



# FFL NEWSLETTER

## FEDERAL FIREARMS LICENSEE INFORMATION SERVICE

February 2011

In an effort to keep Federal firearms licensees (FFLs) abreast of changing firearms laws and regulations, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will provide semiannual FFL Newsletters. Previous editions of the FFL Newsletters are available on ATF's Web site (<http://www.atf.gov>).

### SHOT Show 2011

ATF has been participating at the annual SHOT Show for over 25 years.

Our informational booth and subject matter experts serve industry members attending SHOT in several different ways. We conduct informational seminars on several topics, provide timely information on regulatory matters, and distribute ATF publications and forms to thousands of Federal firearms licensees who attend the event. The ATF booth is one of the busiest and most frequently visited by attendees.

ATF hosted an information booth which was staffed by technical experts and policy makers to address questions from attendees in a less-formal and one-on-one manner, and hosted a town hall meeting to formally address a variety of issues that affect business operations and inform FFLs of upcoming projects. Additionally, ATF attended meetings with the National Firearms Act Trade and Collector's Association, the American Entertainment Armories Association, the Firearms and Ammunition Importers Roundtable, and a collective group of corporate retailers of firearms to discuss issues that affect their associations and their members.

This special edition of our FFL newsletter will highlight this year's event and serve to acquaint those licensees who were not there with our participation.

### Presentations

[Inspection Findings](#) was presented by Deputy Assistant Director (Field Operations, IO) Harry McCabe on January 19, 2011. This presentation covered the most frequently cited firearms violations, Industry Operations Investigator (IOI) staffing levels and workload, and administrative actions resultant from violations found in inspections. The presentation can be found at:

<http://www.atf.gov/publications/firearms/SHOT%20Show%202011/SHOT%20Show%202011%20Inspection%20Findings%20PDF.pdf>

[Inventory Procedures for FFLs](#) was presented by Adam Rogers, Chief, Firearms Industry Programs Branch on January 19, 2011. This presentation included procedures for how to conduct an inventory reconciliation, theft/loss reporting, and best practices for inventory security. The presentation can be found at:

<http://www.atf.gov/publications/firearms/SHOT%20Show%202011/SHOT2011%20Firearms%20Inventory%20Procedures%20for%20FFLs%20PDF.pdf>

[Firearms and Explosives Services Division Update](#) was presented by Stephen Albro, Deputy Chief, Firearms and Explosives Services Division on January 19, 2011. This communicated staffing, workload, and customer service challenges relevant to Federal firearms license issuance, National Firearms Act application processing timelines, and a reminder for firearms manufacturers to submit their annual production reports. The presentation can be found at:

<http://www.atf.gov/publications/firearms/SHOT%20Show%202011/fesd-town-hall-meeting-011911.pdf>

[Straw Purchase](#) was presented by Resident Agent in Charge (Las Vegas field office) Thomas Chittum on January 20, 2011. RAC Chittum discussed a case study of a straw purchase. The presentation can be found at:

<http://www.atf.gov/publications/firearms/SHOT%20Show%202011/SHOT-Show-2011-Straw-Purchase.pdf>

### Publications

[Federal Firearms Licensee Quick Reference Best Practices Guide, ATF P 5300.15](#)

This publication is a general overview of best practices to ensure sound business practices including suggestions to enhance compliance. Some topics include: ATF F 4473 and the acquisition and disposition record, background check procedures, transfers between licensees, sales to law enforcement officers, reporting of multiple sales and out of business procedures.

## Important Notice to Dealers and Other Participants at This Gun Show, ATF I 5300.23a

ATF published a folded informational pamphlet describing what activities are permitted at bona fide gun shows, as defined by the regulations.

ATF publications may be ordered from the ATF Distribution Center at <http://www.atf.gov/forms/dcof/>.

## Topics Discussed

### *FFL University*

“FFL University” online video seminars are now available on ATF’s website. This video series is an ATF initiative designed to educate Federal Firearms Licensees on a host of topics pertaining to Federal firearms laws and regulations. To access the videos, click on the following link (or copy and paste into your browser): <http://www.atf.gov/training/firearms/ffl-educational-seminars/>. Industry members who have suggestions for additional topics, or wish to share comments on these seminars, should e-mail ATF at [fflonlineseminars@atf.gov](mailto:fflonlineseminars@atf.gov).

### *E-Forms Initiative*

ATF’s Office of Enforcement Programs and Services continues to work toward converting a number of ATF paper firearms forms to electronic format. The project will allow the on-line filing by users of the following:

- National Firearms Act (NFA) applications and tax return;
- Federal firearms license applications and application for amended Federal firearms license;
- Annual Firearms Manufacturer’s and Exportation Report (AFMER); and
- Report of Multiple Sale or Other Disposition of Pistols and Revolvers.

The project is to be completed in spring 2012. ATF anticipates that the use of eForms will benefit the industry by providing more efficient and accurate filing.

## Annual Firearms Manufacturing and Exportation Report

Each licensed manufacturer must submit the Annual Firearms Manufacturing and Exportation Report, ATF Form 5300.11 (AFMER) covering production activities for the preceding year. Please ensure that you include the correct year in Section 7 of the form. Even if a manufacturer has not manufactured any firearms, he or she must submit the

AFMER. A lack of activity is just as important as significant activity because it helps provide an overall, accurate statistical profile of the firearms industry in the United States for a particular period. A final report must be filed if the manufacturing license is discontinued during the year. Please submit a report no later than 30 days following the end of your business activity.

A license to manufacture destructive devices (Type 10 License) also entitles the licensee to manufacture firearms that are not destructive devices; therefore, a report is still required. If a licensee manufactures only destructive devices, he or she should file a report reflecting zero production for the reporting period.

Here are common scenarios and how to file:

1. If you manufacture and sell a firearm, **you must** report it on the AFMER.
2. If you manufacture a firearm, a firearm frame or receiver, or an action or barreled action, and then send it to another licensed manufacturer for finishing or assembly, and they sell the firearm, **you do not** report it on the AFMER.
3. If you manufacture a firearm, frame or receiver, or action or barreled action, then send it out to another licensed manufacturer for assembly, and the latter returns it to you and you dispose of it in commerce, **you must** report it on the AFMER.

Other scenarios are available online at the ATF website ([www.atf.gov](http://www.atf.gov)) under Form 5300.11 in the “Frequently Asked Questions” segment.

If you, as a licensed manufacturer, discover that you made an error in recording the quantity of firearms manufactured on the AFMER, you may file an amended report with ATF at any time. You should write the words “Amended Report” across the top of the AFMER form and be sure that you clearly and accurately identify the period for which you are amending your data. You should also fully complete the form with your contact name, daytime telephone number, and signature for us to use if we have any questions about your standard or amended reports.

As a reminder, the AFMER is due by April 1. If you have any questions or need further information, you can contact the Firearms and Explosives Services Division at (304) 616-4590.

## Study on the Importability of Certain Shotguns

ATF recently completed a study of the criteria that the agency uses to determine whether shotguns are importable as sporting firearms under the Gun Control Act.

Since the passage of the Gun Control Act of 1968, ATF has been responsible for determining whether firearms are “generally recognized as particularly suitable for or readily adaptable to sporting purposes” under section 925(d)(3). Only firearms that meet this “sporting purposes” test may be imported.

Although previous studies provided effective guidelines for determining the sporting purposes of rifles, ATF recognized that no similar studies had been completed to determine the sporting suitability of shotguns.

All interested persons may submit comments on the study. Comments may be submitted by e-mail to [shotgunstudy@atf.gov](mailto:shotgunstudy@atf.gov) or by fax to (202) 648-9601. Faxed comments may not exceed 5 pages. All comments must include name and mailing address. ATF encourages submission of comments no later than May 1, 2011.

## **Contiguous State**

The “contiguous state” provisions of the Gun Control Act (GCA) generally permit unlicensed purchasers to acquire long guns from Federal firearms licensees (FFLs) located in a State contiguous to the State in which the purchaser resides if (1) the purchaser’s State of residence permitted such sale and (2) the sale fully complied with the legal conditions of sale in both such contiguous states.

This provision of the GCA was amended in 1986 to allow FFLs to sell or dispose of long guns to residents of any other state (not just contiguous states) provided:

1. the transferee meets in person with the FFL to accomplish the transfer; and
2. the sale, delivery and receipt fully comply with the legal conditions of sale in the buyer’s and seller’s States.

A number of States patterned their laws after the original provision of the GCA that allows nonresidents to purchase long guns from FFLs only in contiguous states. Many of those States have not revised their laws to reflect the 1986 amendments to the GCA that allow over-the-counter sales of long guns to residents of any State, as outlined above. This has caused confusion among FFLs, who often read such “contiguous state” State laws as prohibiting sales to residents of noncontiguous states.

ATF does not read State laws that refer to “contiguous states” as prohibiting sales of long guns to residents of noncontiguous states unless the language contained in that State’s law expressly prohibits residents from acquiring firearms outside that State. Thus, if the language in the State laws authorizes sales of long guns to residents of contiguous states, that State law also authorizes the sale of long guns to residents of all other states.

## **Combination Firearms**

A “combination firearm” is a fully assembled firearm with multiple barrels of multiple calibers. An example would be a “double barreled” firearm with a shoulder stock that is designed with one barrel being .22 caliber another and the other being .410 gauge.

Regulations in 27 C.F.R. Part 478, Subpart H, require FFLs to record firearms acquisitions and dispositions in the manner specified in the regulations. All FFLs are required to record the “type” of a firearm acquired and/or disposed of. The Gun Control Act (GCA) and 27 CFR 478.11 do not define ‘type.’ However, 27 CFR 478.112, 478.113 and 478.114 indicate that ‘type’ can be rifle, shotgun, pistol or revolver, which is defined in 27 CFR 478.11. Further, page 6 of the ATF Form 4473 (5300.9 Aug. 2008 edition) states that types of firearms include pistol, revolver, rifle shotgun, receiver, frame, and other firearms that are not either handguns or long guns (rifles or shotguns), such as firearms having a pistol grip that expel a shotgun shell or National Firearms Act (NFA) firearms.

When a firearm is capable of being two types of firearm by switching barrels, refer to 478.11, definitions under “shotgun” or “rifle.” If the firearm with a shoulder stock is sold with a rifled barrel, it would be recorded as a “rifle.” If the firearm with a shoulder stock is sold with a smooth bore barrel, it would meet the definition of a “shotgun” and be recorded as such. It would be a firearm only if it is readily convertible to fire modern ammunition.

## **Small Arms Ammunition**

Industry groups have asked ATF to reconsider its historical position to allow ammunition greater than .50 caliber to be included in the “small arms ammunition” definition in the Federal explosive laws in 18 U.S.C. 845(a)(4), provided the ammunition is solely used for sporting, collection, and cultural (reenactment) purposes.

ATF intends to publish an Advance Notice of Proposed Rulemaking in near future to solicit input from the affected explosives and firearms industry, Government agencies, and the general public.

## Hunting Licenses Used as Government Identification

Hunting licenses may serve as a valid identification, for the purposes of the Brady Law, 18 U.S.C. 922(t) provided the license meets the definition. As with other identification documents, hunting licenses may be supplemented with other government issued identification. Clarification on this topic is forthcoming.

## ATF Rulings Discussed at the SHOT Show

### [2010-10—Firearms Manufacturing Operations](#)

This ruling allows licensed gunsmiths to perform manufacturing operations on behalf of a licensed manufacturer or importer under certain conditions: The firearm is (1) not owned, in whole or in part, by the dealer-gunsmith; (2) returned by the dealer-gunsmith to the importer or manufacturer upon completion of the manufacturing processes, and not sold or distributed to any person outside the manufacturing process; and (3) already properly identified/marked by the importer or manufacturer in accordance with Federal law and regulations.

### [2010-9—Supporting Documentation for Import Permit Applications](#)

This ruling allows importers to submit any photocopies of supporting documents with ATF Form 6 (Application and Permit for Importation of Firearms, Ammunition and Implements of War), provided they certify that the information is true and accurate. This ruling also allows eForm 6 filers to submit scanned documents.

### [2010-8—Consolidation of Required Records for Manufacturers](#)

ATF authorizes licensed manufacturers to consolidate their records of manufacture or other acquisition of firearms and their separate firearms disposition records.

### [2010-3—Identification of Maxim Side-Plate Receivers](#)

This ruling clarifies that the right side-plate of a Vickers/Maxim-type firearm, manufactured with its camming lobe affixed in the proper location, and without an ATF approved block that prevents installation of machinegun fire control components, is a machinegun receiver, and therefore, a “machinegun” as defined by the Gun Control Act of 1968, 18 U.S.C. 921(a)(23), the National Firearms Act, 26 U.S.C. 5845(b), and their implementing regulations, 27 CFR 478.11 and 479.11, provided certain conditions are met.

## Outcome from the SHOT Show

As a result of working with the firearms industry, ATF intends to provide clarification, via ruling or open letter on topics such as Change of NICS Response or Denial Overturn and identification documents including hunting licenses. This guidance can be expected to be posted on ATF.gov during FY2011.

## Licensing of Trusts under Federal Firearms Laws

Only a “person,” as defined by the Gun Control Act of 1968 (GCA), 18 U.S.C. Chapter 44, can obtain a Federal Firearms License (FFL). Under the GCA, 18 U.S.C. §§ 922(a)(1) and 923(a), no person may engage in the business of importing, manufacturing, or dealing in firearms, or importing or manufacturing ammunition, until that person has filed an application with and received a license to do so from the Attorney General. The GCA provides that “[t]he term ‘person’ and the term ‘whoever’ includes any individual, corporation, company, association, firm, partnership, society, or joint stock company.” 18 U.S.C. § 921(a)(1). The term “person” does not include trusts.

A trust can be created in various forms. However, the characteristic common to all trusts is the separation of legal and equitable title to property, with legal title held by the trustee and equitable title held by the beneficiaries. As stated above, “person” in the GCA includes the following legal entities: corporation, company, association, firm, partnership, society, and joint stock company.

Generally, these entities are organized for the purpose of carrying on a commercial enterprise or profession, and often have business licenses to support their operations. Although a trust holds and can manage property, and the trustee may acquire and dispose of property that increases the amount or value of the property held in trust, the purpose of the most all trusts is not to carry on a trade or profession. With a trust, the trustee has a fiduciary obligation to enforce the instructions set forth in the trust agreement for the benefit of third persons. The parties (i.e., contributor/settler, trustee, and beneficiary) are generally not associated with each other to carry out a commercial enterprise or profession.

After evaluating the issue, ATF has determined that trusts that are not lawfully incorporated and registered with the applicable State pursuant to State law may not obtain a license under the GCA. Licensees should contact the Federal Firearms Licensing Center (FFLC) and/or the applicable field division for additional information concerning issuance of an FFL to a trust.

## FFL eZ Check: *Collectors*

The online eZ Check website informs the user that the website **does not** validate Type 03 (Collectors of Curios and Relics) and Type 06 (Manufacturer of Ammunition) licenses. To verify a C&R license, the inquirer must call the FFL eZ Check telephone number at (877) 560-2435, or contact the FFLC.

## Changes in Legal Entity

27 CFR 478.54 provides that, in the case of a corporation or association holding a Federal firearms license (FFL), if actual or legal control changes, directly or indirectly, whether by reason of change in stock ownership or control (in the licensed corporation or in any other corporation), by operation of law, or in any other manner, the licensee must give written notice within 30 days of this change to the Chief, Federal Firearms Licensing Center (FFLC). Upon expiration of a Federal Firearms License, the corporation or association must file a Form 7 as required by 27 C.F.R. 478.44.

Some examples of a “change in control”:

1. A licensed corporation held the FFL with husband and wife holding 50% of stock and brother-in-law holding the other 50% of stock. When the husband and wife purchase the brother-in-law’s stock, a change in control occurs, which requires notification of the FFLC within 30 days of the purchase.
2. Corporation A, an FFL, is acquired by Corporation B, through Corporation B purchasing 100% of the stock of Corporation A. Corporation A continues to exist as a distinct legal entity after the acquisition and may continue to engage in its licensed firearms business however, Corporation A must notify the FFLC of the change in control within 30 days of the change.

The entire board of directors or slate of officers of a corporate FFL changes. This is a change in control which requires written notification to the FFLC within 30 days of the change.

***Changes in “responsible persons” may not result in a “change in control.”*** Every applicant for an FFL must designate at least one responsible person for the business. With regard to a corporation, association, or partnership, responsible persons are any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association. It is advisable that the license holders notify the

Chief, FFLC in writing of any change of responsible persons and provides the FFLC with the required identifying information for responsible persons on the ATF Form 7, as well as the new responsible person’s photograph and fingerprints. If a business entity changes the responsible person, the business does not change and, therefore, a new license is not required.

***A “change in control” is distinguishable from the sale or transfer of a firearms business to another person or entity.*** When an FFL sells or transfers the firearms business to a different person or entity, the license is not transferable to the new person or entity. For example, if Corporation A purchases the assets of Corporation B, and Corporation A intends to operate the new firearms business, Corporation A may not lawfully operate the business on Corporation B’s license. Rather, Corporation A must apply for and receive its own Federal Firearms License to lawfully carry on the business. The National Firearms Act (NFA) would also require Corporation A to pay the NFA special tax by filing ATF Form 5630.7, “Special Tax Registration and Return.”

## “Active” Federal Firearms License (FFL) Records

The ATF National Tracing Center (NTC) will accept firearms records from active FFLs which are older than 20 years. The NTC cannot accept records that are less than 20 years old, unless the licensee is discontinuing business. Please enclose a copy of the “Active” FFL and appropriately indicate that the records are over 20 years old. Records are to be sent to ATF, Out of Business Records Center, (OOBRC), 244 Needy Road, Martinsburg, WV 25405. It is recommended that you send your records in a manner that can be tracked, i.e. via Federal Express (Fed Ex), United States Postal Service (USPS), United Parcel Service (UPS), or any service that provides delivery confirmation of your choice. Additional information or any questions on shipping of these records can be addressed by contacting the NTC, Industry Records Branch at 1-800-788-7133.

## Records Maintained by Licensed Importers

Pursuant to 27 CFR 478.122, licensed importers shall, within 15 days of the date of importation or other acquisition, record the type, model, caliber or gauge, manufacturer, country of manufacture, and the serial number of each firearm imported or otherwise acquired, and the date such importation or other acquisition was made. In addition, the importer is required to mark the firearm in accordance with 27 CFR 478.92 and to complete and forward a duplicate ATF Form 6A to ATF in accordance with 27 CFR 478.112(d). The duplicate 6A must include the serial number

of the firearm if not previously reported on the original 6A filed by the importer with Customs and Border Patrol at the time of release.

The Firearms Imports Branch is available to answer your imports related questions. You may reach them by phone at (304) 616-4550 or send your inquiry in writing to 244 Needy Road, Martinsburg, West Virginia 25405, USA.

## Special Characters in Serial Numbers

Some licensees may be under the misinterpretation that they should remove special characters from their Access 2000 submissions by the National Tracing Center (NTC). As a result, this may have led to a determination that this authorized removal is also permissible in other required records. Access 2000 submissions are not required to have any characters removed.

Submissions to the NTC are copies of acquisition and disposition records and are not primary records. Access 2000 is only a query tool that is simplified to find the correct serial number for a specific Federal Firearms Licensee (FFL), regardless of if a special character is recorded. It is not the original record kept by the licensee for the business, nor for compliance inspections. You are required to maintain acquisition and disposition records with the information marked on the gun, including special characters.

The special characters located within serial numbering schemes may provide specific designations, and thus holds value to the manufacturer. These special characters marked on each firearm should remain in your tracking tools, such as your bar coding software, and you must record special characters in your required records.

A primary purpose of the Gun Control Act (GCA) was to enable firearms to be traced from the manufacturer or importer of the firearm through the firearm's chain of distribution. It is important that the identifying information contained on firearms is accurately and fully recorded in the acquisition and disposition records retained by FFLs.

## Purchase of Firearms by Organizations

When the buyer of a firearm is a corporation, company, association, partnership, or other such business entity, an officer authorized to act on behalf of the business must complete Section A of the form with his or her personal information, sign Section A; and attach a written statement, executed under penalties of perjury, stating: (A) the firearm is being acquired for the use of and will be the property of that business entity and (B) the name and address of that business entity. This statement identifies the corporation's place of business to the transferor (Federal firearms licensee)

and establishes the corporation as owner of the firearm. The licensee needs to ensure that the address provided by the officer acquiring the firearms on behalf of the corporation accurately reflects the "place of business."

Further, a licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall not sell or deliver any firearm to any person not licensed under this part who the licensee knows or has reasonable cause to believe does not reside in (or if a corporation or other business entity, does not maintain a place of business in) the State in which the licensee's place of business or activity is located: Provided, that the foregoing provisions of this paragraph (1) shall not apply to the sale or delivery of a rifle or shotgun (curio or relic, in the case of a licensed collector) to a resident of a State other than the State in which the licensee's place of business or collection premises is located if the requirements of 27 CFR 478.96(c) are fully met, and (2) shall not apply to the loan or rental of a firearm to any person for temporary use for lawful sporting purposes.

**Example of a handgun purchase:** ABC Corporation has business premises in Maryland and wishes to purchase 10 handguns for the company. John Doe, President of ABC Corporation, is a Virginia resident. John Doe completes Section A of the ATF Form 4473 with his personal information, and provides the FFL with a written statement that the firearms will be for the use of, and will be the property of, ABC Corporation located in Maryland.

Although John Doe completed Section A of the ATF Form 4473 with his personal Virginia information, John Doe would need to purchase the handguns in Maryland because the corporation is located in Maryland, and the corporation will retain ownership of the handguns. Therefore, the FFL must use the corporation's address for the State of residence. However, if John Doe wishes to purchase the handguns in Virginia on behalf of the corporation, the Virginia FFL must ship the handguns to a Maryland FFL because the corporation's State of residence is Maryland. An officer authorized to act on behalf of the corporation would then complete Section A of the ATF Form 4473 with his or her personal information, and provide the Maryland FFL with the written statement as indicated above.

## Important Notice to Firearm Manufacturer Applicants (for Federal Firearms License)

In accordance with 33 U.S.C. §1341, ATF Forms 5000.29, "Environmental Information," and 5000.30, "Supplemental Information on Water Quality Considerations," are required to be included with the ATF Form 5310.12 (Form 7) for those

applicants/licensees whose activities may result in a discharge into navigable waters. Navigable waters is defined by Title 33 CFR Part 32 § 329.4 as interstate waters including wetlands.

The determination of whether the forms are required is the responsibility of the applicant, but may be verified by ATF during the qualification or compliance inspection, or any other time. Generally, the forms will be required for manufacturers only if the activity may result in a discharge into navigable waters. If applicable, the forms will be collected by field office investigators during routine inspection. Once an applicant has provided these forms to ATF, they should maintain current and valid forms with ATF.

### **Sole Proprietors and Logging Personal Firearms In/Out of the A&D Records**

The provisions of 18 U.S.C. 923(g) and 27 CFR Part 478 Subpart require all licensed firearms dealers to maintain records of their acquisition and disposition of all firearms at the licensed premises. Generally, corporations and partnerships formed for business purposes cannot possess 'personal' firearms.

The regulations provide that prior to commencing a firearms business, a licensed dealer shall inventory the firearms possessed for the business, and shall record these firearms in his or her bound book. 27 CFR 478.125(e). Accordingly, if a dealer possesses firearms that were acquired prior to obtaining his or her license, and which are possessed for the business, the dealer is required to include these firearms in the records prior to commencing his or her business. This would include all such firearms that the dealer intends to sell at some future date. However, there is no obligation to record the acquisition of personal firearms that the dealer obtained prior to receiving his or her license, as long as he or she does not intend to sell such firearms. Please note however, that such firearms must be kept apart from the dealer's business inventory of firearms.

A presumption exists that all firearms on a business premises are for sale and accordingly must be entered in the records required to be maintained under the law and regulations. However, it is recognized that some dealers may have personal firearms on their business premises for purposes of display or decoration, but not for sale. We recommend that firearms dealers who have such personal firearms on licensed premises do not mix such firearms with those held for sale. In addition, it is recommended that such firearms be segregated from firearms held for sale and appropriately identified (for example, by attaching a tag) as being "not for sale." Personal firearms on the licensed premises acquired prior to licensing which (1) are segregated from firearms held for sale and (2) are appropriately identified as not, for sale need not be

entered in the dealer's records. There may be occasions where a firearms dealer utilizes his license to acquire firearms for his personal collection. Such firearms must be entered in his permanent acquisition records and subsequently be recorded as a disposition to himself in his private capacity. If such personal firearms remain on the licensed premises, the segregation and identification procedures described above must be followed. These procedures will facilitate the examination and inspection of the records of firearms dealers and result in less inconvenience to licensees. See Industry Circular 72-30.

Under certain circumstances, a licensed dealer is exempt from the requirements to complete an ATF Form 4473 and to initiate a background check under the Brady law when selling a firearm from his or her personal firearms collection. Transfers of personal firearms are exempt from these requirements provided:

- The licensee has maintained the firearm as part of such collection for 1 year from the date the firearm was transferred from the business inventory into the personal collection or otherwise acquired as a personal firearm.
- The licensee recorded in the bound record as prescribed by § 478.125(e), the receipt of the firearm into the business inventory or other acquisition.
- The licensee recorded the firearm as a disposition in the bound record per § 478.125(e), when the firearm was transferred from the business inventory into the personal firearms collection or otherwise acquired as a personal firearm.
- The licensee enters the sale or other disposition of the firearm from the personal firearms collection into a bound record, identifying the firearm transferred by recording the name of the manufacturer and importer (if any); the model, serial number, type, and the caliber or gauge; and showing the date of the sale or other disposition, the name and address of the transferee, or the name and business address of the transferee if such person is a licensee, and the date of birth of the transferee if other than a licensee. In addition, the licensee shall cause the transferee, if other than a licensee, to be identified in any manner customarily used in commercial transactions (e.g., a driver's license).

If the transaction does not comply with all of the conditions specified in 27 CFR 478.125a, the firearm must be sold through the dealer's business inventory, subject to the requirements for an ATF Form 4473 and a background check under the Brady Law.

## National Firearms Act: *Restrictions Stamped on an NFA Form*

All restrictions stamped on forms by the National Firearms Act (NFA) Branch relate to the possession and transfer of the NFA firearm. Some result from restrictions on imported NFA firearms. Another restriction results from the prohibition on the possession of machineguns. There is also a restriction relating to the registration of NFA firearms to a government agency.

In addition to the requirements imposed by the Gun Control Act, the NFA (Title 26, United States Code, Chapter 53) provides that NFA firearms may only be imported for certain specified purposes. The requirements are implemented by the regulations at Title 27, Code of Federal Regulations (CFR), Part 479. The restrictions on importation are found in 26 U.S.C. §5844 and in 27 CFR §479.111 and specify that an NFA firearm may be imported for use by a Government agency, for scientific or research purposes, for testing or use as a model by a manufacturer, or solely for use as a sample by an importer or dealer. Please note that in 1986, additional restrictions were put on the importation, transfer, and possession of machineguns.

When the NFA Branch approves the transfer of an NFA firearm that was imported, the approval of the transfer and subsequent possession is conditioned upon meeting the requirements of Federal firearms laws and regulations. Accordingly, the person receiving the firearm must be qualified to receive it, and transfers are generally to Government agencies or to an FFL who has paid special (occupational) tax (SOT) to deal in NFA firearms – for instance, as a sales sample. The NFA Branch, upon approval of the application for transfer, will stamp the approved form as “Sales Sample Only” or “Limited to Use as a Sales Sample.” (Note: Rubber stamps are used, and the language on the stamps may vary slightly). If the transfer is to a Government agency, then the form would be stamped “Law Enforcement Use Only” or “Limited to Use by a Government Agency.” The industry typically refers to these items as “pre-May 1986 sales samples” or “pre-1986 sales samples.”

When an imported NFA firearm is transferred from a Government agency to a qualified licensee, ATF will change the stamped restriction from “Law Enforcement Use Only” to “Sales Sample Only” as either possession is allowable under 26 U.S.C. 5844 and 27 CFR 479.111.

Enacted in 1986, 18 U.S.C. 922(o) prohibits the possession, transfer, and importation of machineguns not lawfully registered as of May 19, 1986, with certain exceptions.

Machineguns (commonly termed as “post-1986” machineguns) may be possessed by Government agencies or by qualified FFLs for use as sales samples based on criteria in 27 CFR §479.105. This restriction on possession is stamped on the forms as “RESTRICTED REGISTRATION–Possession limited to continued compliance with provisions of Public Law 99-308.” As noted, this restriction applies to any machinegun manufactured or imported subsequent to enactment of 18 U.S.C. 922(o). With respect to the importation of machineguns, the prohibitions supersede what is allowed by 26 U.S.C. §5844, as there is no provision for possession of a machinegun for research or testing.

The final restriction to be discussed is “Official Use Only.” Under the provisions of 27 CFR §479.104, a State or local government agency is allowed to register an unregistered NFA firearm for use by that agency. A State/local agency may apply for permission to register the unregistered firearm on ATF Form 10, “*Application for Registration of Firearms Acquired by Certain Governmental Entities.*” The approval of the application is made on condition that the firearm may be possessed for official use only, and any transfer may be directed only to another Government agency, with the same restriction on possession. ATF will not approve the transfer of a firearm with the “Official Use Only” restriction into commercial or private channels.

If you have any questions about restrictions affecting the possession of NFA firearms, please contact the NFA Branch at (304) 616-4500.

## [ATF Ruling 2011-1 Consolidation of Required Records for Importers](#)

ATF authorizes licensed importers to consolidate their records of importation or other acquisition of firearms and their separate firearms disposition records.

## **FBI/NICS News**

### **Help Us Help You! Keep Your Contact Information Up to Date with NICS**

When an FFL receives a 'delay' from the National Instant Criminal Background Check System (NICS), additional research is needed to determine the final status ("proceed" or "deny") of the NICS transaction. Once the NICS Section of the FBI's Criminal Justice Information Services Division determines a final status, it is necessary to contact the FFL promptly. Pursuant to 28 CFR Part 25.6(i), FFLs are required to record the system response—whether provided by the NICS Section or a Point of Contact (POC) State—on the appropriate ATF form for audit and inspection purposes in accordance with recordkeeping requirements specified in 27 CFR, Part 478.

If your contact information changes or has changed, please contact the NICS Section at 1-877-FBI-NICS (324-6427), as well as the ATF Licensing Center at 1-866-662-2750, providing your current contact information. The NICS Section strives to provide great customer service, and updating your contact information will help us to reach you in a timely manner.

### **Notification of the New Appeal Email Address**

The NICS Section has an email address for customers wishing to appeal a denied transaction. Please go to [nicsapps@leo.gov](mailto:nicsapps@leo.gov).

Office of Enforcement Programs and Services (EPS)

This page reflects recent personnel changes to the Office of Enforcement Programs and Services. The following EPS managers or offices can be contacted on issues regarding firearms and ammunition.

**Assistant Director  
Enforcement Programs and Services**

Arthur Herbert  
(202) 648-8500

**Deputy Assistant Director  
Enforcement Programs and Services**

Teresa Ficaretta  
(202) 648-8500

Chief, Firearms and Explosives Industry Division  
Chad Yoder (202) 648-7090

Deputy Chief, Firearms and Explosives Industry Division  
Debra Satkowiak (202) 648-7090

Chief, Firearms Industry Programs Branch  
Adam Rogers (202) 648-7090

Chief, Firearms Technology Branch  
John Spencer (304) 260-3414

Chief, Firearms and Explosives Services Division  
Scott Mendoza (304) 616-4590

Deputy Chief, Firearms and Explosives Services Division  
Steve Albro (304) 616-4590

Chief, Industry Records Branch  
Brenda Bennett (304) 260-5351

Chief, Law Enforcement Support Branch  
Benjamin Hayes (304) 260-3685

Chief, National Firearms Act Branch  
Edward D. Saavedra (304) 616-4500

Chief, Firearms and Explosives Imports Branch  
Kevin Boydston (304) 616-4550

Chief, Federal Firearms Licensing Center  
Patricia Power (304) 616-4600

Chief, National Tracing Center Division  
Charles Houser (800) 788-7133

Chief, Firearms Tracing Branch  
David Johnson (800) 788-7133

**To Receive ATF Forms and Publications:**

ATF Distribution Center  
1519 Cabin Branch Dr.  
Landover, MD 20785-3816  
(301) 583-4696  
<http://www.atf.gov/forms/dcof/>

**Report Stolen Firearms:**

(Monday – Friday 8 a.m. – 4:30 p.m. EST)  
(888) 930-9275  
(Evenings, Weekends and Holidays)  
(800) 800-3855

**To Obtain Assistance Regarding Your License:**

ATF Federal Firearms Licensing Center  
244 Needy Road  
Martinsburg, WV 25405  
(866) 662-2750

**To Ship Out-of-Business Records:**

ATF National Tracing Center  
244 Needy Road  
Martinsburg, WV 25405  
(800) 788-7133

**ATF Web Site:**

<http://www.atf.gov>

**A listing of ATF field office phone numbers can be found on the following link:**

<http://www.atf.gov/field/>

## Addresses and Telephone Numbers For ATF Field Divisions

**Atlanta Field Division**

2600 Century Parkway  
Suite 300  
Atlanta, GA 30345-3104  
(404) 417-2600

**Baltimore Field Division**

G.H. Fallon Building  
31 Hopkins Plaza, 5th Floor  
Baltimore, MD 21201  
(443) 965-2000

**Boston Field Division**

10 Causeway Street, Room 791  
Boston, MA 02222  
(617) 557-1200

**Charlotte Field Division**

6701 Carmel Road  
Suite 200  
Charlotte, NC 28226  
(704) 716-1800

**Chicago Field Division**

525 West Van Buren Street  
Suite 600  
Chicago, IL 60607  
(312) 846-7200

**Columbus Field Division**

230 West Broad Street  
Suite 400  
Columbus, OH 43215  
(614) 827-8400

**Dallas Field Division**

1114 Commerce Street,  
Room 303  
Dallas, TX 75242  
(469) 227-4300

**Denver Field Division**

1961 Stout Street  
Room 674  
Denver, CO 80294  
(303) 844-7450

**Detroit Field Division**

1155 Brewery Park Blvd.  
Suite 300  
Detroit, MI 48207-2602  
(313) 202-3400

**Houston Field Division**

15355 Vantage Pkwy West  
Suite 200  
Houston, TX 77032-1965  
(281) 372-2900

**Kansas City Field Division**

2600 Grand Avenue  
Suite 200  
Kansas City, MO 64108  
(816) 559-0700

**Los Angeles Field Division**

550 N. Brand Avenue  
Suite 800  
Glendale, CA 91203  
(818) 265-2500

**Louisville Field Division**

600 Dr. Martin Luther King Jr. Place  
Suite 322  
Louisville, KY 40202  
(502) 753-3400

**Miami Field Division**

11410 NW 20<sup>TH</sup> Street  
Suite 200  
Miami, FL 33178  
(305) 597-4800

**Nashville Field Division**

5300 Maryland Way  
Suite 200  
Brentwood, TN 37027  
(615) 565-1400

**Newark Field Division**

1 Garret Mountain Plaza  
Suite 500  
West Paterson, NJ 07424  
(973) 413-1179

**New Orleans Field Division**

One Galleria Boulevard  
Suite 1700  
Metairie, Louisiana 70001  
(504) 841-7000

**New York Field Division**

241 37th Street, 3rd Floor  
Brooklyn, NY 11232  
(718) 552-4000

**Philadelphia Field Division**

The Curtis Center  
601 Walnut Street  
Suite 1000 E  
Philadelphia, PA 19106  
(215) 446-7800

**Phoenix Field Division**

201 East Washington Street  
Suite 940  
Phoenix, AZ 85004  
(602) 776-5400

**San Francisco Field Division**

5601 Arnold Road  
Suite 400  
Dublin, CA 94568-7724  
(925) 479-7500

**Seattle Field Division**

Jackson Federal Building  
915 2nd Avenue, Room 790  
Seattle, WA 98174  
(206) 389-5800

**St. Paul Field Division**

30 East Seventh Street  
Suite 1900  
St. Paul, MN 55101  
(651) 726-0200

**Tampa Field Division**

400 North Tampa Street  
Suite 2100  
Tampa, Florida 33602  
(813) 202-7300

**Washington Field Division**

1401 H Street NW.  
Suite 900  
Washington, DC 20005  
(202) 648-8010