



FFL NEWSLETTER



December 2002

ISSUE I

**FEDERAL FIREARMS LICENSEE INFORMATION SERVICE
PROVIDED BY THE U.S. DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
WASHINGTON, DC**

INS-ISSUED ALIEN NUMBERS AND ADMISSION NUMBERS

The new ATF F 4473, Firearms Transaction Record Part I (Over-the-Counter), requires all non-US citizens to provide an INS-issued Alien Number or an INS-issued Admission Number (both types of numbers are often referred to as "A" numbers). Only a non-US citizen must provide one of the numbers. If a non-US citizen does not provide one of these numbers, a Federal firearms licensee (FFL) may not complete the transaction. Thus, the FFL should not contact the State Point of Contact or the Federal Bureau of Investigation to conduct a background check.

An FFL has no responsibility for verifying that the Alien Number or Admission Number the non-US citizen provides is genuine. The Immigration and Naturalization Service (INS) will verify the validity of a number during the NICS check. However, because some FFLs have had questions about Alien Numbers and Admission Numbers, we wanted to provide background information about these numbers to interested licensees.

An "Admission Number" is the number on INS Form I-94 or INS Form I-94W. An I-94 is the Arrival/Departure Form INS completes at a port of entry. It controls a nonimmigrant alien's authorized period of stay. An I-94W essentially is the same as an I-94, but is issued to nonimmigrants coming to the United States under the "visa waiver" program, which means they do not need a visa to enter the United States. Because the I-94W is green, people sometimes think it is the "green card" issued to permanent resident aliens.

An Admission Number will have 11 digits. An example would be: "742831632 01."

An Alien Number is an INS file number for lawful permanent resident aliens, nonimmigrant aliens with employment authorization documents, and other specified aliens. The Alien Number can be found on the Resident Alien Card/Permanent Resident Card. The name of this card has changed over time, so the exact nomenclature will depend on when it was issued. This card is often referred to as a "green card" even though it has not actually been "green" since 1959. Alien Numbers also can be found on Employment Authorization Documents issued to some nonimmigrant aliens. Not all non-U.S. citizens will have an Alien Number.

Alien Numbers have 7, 8, or 9 digits. An example would be "A33500000."

Alien Numbers and Admission Numbers will not be found on visas, which are issued by the U.S. State Department, not INS.

If a non-U.S. citizen has difficulty determining his Alien Number or Admission Number, or believes he lost either number, you may want to suggest that he contact a local INS office.

CHANGE OF ADDRESS REQUIRES AMENDED LICENSE

Throughout the year, ATF makes periodic mailings to all FFLs. The materials sent include the FFL Newsletter, open letters, and license renewal applications. However, as many as 5,000 items of any one mailing have been returned to the NLC as undeliverable. It is estimated that approximately 70 percent of these "undeliverables" are due to the failure of FFLs to file ATF Form 5300.38, Application for Amended Federal Firearms License, when they move. Under 27 CFR 178.52, FFLs who intend to relocate their business to a new location are required to submit ATF Form 5300.38 in duplicate, along with their original license, to the Chief, National Licensing Center (NLC), at least 30-days prior to moving their business premises to the new location.

We must caution, however, that once ATF amends a license to reflect the new address, and the FFL receives the new license, the FFL would be prohibited from continuing to conduct a firearms business from the old location under Federal law. Therefore, we recommend that FFLs attach a letter to the F 5300.38 specifying the effective date of their move to the new address so that their license can be amended to coincide with the effective date.

Please be advised that denial and/or revocation proceedings may be initiated if you fail to notify us that you moved, or that you have a change of address. Protect yourself, and your business, by timely notifying the NLC of any changes to your business location or business address.

For additional information regarding this requirement, please contact the NLC at (404) 417-2750.

"CONTIGUOUS STATE"

The phrase "contiguous state" no longer has meaning under the Gun Control Act of 1968 (GCA), as amended. Nevertheless, it continues to confuse many long-time firearms dealers, especially when residents of other States visit

their gun shops. For those who may not be familiar with this phrase, it appeared in the GCA prior to 1986. The "contiguous state" exception allowed FFLs to sell long guns to residents of contiguous states if the purchaser's State of residence permitted such sale by law and the sale complied with the legal conditions of sale in both States. A State was "contiguous" to another State if it was adjacent to (bordering) that State. For example, Georgia and Alabama are in fact both contiguous to Florida, and the GCA formally recognized this and similar relationships.

In 1986, certain amendments to the GCA rendered the phrase "contiguous state" obsolete and without meaning for firearms dealers. Since 1986, licensed firearms dealers have been allowed to sell a long gun over-the-counter to an unlicensed resident of any State, provided (1) the purchaser is not otherwise prohibited from receiving or possessing a firearm under the GCA, and (2) the sale, delivery, and receipt fully comply with the legal conditions of sale in the buyer's and seller's States.

PROVIDING COPIES OF ATF FORM 4473 AS PART OF COUPON/REBATE OFFERS

ATF has received numerous inquiries from FFLs asking whether they may provide copies of the ATF Form 4473 "Firearms Transaction Record" to firearms purchasers participating in coupon/rebate programs. Licensed dealers are required to record firearms transactions on ATF Form 4473 and retain all records prepared for the sale or other disposition of firearms as under 27 CFR 178.124 and 27 CFR 178.129, respectively. The Federal firearms laws do not prohibit an FFL from providing a photocopy of the ATF Form 4473 to the buyer at the buyer's request. If you have any questions about this information, please contact the Firearms Programs Division at (202) 927-7770.

DISTRIBUTION OF EXPLOSIVE PEST CONTROL DEVICES AT GUN SHOWS

Under Title XI of the Organized Crime Control Act of 1970 (OCGA), ATF was given the responsibility of enforcing the provisions of 18 U.S.C. Chapter 40, along with its implementing regulations, 27 CFR Part 55. One of the purposes of the OCGA is to protect interstate and foreign commerce against interference and interruption by reducing hazards to persons and property arising from misuse of explosive materials.

Explosive pest control devices, commonly known as "bird bombs," contain flash powder and/or other pyrotechnic compositions. These devices are explosive materials and, therefore, can only be sold by Federally licensed explosives dealers. Although explosives pest control devices have a legitimate use in controlling wildlife pests, these devices are commonly sold and purchased illegally. ATF has become aware of numerous instances in which persons have sold explosive pest control devices at gun shows. Federal explosives regulations require that Federal explosives licensees obtain separate licenses for each location at which explosive materials are distributed (see 27 C.F.R. § 55.41(b)). Gun shows are not considered to constitute an extension of a licensee's business premises for purposes of selling or otherwise distributing explosive materials.

Generally, 18 U.S.C. § 842(a) makes it unlawful to engage in the business of dealing in explosive materials without a license. Because explosive pest control devices and other similarly constructed devices are explosive materials, persons selling or otherwise distributing these devices must possess a license.

If you have any questions about the information contained in this article, please contact Specialist Chad Yoder, Public Safety Branch, at 202-927-7930.

ELECTRONIC VERSIONS OF ATF FORM 4473

Licensees who find an electronic version of ATF Form 4473, "Firearms Transaction Record," on any Web site other than ATF's should not use it in conducting their business. ATF has not authorized anyone to display the Form 4473 over the Internet. Therefore, there is no guarantee that a Form 4473 posted online is identical to the Government-issued Form 4473. If you use such a form, you risk violating the Gun Control Act (GCA) by failing to complete and keep required GCA records.

If you need additional copies of Form 4473, you may get them free of charge from the ATF Distribution Center (P.O. Box 5950, Springfield, Virginia 22150-5950; telephone no.: 703-455-7801.) In addition, if you would like to use an electronic version of this form, you may want to contact your local ATF field division office for a variance pursuant to 27 CFR § 178.22. Please note that among other requirements needed for approval, your request for a variance only will be granted if your computer-generated Form 4473 is identical to the Government-printed form. Accordingly, it must have the Important Notices, Instructions, and Definitions attached to those portions of the new form that the buyer and seller complete.

FIREARMS AND AMMUNITION EXCISE TAX INFORMATION

If you are a firearms or ammunition manufacturer, producer, or importer, you may be liable for Firearms and Ammunition Excise Tax (FAET) on the sale or use of firearms and ammunition manufactured, produced, or imported. This tax liability extends to manufacturers and importers of antique firearms (e.g., black powder or other types of firearms that do not use fixed ammunition). Also subject to the tax are one-time importers and gunsmiths if: (1) they make alterations that materially change a firearm so that a different article results; or (2) they implement modifications to a firearm that significantly change its function.

On January 1, 1991, ATF assumed from the Internal Revenue Service the responsibility of collecting the FAET imposed under Section 4181 of the Internal Revenue Code of 1986. Those incurring a tax on the sale or use of firearms and ammunition after this date have been required to make tax deposits and file returns with ATF.

Section 4181 of the Code imposes taxes on the sale or use of firearms by the manufacturer, producer, or importer of the article. The tax is imposed on the sale or use at the rates of ten (10) percent on pistols and revolvers, and eleven (11) percent on other firearms and shells and cartridges.

On January 1, 1996, the National Revenue Center in Cincinnati, Ohio, assumed responsibility for all FAET collections for ATF and currently handles all matters relating to FAET, except for issues relating to classification of firearms, parts and accessories, and ammunition, which are handled by the Firearms Technology Branch. This includes processing of deposits, returns, claims, and applications for tax-free registration, along with private letter rulings and general correspondence/questions relating to this tax.

If you are a manufacturer, producer, or importer of firearms or ammunition, and have questions relating to FAET, please contact the FAET Unit at ATF's National Revenue Center by calling (513) 684-3817 or (800) 398-2282. An information packet will be sent to anyone who thinks they may be liable for FAET. This packet includes general information, as well as the necessary deposit and return forms.

If you need other information relating to FAET, please contact the FAET Unit at the following address:

ATF – National Revenue Center
Attn: FAET Unit
8002 Federal Office Building
550 Main Street
Cincinnati, Ohio 45202-3263

NATIONAL LICENSING CENTER'S CURRENT MAILING ADDRESS

The National Licensing Center (NLC) in Atlanta, Georgia, no longer maintains the post office box number that still appears on some ATF forms and publications. **Therefore, please note that, effective immediately, FFLs desiring to correspond with the NLC should use the following address:**

**National Licensing Center
2600 Century Parkway, NE
Atlanta, Georgia 30345**

Mail sent to ATF at the old post office box address will be returned to sender, as the forwarding order filed with the U.S. Postal Service by ATF has expired.

EDITOR'S CORRECTION

It has been brought to our attention that the response to an inquiry in the "Questions to the Editor" section of the May 2001 FFL Newsletter was somewhat misleading and may have caused a degree of confusion among our readers.

The question, which appears at the top of the left-hand column on page 7 of the newsletter, asks,

Q. "Is a single monthly utility bill sufficient to establish proof that an alien has resided in a State for the 90-day residency requirement to purchase a firearm?"

We correctly answered "No" to the question. However, some of the wording in the explanatory information misled many of our readers into believing that an alien must provide evidence to the dealer that he or she resided at the same address during the full 90-day residency period. The law requires the alien to reside in the same State for the full 90-day period, not at the same address. Accordingly, our answer to this question should have read,

A. "No. The alien should provide at least one utility bill per month to verify residence in the

State for the past 90 days. This would also apply to mail that is used as proof of residency. The postmarked mail should reflect that the alien purchaser has received mail in that State for at least 90 days.”

QUESTIONS TO THE EDITOR

Q. I sold two curio or relic handguns from my collection to my next-door neighbor this morning. As a licensed collector of curios or relics, am I required to prepare and submit an ATF Form 3310.4, Report of Multiple Sales or Other Disposition of Handguns?

A. Yes, you must prepare and submit an ATF Form 3310.4 by the close of the business day on which the multiple sale or other disposition occurred. The Gun Control Act of 1968 (GCA), as amended, mandates that all Federal firearms licensees, including licensed collectors, to file such reports as required.

Q. Block 21 of the ATF Form 4473, Firearms Transaction Record, indicates that possession of a State-issued firearms license or permit may exempt the purchaser from the required National Instant Criminal Background Check System (NICS). Do all State-issued firearms licenses or permits exempt the purchaser from the NICS check?

A. No. The dealer is responsible for ensuring that a valid State-issued firearms license or permit conforms to the criteria listed in 27 CFR 178.102(d). ATF's Web site, www.atf.treas.gov, contains a complete list of the States, and indicates whether the State-issued firearms licenses or permits qualify as an alternative to NICS.

Q. Can a corporation purchase a firearm for use by the corporation, without completing a Form 4473?

A. No. When the buyer of a firearm is a corporation, company, association, firm, partnership (or similar business entity), an officer, director or other person authorized to act on behalf of the business entity must complete

Section A of Form 4473 with his or her personal information; sign Section A; and attach a written statement, executed under penalty of perjury, stating (1) that the firearm is being acquired for the use of and will be the property of the business entity and (2) the name and address of the business entity.

Q. Some of my customers live in extremely remote areas of the State, and their State-issued driver's licenses or other identification cards list only a post office box and not the address of their residence. Can I sell a firearm to these customers?

A. Section 922(t)(1)(C) of the GCA requires that firearms purchasers provide a licensee with a valid "identification document" prior to the transfer of a firearm. An "identification document" is defined by law and regulation as having, among other things, a "residence address" as opposed to a mailing address. ATF acknowledges that some purchasers may need to provide a combination of government-issued documents to the licensee in order to properly establish their identity. For instance, a licensed dealer may accept a valid driver's license that accurately reflects the purchaser's name, date of birth, mailing address, and photograph, along with a separate government-issued document (such as a vehicle registration document or tax bill) that accurately reflects the purchaser's residence address. If the person wishing to acquire a firearm cannot produce a government-issued document with a residence address, then the licensee cannot lawfully transfer a firearm to that person.

Q. Block 8 of the new Form 4473 has a very limited and specific range of choices for transferees to identify their "race." Why?

A. Block 8 of the new Form 4473 lists race categories that were mandated by the Office of Management and Budget. Any Federal agency collecting racial information must use these categories. Accordingly, transferees must provide a response to Block 8, as well as to all the other blocks contained in Section A of the Form 4473, in order for the transaction to go forward.

Q. I operate a military surplus store, and more and more of my customers want to buy gas masks. In response to this demand, what must I do in order to import gas masks for resale?

A. Gas masks are defense articles subject to the import controls of the Arms Export Control Act (AECA) and its implementing regulations found in 27 CFR Part 47. Under the AECA, persons who wish to engage in the business of importing defense articles into the United States must (1) register with ATF on ATF Form 4587, Application to Register as an Importer of U.S. Munitions Import List Articles, and (2) obtain an approved ATF Form 6, Application and Permit to Import Firearms, Ammunition and Implements of War. For additional information, please refer either to the text of the regulations in 27 CFR Part 47, or our Web site at www.atf.treas.gov. You may also contact the Firearms and Explosives Imports Branch at (202) 927-8320.

Q. As a Federally licensed firearms dealer and operator of a shooting range, I would like to know if the GCA allows me to provide firearms and ammunition to visitors and tourists from other countries for use on my premises.

A. Under the provisions of 27 CFR 178.97, licensees may lend or rent a firearm to any person (including a nonresident alien) who is not otherwise prohibited from receiving or possessing firearms and ammunition under the GCA. However, even though Section 178.97 waives the 90-day residency requirement for nonresident aliens, nonimmigrant aliens are prohibited from receiving or possessing firearms and ammunition while in the United States unless they meet one of the exceptions listed in section 922(y)(2) of the GCA. Section 922(y)(2) grants exceptions to any alien lawfully admitted to the United States under a nonimmigrant visa if they

- (1) possess a valid hunting license or permit lawfully issued by an authority in the United States;
- (2) were admitted to the United States for lawful hunting or sporting purposes (organized hunting expeditions or Federally recognized competitive shooting events);

- (3) are an official representative of a foreign government accredited to the United States or en route to or from another country to which they are accredited;
- (4) are an official of a foreign government or are designated as a distinguished foreign visitor by the Department of State, or
- (5) are a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

Nonimmigrant aliens may also obtain a waiver from the prohibition by petitioning the Department of Justice and obtaining approval under section 922(y)(3).

In view of the foregoing, you may loan or rent a firearm to nonimmigrant alien visitors to your gun range, provided they possess a valid hunting license issued by any State or meet one of the exceptions set out above.

Q. May law enforcement officers keep their semiautomatic assault weapons (SAWs) and large capacity ammunition feeding devices (LCAFDs) when they retire or leave their employment with a law enforcement agency?

A. In general, it is unlawful to possess SAWs and LCAFDs. However, there is an exception that allows a retired law enforcement officer (*LEO*) to possess SAWs and LCAFDs **if** the item belongs to the law enforcement agency **and** the *LEO*'s agency transfers it to the *LEO* when he retires. The law of the jurisdiction where the officer was employed governs whether he is considered "retired." The exception does not cover officers who leave an agency for reasons other than retirement. It also does not allow retired officers to acquire additional SAWs/LCAFDs after retirement.

We recognize some law enforcement officers have to purchase their own service weapons. Such an officer can still fall within the exception for retired officers **if the *LEO* gives his service SAW/LCAFD back to his agency before retiring, following the agency's rules/guidelines for such a transfer.** The agency must actually own the SAW/LCAFD for the transfer to the

officer upon retirement to be lawful. We recommend that both the officer and his agency keep records of any such transfer to establish that the transfer was not a sham to avoid the general prohibition.

Any officer who does not fall within the retired officer exception should transfer any SAWS/LCAFDs he owns to an FFL or another qualified officer when he leaves the agency.

Q. I am a new FFL and I want my records to be correct and complete. When I acquire a firearm into my business, I'm not clear about what information must be recorded in the "TYPE" column of the Firearms Acquisition and Disposition record book. I've been told by some FFLs that I should describe the type of action with entries such as "bolt," "lever," "pump," etc., and others have said I should use terms that describe the type of firearm like "pistol," "revolver," "rifle," "shotgun," etc. Could you please explain what information should be listed?

A. When describing the firearms you acquire in your A&D record book, you should enter as appropriate "pistol," "revolver," "rifle," etc, in the "TYPE" column.

NICS DENIALS OF PAWN REDEMPTIONS

What should Federal Firearms Licensees (FFLs) do when someone who attempts to retrieve a firearm he or she pawned receives a National Instant Criminal Background Check System (NICS) denial? The following provides a rundown of the necessary steps.

Although FFLs are not required to contact ATF in this situation, we strongly encourage you to contact your local ATF office if this occurs rather than take any further action such as transferring the firearm to a third party. (A list of telephone numbers for ATF field offices is located at www.atf.treas.gov/contact/field.htm). Because the person redeeming the firearm was denied by NICS at the time of redemption, he or she may be a felon or other "prohibited person" and would be possessing the firearm in violation of 18 U.S.C. §

922(g) at the time the firearm was pawned. Depending on the reason(s) for the firearms prohibition, ATF may want to seize the firearm and/or take legal action.

If you contact your local ATF office, someone will get back to you as soon as possible to let you know what steps ATF will pursue.

If ATF informs you that it is not going to take any further action, Federal law does not prohibit you from transferring the pawned firearm to a third party if the third party completes a Form 4473 and NICS does not issue a denial within three business days.

Of course, a transaction involving third parties would violate Federal law if the latter were "straw purchasers" not actually obtaining or redeeming the firearm for themselves but acting as a conduit to return the firearm to the owner or another person. Accordingly, we encourage you to ask the third party whether he or she intends to maintain possession of and control over the firearm.

If you have reason to believe the third party is a straw purchaser who actually is obtaining the firearm for the prohibited person, you may not transfer the firearm to that person. However, if you have no reason to believe the third party is a straw purchaser (and the person is not otherwise prohibited from possessing and receiving firearms), you may transfer it under Federal law.

The new ATF Form 4473, Firearms Transaction Record, contains a general instruction stating that FFLs can include any information on the form that is relevant to the transaction. Accordingly, you may add a statement to the Form 4473 indicating that you warned the third party who received the firearm about straw purchasing; you may also have the third party sign the statement. However, licensees are not required to include such a statement, and the statement will not necessarily protect you from prosecution.

Finally, you always should make sure transferring the firearm to a third party does not violate State or local law.

TRANSFERS TO ALIENS UNDER A NONIMMIGRANT VISA – AN UPDATE

In open letters dated November 18, 1998, and June 16, 2000, ATF notified FFLs about an amendment to the Federal firearms laws that generally prohibits the transfer to and possession of firearms and ammunition by aliens admitted to the United States under a nonimmigrant visa. The amendment applies to any alien in the United States in a nonimmigrant status, whether or not that alien was required to obtain a visa to enter the United States. Some examples of aliens in a nonimmigrant status are persons traveling temporarily in the United States for business or pleasure, persons studying in the United States who maintain a residence abroad, and temporary foreign workers. Permanent resident aliens are not subject to this new prohibition.

There are exceptions to this new prohibition. The exception you most likely will encounter is for a nonimmigrant alien possessing a valid hunting license or permit lawfully issued in the United States. The hunting license or permit does not have to be from the State where the nonimmigrant alien is attempting to purchase a firearm. The other exceptions to the nonimmigrant alien prohibition may be found in Section 922(y) of the GCA.

We want to remind you, however, that even if a nonimmigrant alien qualifies for an exception to the prohibition, he or she must still satisfy the State residency requirement in order to lawfully purchase a firearm from an FFL. You may not lawfully sell a firearm to a person who is not a resident of a State and, for handgun sales, a resident of the State where your premises are located. An alien is only considered a resident of a State if he or she has resided in the State for at least 90 days prior to the date of the sale of the firearm.

If you have reasonable cause to believe that an alien is subject to the nonimmigrant alien prohibition or if an alien cannot satisfy the State residency requirement, you should end the transaction without contacting NICS or your State

POC. In addition, you should end the transaction without contacting NICS your State POC if an Alien Number or Admission Number (see article entitled "INS-Issued Alien Numbers and Admission Numbers" for more information on this issue).

QUICK ACTION PAYS DIVIDENDS

A Federal firearms licensee recently suffered an after-hours burglary in which firearms were stolen. The FFL, beginning around 2:00 a.m., conducted an inventory of the firearms on hand; catalogued the missing firearms; and then by late afternoon that same day contacted ATF's Firearms Theft Hotline to report the theft. By 5:15 that evening, ATF began entering the stolen firearms into the National Crime Information Center (NCIC) database. At approximately 6:40 p.m., a deputy sheriff in a neighboring State, as a result of a routine traffic stop, ran the serial numbers of two firearms found in the vehicle through NCIC. Both came back as stolen, and they were both from the FFL who had reported the theft earlier that day.

No doubt, without the quick action of both the FFL to report the theft and ATF's Crime Gun Analysis Branch to enter the data into NCIC, the deputy would not have been able to connect the two firearms to this FFL's burglary. ATF extends its thanks to all the parties involved for their part in solving this crime.

We would also take this opportunity to remind all FFLs that the provisions of 18 U.S.C., §923(g)(6) and 27 CFR § 178.39a mandate that licensees who experience a theft or loss of firearms report the theft or loss to ATF within 48 hours after discovery. Please notify ATF by telephoning, toll free, 1-888-930-9275 between 8-4:30 p.m. Eastern Time, Monday through Friday, or after normal hours by telephoning 1-800-800-3855. FFLs are also asked to immediately follow-up this telephone notification by preparing ATF Form 3310.11, Federal Firearms Licensee Theft/Loss Report, in accordance with the instructions on the form, and both faxing the completed form to ATF at (304) 260-3676, and mailing it to the following address:

Bureau of Alcohol, Tobacco and Firearms
Crime Gun Analysis Branch
Stolen Firearms Program
244 Needy Road
Martinsburg, West Virginia 25405

In addition, the theft or loss of any firearm shall also be reported to the appropriate local authorities.

RECORDING FIREARMS SERIAL NUMBERS

When investigating criminal activity, ATF frequently provides needed firearms trace information that is crucially dependent on accurate serial number data. ATF would like to emphasize the importance of the recording requirements of 27 CFR 178.125(e) and stress that FFLs must record all symbols, numbers, and/or letters which are part of any firearm serial number in the Acquisition and Disposition Record (A&D) book or entered into an ATF-approved computerized version of the A&D book. Symbols, numbers, and/or letters found in firearm serial numbers often identify model designations and date of manufacture and may include other coded manufacturer data and are often very important to a successful trace of a crime gun. If you have questions concerning this information, please contact the Firearms Programs Division at (202) 927-7770.

RUSSIAN AIR GUNS AND DUMMY GUNS MANUFACTURED WITH PROHIBITED FIREARM COMPONENT PARTS AND/OR FIREARM RECEIVERS

ATF's Firearms Technology Branch has confirmed that two recently examined Russian-made air guns and dummy (non-firing) guns were manufactured using either firearm component parts that are prohibited from importation or the receivers of AK-type machineguns. While air guns and dummy guns can normally be imported into the United States without an approved import permit from ATF, the importation of airguns and dummy guns manufactured with component parts

from firearms require an approved import permit under the Arms Export Control Act (AECA). However, air guns and dummy guns manufactured with component parts from firearms that are prohibited from importation cannot lawfully be imported into the United States under the AECA. Further, air guns and dummy guns manufactured using the frame or receiver of an actual firearm or machinegun are firearms subject to all the controls of the Gun Control Act of 1968 (GCA) and/or the National Firearms Act (NFA). The importation of such air guns and dummy guns is also subject to the controls of the GCA, NFA, and AECA.

The following air guns and dummy guns were determined to be firearms under Federal law:

Yunker 1 Air Gun. Manufactured in Russia on an AK-type machinegun receiver and incorporating other non-importable AK component parts.

Yunker 2 Air Gun. Manufactured in Russia on an AK-type semiautomatic receiver and incorporating other nonimportable AK component parts.

MMG Dummy Gun. Manufactured in Russia on an AK-type machinegun receiver and incorporating other non-importable AK component parts.

Any FFL who received any of these items should contact their local ATF office immediately. Questions concerning any of these firearms may be directed to the Firearms Technology Branch at (202) 927-7910.

STREETSWEeper UPDATE

The tax-free registration period for anyone in possession of any unregistered Striker-12, USAS-12, or Streetsweeper ended on May 1, 2001.

By way of background, on February 28, 1994, the Secretary of the Treasury announced that three shotguns (Streetsweeper, USAS-12, and Striker-12) were being classified as "destructive devices" under the provisions of the National Firearms Act (NFA), 26 U.S.C. Chapter 53. The NFA requires

registration of this type of firearm for lawful possession. ATF maintains the registry of all NFA firearms.

On February 9, 2001, ATF published a ruling that established the final May 1, 2001, deadline that ended the registration period for individuals in possession of the Streetsweeper, Striker-12, and the USAS-12 shotguns.

Subsequently, on April 10, 2001, ATF mailed an open letter to all FFL's explaining that any Streetsweeper, Striker-12, or USAS-12 unregistered as of May 1, 2001, would be subject to the seizure and forfeiture provisions of the law. In addition, the letter announced that criminal penalties could also be imposed for possession of an unregistered destructive device.

Persons still in possession of an unregistered Streetsweeper, Striker-12, or USAS-12, subsequent to May 1, 2001, are holding an illegal weapon and should immediately contact ATF to arrange for disposal of the weapon. Holders of these now illegal weapons can contact the NFA Branch for information regarding the closest ATF office.

Should you possess one of the above destructive devices that has been properly registered, and you desire to transfer the weapon to an individual in

your State, you can apply to transfer it on an ATF Form 4 (Application for Transfer and Registration of Firearm) in duplicate, with a transfer tax of \$200. The seller of the weapon must complete the front of the Form 4; and the buyer completes the back. The buyer must also submit a set of fingerprint cards and have the Law Enforcement Certification signed and dated.

If you want to transfer the weapon to a Class III dealer who holds a Type 9 (Dealer in Destructive Devices), Type 10 (Manufacturer in Destructive Devices), or a Type 11 (Importer in Destructive Devices) license, you must apply to transfer the weapon on an ATF Form 4 and pay a \$200 transfer tax. The Class III dealer does not have to complete the back of the Form 4.

If you want to transfer your destructive device out of your State to a nonlicensee in another State, then you must first transfer it on an ATF Form 4 with a \$200 transfer tax to an FFL in the other State. Once the weapon is approved for interstate transfer on the ATF Form 4, it can be transferred again via another ATF Form 4 to the individual, with payment of an additional \$200 transfer tax.

For additional information regarding the possession of these shotguns, please contact the National Firearms Act Branch at (202) 927-8330.

FIREARMS, EXPLOSIVES AND ARSON DIRECTORATE

There have been several recent changes to the personnel who manage the Firearms, Explosives and Arson Directorate in ATF Headquarters. The current structure dealing with firearms & ammunition issues is as follows:

**Assistant Director
Firearms, Explosives and Arson**

John Malone
(202) 927-7940

Deputy Assistant Director

Wally Nelson
(202) 927-7940

Chief, Firearms Programs Division

Kent Cousins (202) 927-7770

Deputy Chief, Firearms Programs Div.

John Spurgeon (202) 927-7770
Programs Division

Chief, Firearms Technology Branch

Curt Bartlett (202) 927-7910

Chief, Firearms Enforcement Branch

Scot Thomasson (202) 927-7770

Chief, International Programs Branch

Robert Thomas (202) 927-5560

Chief, Brady Operations Branch

Valerie Park (304) 260-3860

**Chief, Firearms and Explosives
Services Division**

Mary Jo Hughes (202) 927-8300

Chief, National Firearms Act Branch

Art Resnick (202) 927-8330

**Chief, Firearms and Explosives
Imports Branch**

Thomas Stewart (202) 927-8320

Chief, National Licensing Center Branch

Lee Vannett (404) 417-2750

Chief, National Tracing Center Division

Terry Austin (800) 788-7133

Chief, National Tracing Center Branch

Charles Houser (800) 788-7133

Chief, Crime Gun Analysis Branch

Gary Orchowski (800) 788-7133

**Director – YCGII (Youth Crime Gun
Interdiction Initiative)**

Bill Kinsella (202) 927-7770

**Director – NIBIN (National Integrated
Ballistic Identification Network)**

Patricia Galupo (202) 927-5660

Branch Chief – NIBIN

Vacant (202) 927-5660

ATF Distribution Center

(to order forms) (703) 455-7801
<http://www.atf.treas.gov/dcof/index.htm>

Report Stolen Firearms

(Monday - Friday, 8:00AM - 4:30PM EST)
(888) 930-9275
(Evenings, Weekends, & Holidays)
(800) 800-3855

ATF Website: <http://www.atf.treas.gov>



DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

**IMPORTANT NOTICE TO DEALERS AND
OTHER PARTICIPANTS AT THIS GUN SHOW**

ALL DEALERS MUST DISPLAY LICENSES

This NOTICE applies to activities permitted at bona fide gun shows, as defined in Title 27 of the Code of Federal Regulations, Section 178.100. A flea market is not a bona fide gun show and does not meet the requirements of Title 18, United States Code, Chapter 44, regarding gun shows. A licensee may not lawfully sell firearms at flea markets. Licensees may only sell firearms at gun shows within the State in which their licensed premises is located.

DEALERS LICENSED IN THIS STATE

- **MUST** comply with all recordkeeping requirements of ATF regulations concerning acquisitions and dispositions of firearms, including the recording of the place of sale.
- **MAY** dispose of handguns to residents of this State only, provided that the purchaser is at least 21 years of age and all provisions of the Brady law are met.
- **MAY** dispose of longguns to residents of any State, provided that the purchaser is at least 18 years of age, the laws of both States are complied with, and all provisions of the Brady law are met.
- **MAY** dispose of firearms to any Federal firearms licensee (FFL).
- **MAY** acquire firearms from any FFL licensed in the State and from any non-licensed individual.

DEALERS NOT LICENSED IN THIS STATE

- **MUST** comply with all recordkeeping requirements of ATF regulations concerning the acquisition of firearms.
- **MAY** acquire firearms from any FFL licensed in this State and from any non-licensed individual.
- **CANNOT** make sales of firearms to anyone, even to or through an FFL licensed in this State.
- **MAY** display and take orders.

NON-LICENSED RESIDENTS OF THIS STATE

- **MAY** acquire longguns or handguns from FFLs licensed in this State, provided all provisions of the Brady law are met.
- **MAY** dispose of firearms to any FFL.
- **MAY** acquire from and dispose of personal firearms to non-licensed residents of the State, however may not be engaged in the business of dealing in firearms without a Federal firearms license.
- **CANNOT** acquire from or dispose of firearms to non-licensed residents of any other State.

NON-LICENSED RESIDENTS FROM ANOTHER STATE

- **MAY** dispose of firearms to any FFL.
- **MAY** acquire longguns only from FFLs licensed in the State, provided the laws of both States are complied with and all provisions of the Brady law are met.
- **CANNOT** acquire handguns.
- **CANNOT** dispose of firearms to non-licensed individuals.

FBI/NICS NEWS

NICS E-CHECK IS UNDER WAY

The National Instant Criminal Background Check System (NICS) E-Check deployment is under way. On Monday, August 19, 2002, the NICS E-Check went on line and is now available 24 hours a day, 7 days a week. The NICS E-Check allows the Federal Firearms Licensees (FFLs) to conduct background checks over the Internet (without calling the NICS Call Center) during normal NICS operational hours. It also allows the FFLs to retrieve background check results at any time. Enrollment packets are being mailed to the FFLs in state alphabetical order. After you receive your packet, read all the information carefully. If you are not interested in the NICS E-Check, you do not need to take any action at this time. You may retain the NICS E-Check information for future use or dispose of the information as appropriate. If you want to enroll in the NICS E-Check, do the following:

1. Complete and mail back the enrollment form only. Do not mail the Acknowledgment of Responsibility Form. The Acknowledgment of Responsibility Form is to be retained by the FFL after it is completed.
2. As soon as possible after you mail the enrollment form, request a digital certificate on line from the web site at www.nicsezcheckfbi.gov so your request will be waiting for processing when the NICS Section receives your form in the mail.
3. Wait to receive notification by phone or e-mail that your certificate has been issued.
4. After receiving notification, download your certificate through the NICS website and use the NICS E-Check.

Complete instructions are available at the NICS E-Check web site, www.nicsezcheckfbi.gov. You may also call 1-877-444-NICS (6427) and select the NICS E-Check option to speak to one of the NICS E-Check representatives.

In most instances, the NICS E-Check will not be available to FFLs operating within Point of

Contact (POC) states as checks initiated within these states are required to be conducted through the state designated agency. However, since the FBI NICS does conduct pre-pawn and long gun checks for some FFLs in POC states, these dealers will be receiving the NICS E-Check enrollment packets in the near future. These FFLs will be identified based on the type of license issued by the Bureau of Alcohol, Tobacco and Firearms (ATF). The NICS E-Check mailing will be directed to those dealers operating as pawnbrokers.

NICS SYSTEM AVAILABILITY

CALL CENTER

Month	Downtime Minutes	Availability
January 2002	383	98.79%
February 2002	703	97.54%
March 2002	398	98.74%
April 2002	465	98.48%
May 2002	406	98.72%
June 2002	476	98.44%

POINT OF CONTACT STATES

Month	Downtime Minutes	Availability
January 2002	375	98.79%
February 2002	704	97.54%
March 2002	394	98.74%
April 2002	453	98.52%
May 2002	404	98.72%
June 2002	476	98.44%

SYSTEM ENHANCEMENTS

The NICS is continuously improving the system in order to provide optimal service to the user community. In accordance with this, the NICS implemented several system enhancements on July 23, 2002. These enhancements automated the non-United States citizen checks, introduced multiple race codes, restructured the NICS screen to coordinate with the revised ATF Form 4473, and implemented the transfer process.

The transfer process allows FFL's with delayed transactions to be transferred from the NICS Call Center to the NICS Section where the transactions are processed. The transfer option increased the immediate determination rate from 76 percent to 84 percent, thereby increasing the efficiency of the NICS background check process. This process immediately provided improved service to you and your customers.

- When a purchaser has been denied the purchase of a firearm, the FFL should supply him/her with a copy of the NICS "Guide for Appealing a Firearm Transfer Denial" brochure along with the NICS Transaction Number (NTN). NICS brochures can be obtained by calling the NICS Customer Service Unit (CSU) at 1-877-444-6427. The appellant, not the FFL, must write to the NICS Appeal Services Unit (ASU), using the address provided in the brochure, requesting the reason for denial. Appeal requests must be initiated in writing via the U.S. Postal Service, via facsimile, or e-mail via the Internet. The NICS cannot provide the reason for denial over the telephone.
- After initiating an appeal, the appellant will be provided a blank fingerprint card and the reason for their denial within five business days from the NICS ASU. The five business days begin at 12:01 a.m. the day after the NICS ASU receives the request, not including holidays. After receipt of the requested fingerprint card, the appellant will receive a letter from the NICS ASU providing the reason for the denial and either sustaining the denial decision or overturning the decision which provides firearm eligibility. In processing the appeal, the NICS ASU may need to request additional information. The appellant may elect to further their appeal by providing the information upon request to the NICS ASU.
- If a denial is overturned, the appellant must take the NICS ASU eligibility letter to the FFL to finalize their transaction. **Any original ASU letter overturning a denial decision provided by an appellant will bear the NICS embossed seal and must be kept on file by the FFL with the appellant's ATF Form 4473.** The letter applies only to the unique NTN listed on the letter.
- Copies of the original NICS ASU letter cannot be accepted. The FFL should verify the authenticity of any letter by the NICS embossed seal. If the FFL has any questions, the NICS CSU should be contacted at the above listed toll-free number.
- The original NICS ASU overturn letter is only valid for a 30-day period from the date the transaction was initiated. If a NICS ASU eligibility letter is presented more than 30 days past the transaction date, the FFL must re-check the NICS for that transaction via the NICS CSU. The FFL will be provided instruction for completing the re-check in the original eligibility letter.
- When a denial has been given for a pawned firearm, the FFL or appellant should contact the local ATF office for resolution of "pawn issues" (i.e., accrued interest, refund, resale, etc.). For instance, the firearm may be able to be transferred to another individual until the appeal process is concluded. However, only the ATF can make these determinations.
- Additional information regarding appealing a firearm transfer denial can be obtained via the Internet for your convenience at www.fbi.gov/hq/cjsid/nics/index.htm

PERMANENT ATF REPRESENTATIVE ASSIGNED TO NICS

The NICS Section is pleased with the assignment of a permanent ATF Representative, Fred Gerlach. Fred began his career with ATF in 1975 in Peoria, Illinois. Before arriving at the NICS Program Office, he was the area supervisor in charge of the Compliance Office in the Milwaukee Field Office. Fred serves as an effective liaison between the ATF and the NICS Section by assisting ATF field offices in obtaining information, working with all ATF related facets of the NICS Section, and answering questions on NICS related issues from FFLs. Fred can be reached by calling NICS Customer Service at 1-877-444-6427.

FFL LIAISON PROGRAM ANALYSTS AT NICS

The NICS Program Office has two FFL Liaison Program Analysts to assist the FFLs in various capacities:

- Enrollment
- Code word modifications
- Activation and deactivation of NICS privileges
- Troubleshooting system access
- Registration of gun shows
- Providing written correspondence concerning program advancement
- Educating the FFLs and their employees on NICS via telephone or by representing the NICS Program at various conferences or seminars

The FFL Liaison Program Analysts are:

Ms. Penny Alfred, (304) 625-7387, and
Ms. Angela Stephenson, (304) 625-7355.

THANK YOU

- The NICS Section would like to thank you for your patience during the recent changes implemented. Look for future improvements to NICS to further enhance our service to you.
- As always, we extend the services of the NICS CSU to address any questions you may have relating to the NICS Section. Please feel free to contact the NICS CSU toll free at: 1-877-444-6427.

**NICS CUSTOMER SERVICE
1-877-444-NICS
(NICS E-Check Press #3)**

**TELECOMMUNICATIONS DEVICE FOR
THE DEAF (TDD)
1-877-NICS-TTY**

**FACSIMILE
(304) 625-0535 or 1-888-550-6427**

WEBSITES:

<http://www.nicsezcheckfbi.gov>

E-MAIL

a_nics@leo.gov

or for appeal related questions

nicsappeals@leo.gov