pursuant to [chapter

40] or the regulations issued [thereunder], and licensees and permittees shall submit to the Attorney General such reports and information with respect to such records and the contents thereof as he shall by regulations prescribe.” Under section 847, the Attorney General is authorized to prescribe such rules and regulations as deemed reasonably necessary to carry out the provisions of chapter 40. The regulations in 27 CFR Part 555, Subpart G – Records and Reports, set forth the record keeping requirements for licensees and permittees, with 27 CFR 555.121(a)(2) providing that all required records must be kept on the business premises.

The regulation at 27 CFR 555.121(a)(1) sets forth the form of the required records, providing, “[l]icensees and permittees shall keep records pertaining to explosive materials in permanent form (i.e., commercial invoices, record books) and in the manner required in this subpart.” The regulations specify that all explosive transaction records must be kept in permanent form, and contain the information required by § 555.122(b)-(c) (Records maintained by licensed importers), § 555.123(b)-(c) (Records maintained by licensed manufacturers), § 555.124(b)-(d) (Records maintained by licensed dealers), § 555.125(b)(3)-(5) (Records maintained by permittees), and otherwise comply with these sections.

Each of the cited regulations above provide that once an explosives transaction has occurred, whether it is an acquisition, distribution/disposition, or use of explosive materials, certain information pertaining to that transaction shall be entered in a record no later than the close of the next business day. Importers, pursuant to 27 CFR 555.122, and manufacturers, pursuant to 27 CFR 555.123, are required to enter transactions into a separate record no later than the close of the next business day. In contrast, section 555.124(d) states that a licensed dealer may delay entering the acquisition or distribution of explosive materials in a permanent record for a period not exceeding seven days by keeping a qualifying commercial record. However, unlike the requirements for importers, manufacturers, and dealers, section 555.125(b)(5) specifically provides that permittees may keep qualifying commercial records as a permanent record instead of maintaining a separate record book.

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 Part 555. Pursuant to 27 CFR 555.22(a), 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 alternative 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. Use of an alternate record may be authorized pursuant to §§ 555.22, 555.122(d), 555.123(e), and 555.124(e), when it is shown by the licensee that the alternate records will accurately and readily disclose the information required.

ATF recognizes that commercial invoices and records kept by licensed importers, manufacturers, and dealers often contain the same information regarding acquisition, distribution/disposition, and use of explosive materials as is required to be recorded in a permanent separate record. ATF further recognizes that retaining commercial records containing all the required information

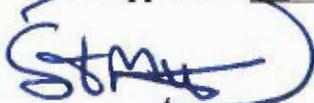
could reduce record keeping errors made by a licensee transferring information from commercial invoices to a separate record. ATF therefore finds that there is good cause to authorize licensed importers, manufacturers, and dealers to retain commercial records as a permanent record of acquisition, distribution/disposition, and use, of explosive materials; *provided* the commercial records contain all the information that would otherwise be required to be recorded in the licensee's separate record and is substantially equivalent to the prescribed method or procedure. ATF further finds this alternate method or procedure is not contrary to any provision of law, will not increase costs to ATF, and, based on ATF's experience and expertise in both regulatory and enforcement actions relating to explosives materials, will not hinder the effective administration of the Federal regulations.

*Held*, pursuant to 27 CFR 555.22, 555.122(d), 555.123(e), and 555.124(e), ATF authorizes an alternative method or procedure for explosives licensees to maintain acquisition, distribution/disposition, and use records as required by 27 CFR Part 555, Subpart G – Records and Reports. Specifically, ATF authorizes licensed explosives importers, manufacturers, and dealers to maintain commercial records as permanent records of explosives acquisitions, distributions/dispositions, and use, provided the commercial records contain all of the information required to be recorded in the licensee's records under sections 555.122 – 555.124. This approval does not relieve licensed importers, manufacturers, and dealers from any requirements of State, local, or other Federal laws or regulations.

*Held further*, explosives licensees using commercial records to fulfill their record keeping requirements under 27 CFR Part 555, Subpart G – Records and Reports, must provide ATF access to these commercial records for inspection purposes in compliance with 18 U.S.C. 843(f) and 27 CFR 555.24.

*Held further*, if ATF finds that a licensed importer, manufacturer, or dealer has failed to abide by the conditions of this ruling or uses any procedure that hinders effective administration of the Federal explosives laws or regulations, or any legal or administrative difficulties arise due to the use of commercial records instead of a permanent separate record, the licensed importer, manufacturer, or dealer is no longer authorized to use commercial records instead of a permanent separate record under this ruling.

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Steven Dettelbach  
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