



## Fact Sheet



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### **FEDERAL FIREARMS LICENSE REVOCATION PROCESS**

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) is responsible for licensing persons engaged in manufacturing, importing, and dealing in firearms. It is critical that Federal firearms licensees (FFL) comply with the Gun Control Act (GCA) and its implementing regulations in order to assist law enforcement efforts, prevent the diversion of firearms from lawful commerce to the illegal market, ensure successful tracing of firearms, and to protect the public.

ATF industry operations investigators (IOI) conduct inspections of FFLs to ensure compliance with the law and regulations and assist with business practices designed to improve compliance with the GCA. If violations are discovered during the course of an FFL inspection, the tools that ATF has available to guide the FFL into correction of such violations and to ensure future compliance include issuing a Report of Violations, sending a warning letter, and holding a warning conference with the industry member. In limited circumstances, ATF may propose to suspend a license or levy a fine. Despite these actions, on rare occasions ATF encounters a licensee who fails to comply with the laws and regulations and demonstrates a lack of commitment to improving his or her business practices. In such cases where willfulness is demonstrated, ATF's obligation to protect public safety may require revocation of the federal firearms license.

In 2007, ATF conducted over 10,000 firearms compliance inspections and sought revocation of firearms licenses on less than 100 occasions, which is approximately 1 percent of inspections conducted. The number of revocations translates to 0.1 percent of the total population of FFLs engaged in business in 2007, which was nearly 60,000 (excluding persons holding collector licenses).

ATF has a responsibility to the public to revoke FFLs in cases of willful violations of the law and regulations, intentional disregard for regulatory requirements, or knowing participation in criminal acts. Willfulness is not defined in the regulations but is defined by case law to mean the intentional disregard of a known legal duty or plain indifference to a licensee's legal obligations. ATF does not revoke for all willful violations. Recommendations for revocation often result from FFLs repeating violations despite ATF efforts to educate and assist them with compliance. Violations commonly cited in revocation cases include failure to account for firearms, failure to verify and document purchaser eligibility, failure to maintain records requisite for successful firearms tracing, and failure to report multiple sales of handguns.

The revocation process begins when an IOI recommends revocation following an inspection. The recommendation is subject to a rigorous, thorough internal review process. The authority to revoke rests with ATF's directors of industry operations (DIO). If the DIO concurs with revocation of the license, the report is reviewed by ATF field division counsel for legal sufficiency.

To ensure consistency throughout the country, a newly implemented procedure requires the DIO to notify Bureau Headquarters of his or her preliminary decision to pursue revocation. If the DIO, division counsel, and Headquarters review results in disagreement on pursuing revocation, the report is reviewed and a final determination is made by a panel consisting of two Headquarters deputy assistant directors and the deputy chief counsel.

If revocation is pursued, procedures are followed as specified under Title 27 Code of Federal Regulations Part 478. The licensee is provided with a Notice of Revocation that includes findings describing the reasons for pursuing revocation. The licensee has 15 days from receipt of the notice to request a hearing before a hearing officer. The licensee may be represented by an attorney at the hearing and may bring employees and documentation to address the violations cited in the notice. ATF is generally represented at hearings by ATF Counsel and the IOIs who conducted the inspection(s) resulting in the revocation recommendation. Unless special circumstances apply, the licensee can continue operations while a final decision is made by the DIO.

During a hearing, the licensee has the opportunity to challenge the violations, establish that the violations were not willful, and address intention for future compliance. Based on the evidence presented at the hearing by the licensee and ATF, the hearing officer submits a report of findings and a recommendation to the DIO. Based upon the hearing testimony, exhibits presented during the hearing, and the hearing officer's recommendation, the DIO decides whether to continue with the revocation. If the DIO's decision is to revoke following a hearing, or in cases where a hearing is not requested, then a Notice of Final Revocation is sent to the licensee with a summary of the findings that warrant revocation.

A licensee who receives a Notice of Final Revocation may, within 60 days of receipt of the final notice, file a petition for *de novo* review with the U.S. District Court. If the licensee makes a request to the DIO to allow continuance of business operations, the DIO may allow the licensee to operate during the appeal process. If the DIO prohibits continuance of operations during judicial review because of the risk to public safety, the FFL can appeal to the court to continue operations during the review process.

Of those cases that were appealed to the U.S. District Court between April 2001 and April 2008, 49 of 52 final decisions in District Court have supported ATF's decision to revoke.

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