

27 CFR 181.41: General
(Also 181.11)

Certain companies that manufacture explosive materials for use in their own operations are required to obtain licenses as manufacturers of explosive materials.

ATF Rul. 75-31

[Status of ruling: Active]

The Bureau of Alcohol, Tobacco and Firearms has been asked whether certain companies, such as public utility companies that manufacture explosives for use in the area of field maintenance and construction activities, are “engaged in the business” as manufacturers of explosive materials and as such must obtain the required license for such manufacturers.

Under the provisions of 18 U.S.C. 842(a)(1), implemented by the regulations promulgated thereunder (27 CFR 181.41), it is unlawful to engage in the business of manufacturing explosives without a license. 18 U.S.C. 841(h) defines “manufacturer” as “any person engaged in the business of manufacturing explosive materials for purposes of sale or distribution or for his own use.”

Although the term “engaged in the business” is not susceptible to a rigid definition, it is generally interpreted to imply an element of continuity or habitual practice as against a single act or occasional participation.

Accordingly, it is held that companies, such as public utility companies engaged in line and facility construction, which manufacture explosives on a regular or continual basis are considered to be engaged in the business of manufacturing explosive materials and must be appropriately licensed as required by 18 U.S.C. 842.

Signed: September 12, 1975

[Editor’s Note: 27 CFR Part 181 is now 27 CFR Part 555.]