



FFL NEWSLETTER

FEDERAL FIREARMS LICENSEE INFORMATION SERVICE

September 2016

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

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FFL Advisory – Attempted Thefts of Firearms

If you've watched the news, you are probably aware of the many recent actual and attempted break-ins of Federal firearms licensees (FFLs). As an FFL, you can assist ATF as well as State and local law enforcement in stopping the growing number of break-ins of FFLs. As you already know, Federal firearms laws and regulations require FFLs to report the theft or loss of a firearm from the licensee's inventory within 48 hours of discovery but do not require FFLs to report attempted break-ins. By promptly reporting attempted break-ins to your local ATF office, you are assisting in combatting the criminal possession and use of firearms in your communities.

Local ATF offices may be found online at <https://www.atf.gov/contact/atf-field-divisions>. FFLs may also contact the ATF Joint Support Operations Center (JSOC) at <https://www.atf.gov/contact> or 24 hours daily at (800) 800-3855.

NFA Trust “41F”

On January 16, 2016 the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) published in the Federal Register a final rule titled “Machine Guns, Destructive Devices and Certain Other Firearms; Background Checks for Responsible Persons of a Corporation, Trust or Other Legal Entity with Respect to Making or Transferring a Firearm.”

This final rule:

Defines the term “responsible person,” as used in reference to a trust, partnership, association, company, or corporation; In the case of an unlicensed entity,

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including any trust, partnership, association, company (including any Limited Liability Company (LLC)), or corporation, any individual who possesses, directly or indirectly, the power or authority to direct the management and policies of the trust or entity to receive, possess, ship, transport, deliver, transfer, or otherwise dispose of a firearm for, or on behalf of, the trust or legal entity. In the case of a TRUST, those persons with the power or authority to direct the management and policies of the trust include any person who has the capability to exercise such power and possesses, directly or indirectly, the power or authority under any trust instrument, or under State law, to receive, possess, ship, transport, deliver, transfer, or otherwise dispose of a firearm for, or on behalf of, the trust. Examples of who may be considered a responsible person of a trust or legal entity include:

- Settlers/Grantors
- Trustees
- Partners
- Members
- Officers
- Board members
- Owners
- Beneficiaries – if said beneficiary has the capability to exercise any of the powers or authorities enumerated above.
- Requires “responsible persons” of such trusts or legal entities to complete an ATF Form 5320.23, National Firearms Act (NFA) Responsible Person Questionnaire, to submit photographs and fingerprints when the trust or legal entity files an application to make an NFA firearm or is listed as the transferee on an application to transfer an NFA firearm, and subjects responsible persons to background checks.
- Requires that a copy of all applications to make or transfer a firearm, and the responsible person questionnaire, as applicable, be forwarded to the chief law enforcement officer (CLEO) of the locality in which the applicant/transferee or responsible person resides.
- Eliminates the requirement for a certification signed by the CLEO for individual applicants and transferees.

Adds a new section (27 Code of Federal Regulations (CFR) § 479.90a) to ATF’s regulations to address the possession and transfer of firearms registered to a decedent. Section 479.90a clarifies that the executor, administrator, personal representative, or other person authorized under state law to dispose of property in an estate may possess a firearm registered to a decedent during the term of probate without such possession being treated as a “transfer” under the NFA. It also specifies that the transfer of the firearm to any beneficiary of the estate may be made on a tax-exempt basis. The final rule is effective July 13, 2016. Only those applications postmarked on or after the implementation of the final rule will be subject to the amended regulations. ATF Forms 1, 4, and 5 have been revised to conform to the amended regulations. Therefore, all prior versions of the form will be obsolete.

A copy of the final rule may be found online at <https://www.atf.gov/file/101601/download>.

For further information please contact the ATF contact the ATF NFA Branch at (304) 616-4500 or NFA@atf.gov.

Theft/Loss in Transit Ruling

On January 4, 2016, the Attorney General signed a final rule amending ATF regulations concerning the statutory reporting requirement for firearms that have been stolen or lost in transit. In addition, it streamlines the reporting requirements when the lost/stolen firearm is registered under the National Firearms Act (NFA), reducing the reporting required from Federal firearms licensees (FFLs). The final rule amends 27 CFR § 478.39a.

Here are a few facts related to the final rule:

- It took effect February 11, 2016 (30 days from publication in the Federal Register).
- Requires that the transferor/sender FFL report any thefts/losses of firearms that occur while in transit to both local authorities and ATF within 48 hours of discovery.
- The rule applies to all firearms shipments from Federal firearms licensees, including shipments through the U.S. Postal Service.

- The transferor/sender FFL must report the fact that the shipment was not received upon discovering that the shipment did not make it to its destination; however that might occur.
- The rule requires that the shipping/sending FFLs update their existing Acquisition and Disposition (A&D) records with the firearm theft/loss information. This must be done not later than seven days following discovery of the theft/loss.
- The rule requires that if an FFL reported the theft or loss of a firearm and later discovers its whereabouts, the FFL must advise ATF that the firearm has been located and must re-enter the firearm into its required records as an acquisition or disposition entry as appropriate.
- The transferor/sender FFL will use the current ATF Form 3310.11 Firearms Inventory Theft/Loss Report for reporting these thefts/losses.
- The licensee would also report the theft/loss via the Theft/Loss Hotline (888) 930-9275 (nationwide toll-free number).
- The rule simplifies the reporting process for licensees related to NFA firearms. Licensees reporting the theft/loss of an NFA firearm will now complete and submit Form 3310.11 to National Tracing Center (NTC) and the NTC will notify the NFA Branch. This will satisfy the licensee's reporting requirements under 27 CFR § 478.39a and 27 CFR § 479.141; licensees will no longer have to submit additional notification to ATF.
- Clarifies who the "appropriate local authority" is:
 - If the location of the theft or loss is known, the local law enforcement agency at that location would be the appropriate local authority.
 - Otherwise, the report would be made to the local law enforcement authorities at the licensee's location or business premises.

The rule does not:

- Impose any additional recordkeeping requirements for FFLs related to firearms shipments.
- Require that licensees track shipments.
- Require that licensees obtain confirmation of shipment arrival.

Assisting Customers Who Have Been Denied or Delayed on a Firearm Background Check

The National Instant Criminal Background Check System (NICS) is a descriptor-based name search. If a customer believes they have been erroneously denied or is experiencing an extended delay, they may submit a request to appeal the deny/delay decision.

Please provide these customers with the NICS Resolution Card which explains how an individual may initiate an appeal request to the appropriate agency. Due to the Privacy Act of 1974, the FBI Criminal Justice Information Services Division's NICS Section cannot release the reason for the deny/delay response over the phone. Please do not encourage your customers to call NICS customer service or ATF as this will not result in the individual receiving verbal information relating to the potential issue.

The NICS Appeal Web site helps guide NICS denied and delayed appellants through the appeal process.
<http://www.fbi.gov/nics-appeals>.

If you need NICS Resolution Cards, please visit the [NICS Federal Firearms Licensee Web](#) site and order your cards today.

Brokering Firearms for Exportation

ATF has stated in the past that persons who engage in the business of brokering firearms by buying firearms from a manufacturer, selling those firearms to a licensed third party, and then arranging with the manufacturer to have the firearms dropped shipped to the purchaser, are required to obtain a FFL. Recently, ATF has seen instances of persons brokering firearms for sale to foreign purchasers. In these instances, the broker is purchasing firearms from FFLs and then arranging for pick up by or shipment to an international freight forwarder. Just as with instances of domestic purchases and shipment, the broker is usually not taking physical possession of the firearms during any part of the transaction. However, by buying and selling the firearms as a regular course of business or with the principal objective or livelihood and profit, the broker

is considered to be engaged in the business of dealing in firearms and is required to obtain a Federal firearms license. Additionally, the broker would have to meet all the requirements of the Arms Export Control Act (AECA).

Out of Business Procedures for Electronic Records

This is a reminder that when an FFL discontinues business, they must forward their records to the ATF Out of Business (OOB) Records Center within 30 days of discontinuance as required by 18 U.S.C. § 923(g)(4) and 27 CFR § 478.127. If the licensee used a computerized record keeping system, the licensee is required to provide a complete printout of the entire A&D records, or an ASCII text file (conforming to industry standards), along with a file description. ATF recommends that FFLs submit the electronic records on a USB flash drive. ATF will not accept servers; please only submit the records in the appropriate format. Please ensure the records are not password protected or else they will not be accessible.

Please send your OOB records to:

**ATF National Tracing Center
Out-of-Business Records Center 244 Needy Road
Martinsburg, WV 25401**

Gun Show Transfers: Where and How to Record in Records

FFLs conducting business at an authorized gun show or event within the state in which they are licensed are allowed, as an extension of their premises, to make firearms sales/transfers to non-licensees in over the counter transactions. As part of those transactions, an ATF F 4473-Firearms Transaction Record must be completed. Item #19 ATF F 4473 states “If sale at a gun show or other qualifying event. Name of event, City, State.” Thus, the licensee is required to annotate under Item # 19, the name of the authorized gun show or event AND the city and state in which the gun show or event occurred. Although not required, it is highly recommended that when the licensee records the disposition of the firearm within their required A&D record, they record the same information: Name

of Event and City, State along with the required information of Date firearm transferred, name and address of individual firearm transferred to, or Form 4473 Serial number if 4473s are filed numerically, or name and license number if transferred to an FFL.

“Occasional” Importation

ATF has received inquiries related to the “occasional” importation of firearms by licensees other than Type 08 and Type 11 Importers of Firearms. Federal firearms regulations provide, at 27 CFR § 478.113, that licensees other than importers may import firearms provided that they do not meet the definition of “engaged in the business of importation.” ATF has approved importations by Type 01 licensees provided they are “occasional” in occurrence and nature. However, ATF has seen instances in which the importation of firearms has become a regular course of business for the licensee. Although the firearms being imported are not for “sale,” they are for distribution to end clients for the purpose of livelihood and profit and are more than “occasional” in their occurrence and nature. In these instances, it would be necessary for the licensee to apply for and obtain a Type 08—Importer of Firearms license in order to conduct such importations.

Transferring Firearms from One A&D Record to Another

If a licensee is transferring a firearm from one A&D record (e.g., an old manual book) to another, the licensee must first close out all of the open transactions in the old record. This is done by entering the date the transfer occurs, as well as the book name/number, page number, and line number of the new book, on the disposition side of the A&D record in the old book. In the new book, the licensee should record the description of the firearm and original receipt information (original date and name and address, or name and license number from whom the firearm was received). Licensees must ensure that each firearm is logged out of one A&D record before it is entered into another to prevent multiple entries without corresponding disposition information. In addition, licensees must retain the old A&D books in accordance with the retention period specified in the regulations.

If a licensee wishes to cease utilizing a manual A&D record and begin utilizing an electronic A&D record, the licensee must again first close out the manual record. This is done by entering the date the transfer of the firearm to the new electronic record occurs as well as the electronic record's name, the page number and/or line number where the firearm may be located in the new electronic record, all on the disposition side of the manual A&D record. In the new electronic record, the licensee should record the description of the firearm and original receipt information (original date and name and address, or name and license number from whom the firearm was received). Again, the licensee should ensure that the firearms are logged out of the manual record before it is entered into the electronic record to prevent multiple entries without corresponding disposition information. In addition, the licensee must retain the old manual A&D books in accordance with the retention period specified in the regulations.

eForms - Form 6

ATF would like to inform registered users of the eForms system of several changes that have been made to eForms and the import process as a part of International Trade Data System Project. The changes were required in order to facilitate the transfer of information to U.S. Customs and Border Protection (CBP). This project's goal is to streamline the import/export process. Please see <http://www.itds.gov> for further information.

One change ATF has made is the format of the permit number stamped on ATF Form 6 Part I, Application and Permit to Import Firearms, Ammunition and Implements of War, submitted via paper. The format, which used to be the last two digits of the year of submission followed by a 5 digit unique identification number (XX-XXXXX), will now match the format sequence of forms submitted electronically through eForms: the full year of submission, no dash, followed by the unique identification number (XXXXXXXXXX).

ATF would like to inform registered users of eForms of several new product type codes that are now available. These additions were required to be made in order to properly identify items for permanent import.

Sporting shotguns, sporting shotgun components (including barrels and receivers), sporting shotgun ammunition, sporting shotgun ammunition

components and sporting shotgun ammunition accessories do not require an Arms Export Control Act registration (AECA) for permanent import because these articles are not enumerated on the United States Munitions Import List. The new codes were required to differentiate these items from the defense articles that do require registration for permanent importation.

The new product type codes are as follows:

NSG — Nonsporting shotguns
 SSP — Sporting shotgun parts
 SSA — Sporting shotgun ammunition
 SSAP — sporting shotgun ammunition components
 SSBL — Sporting shotgun barrels (please add the model, barrel length and caliber/gauge in the Description block when entering)
 SREK — Sporting shotgun receivers
 SSAX — Sporting shotgun ammunition accessories

These new product type codes must be used immediately.

Any permits submitted for these particular items using any other product type codes will be redlined and you will need to reapply. The shotgun product type will now be for sporting shotguns only. Previously approved permits may continue to be used.

ATF realizes that this will cause an influx of permits for pending research as we work to update our reference tables. We will work to process your permit applications as expeditiously as possible.

Occasionally, some importers may fail to enter their FFL number and AECA number on electronically filed and paper filed ATF Forms 6. For eForms, they have either failed to make the association to the FFL and/or AECA in eForms or they have made the association but failed to choose the FFL number or the AECA number from the drop down on the Applicant tab.

For both paper and electronically filed Forms 6, both the AECA and the FFL numbers must be entered and recorded on the Form 6 if both are required for import. If the importer fails to record them on the Form 6, the application must be returned without action or the applicant must withdraw the application.

ATF understands that the changes resulting from the ITDS project may cause importers to have to adjust their procedures. Please call the Imports Branch at (304) 616-4550 with any questions.

Contact ATF

The ATF website includes information and updates for the FFL industry at www.atf.gov.

If you have questions relating to your FFL, please contact:

Bureau of ATF, Firearms Industry Programs Branch
99 New York Avenue, NE
Washington, DC 20226
Telephone: (202) 648-7190
Fax: (202) 648-9601
Email: fipb@atf.gov

To contact your local ATF office go to: <http://www.atf.gov/contact/atf-field-divisions>.

To report suspected illegal firearms activities please call **1-800-ATF-GUNS (1-800-283-4867)**.

ATF Tips

To make our communities safer, ATF is launching a new way to collect your tips involving firearms or to provide leads to help us prevent crimes from happening. Using your phone, tablet or computer, you will be able to tell us instantly and anonymously about crimes that may be happening in your communities that involve firearms, explosives, violent crime, or arson.

ATF values your privacy and is offering this service through [reportit](#)[®] (link is external), a mobile app that allows you to remain anonymous. With [reportit](#)[®] you can report suspicious or unusual activities in real time while having the assurance that your identity will remain anonymous and confidential. [reportit](#)[®] makes it easy to create and submit a tip, and attach a photo or video, with confidence that the information is forwarded to us real time. With the time and location of the incident, we can better respond and provide the necessary resources quickly and efficiently. You will have the option to provide your personal information, but this will not be required to submit your tip. You can visit the [reportit](#)[®] website for more information on their service.

