



# FFL NEWSLETTER

## FEDERAL FIREARMS LICENSEE INFORMATION SERVICE

### 2019

To update Federal firearms licensees (FFLs) on developments regarding the Federal firearms laws and regulations, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will provide FFL Newsletters on a semiannual to annual basis. Previous editions of the FFL Newsletters are available on ATF's Web site (<https://www.atf.gov/resource-center/publications-library>).



### ATF Personnel Changes

On May 1, 2019, Regina Lombardo became ATF's new Acting Deputy Director, replacing Thomas Brandon, who retired from federal service on April 30, 2019. At the time of her appointment, Ms. Lombardo was serving as the Agency's Associate Deputy Director and Chief Operating Officer. To learn more, visit <https://www.atf.gov/about-atf/executive-staff>.

On July 5, 2019, Alphonso Hughes was selected as Deputy Assistant Director, Office of Professional Responsibility and Security Operations. Alphonso Hughes was appointed on April 1, 2017, to the position of Division Chief, National Firearms Act (NFA) Division at the ATF-Martinsburg Facility in West Virginia. He served both as a Deputy Division Chief and Division Chief of the Firearms & Explosives Services Division (FESD) within the EPS Directorate from October 2012 to April 2017.

On September 30, 2019, Krissy Carlson was selected as Director of Industry Operations, Dallas Field Division. Krissy Carlson was appointed on August 5, 2015, to the position of Division Chief, Firearms and Explosives Industry Division (FEID). Krissy Carlson will report to her new position in February of 2020.

On August 27, 2019, Andy Perdas was selected as Chief, Firearms Industry Programs Branch (FIPB). Andy Perdas was appointed in 2012 to the position of ATF Area Supervisor, Louisville Field Division, Louisville Field office. Andy Perdas replaces Kyle

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Lallensack, who received a promotion to Deputy Chief of Field Operations, Field Management Staff.

On August 20, 2019, Max Kingery, was selected as Chief, Firearms and Explosives Imports Branch (FEIB). Mr. Kingery was previously the Chief, Firearms Technology Criminal Branch. Mr. Kingery took over as Chief of FEIB following the retirement of William Majors. Mr. Kingery has been closely involved with Export Control Reform for the last seven years, and is excited to put his experience to work with the diverse and energetic professionals of FEIB.

On August 27, 2019, Ted Clutter, was selected as Supervisory Program Analyst, Tracing Operations and Records Management Branch. Mr. Clutter was previously a Section Chief, Industry Processing Branch, serving in support of the National Firearms Act Branch since 2006. Mr. Clutter is looking forward to continued leadership development and service to the ATF mission at the National Tracing Center.

## Electronic Storage of ATF Form 4473

Did you know that ATF has issued its second variance to allow an FFL to digitally store their electronically completed ATF Forms 4473? What does this mean? This approved variance allows the FFL to maintain the electronically completed ATF Form 4473 in a digital environment without having to maintain a hardcopy/printed version of the ATF Form 4473 as long as the conditions of their variance are met. This variance was approved because ATF recognized that good cause was shown for the use of this alternate method/procedure of digital storage. Additionally, this alternate method/procedure of digital storage is substantially equivalent to maintaining printed versions of the ATF Form 4473 and finally, this alternate method/procedure of digital storage will not hinder the effective administration of ATF's ability to conduct compliance investigations or have traces completed by FFLs.

If you are interested in obtaining a variance to digitally store your electronically completed ATF

Forms 4473, contact the Firearms Industry Programs Branch (FIPB) at [fipb@atf.gov](mailto:fipb@atf.gov).

## ATF Procedure 2017-1

Federal law allows a person to transfer a firearm to an unlicensed resident of his or her State, provided the transferor does not know or have reasonable cause to believe the transferee is prohibited from receiving or possessing firearms under Federal law. However, there may be State laws that regulate intrastate firearm transactions. Indeed, several states have laws that prohibit the transfer of firearms between private individuals unless a background check is conducted on the buyer.

Unlicensed persons do not have the ability to access NICS to conduct a background check on a prospective transferee (buyer) and, consequently, have no comprehensive way to confirm whether the buyer is prohibited from receiving or possessing a firearm. As such, unlicensed persons must enlist the services of federally licensed firearms dealers in order to comply with State background check laws that require a NICS background check.

[ATF Procedure 2017-1](#) sets forth the recordkeeping and National Instant Criminal Background Check System (NICS) procedures for a licensee who facilitates the transfer of firearms between private unlicensed individuals. Licensees should follow Procedure 2017-1 if they facilitate private party transfers. Of note, Procedure 2017-1 does not apply to pawn transactions, consignment sales, or repairs.

## ATF Forms 5

A government entity is required on an ATF Form 5, Application for Tax Exempt Transfer and Registration of Firearm, to list the address of the transferor and transferee. The address to be listed is the physical current location of both entities, as identified by the U.S. Postal service, to include the complete name of the government entity, number, street, city, and zip code. The address should reflect where the firearm(s) are currently stored and the

physical location to which the firearm(s) will be transferred. Listing a P.O. Box as an address is not acceptable on the Form 5; the actual physical locations must be provided.

## ATF Form 4473: Clarification on Disqualifiers related to Military Service

On November 22, 2017, the United States Attorney General issued a memorandum to the Acting Director of the Bureau of Alcohol, Tobacco, Firearms and Explosives on the subject of reviewing the ATF Form 4473, particularly with respect to firearm disqualifiers involving the military, where further clarification and simplification may be appropriate. In response to this memorandum, representatives from ATF met with representatives from the FBI and the Department of Defense and concluded that updates to questions relating to military records are a priority that would improve the form's efficiency and effectiveness. The ATF Form 4473 is scheduled for revision in 2020. Pending the next revision, the below supplemental information addresses two prohibiting questions identified on the ATF Form 4473 that frequently require clarification in regards to military service.

**Question:** “Are you under **indictment or information** in any court for a felony, or other crime for which the judge could imprison you for more than one year?”

18 U.S.C. § 922(n), prohibits the shipment, transportation, or receipt in or affecting interstate commerce of a firearm by any person who is under indictment or information for a felony in any Federal, State or local court, or any other crime punishable by imprisonment for a term exceeding one year. An information is a formal accusation of a crime verified by a prosecutor. A member of the Armed Forces must answer “yes” to being under indictment or information on the Form 4473 if the member has been charged with an offense that was referred to a General Court-Martial. ATF has interpreted this to include, for those current or former members of the military, violations of the Uniform Code of Military Justice whose charges have been referred to General Court-Martial.

**Question:** “Have you ever been **convicted** in any court of a misdemeanor crime of domestic violence?”

Federal law, 18 U.S.C. § 922(g)(9), prohibits any person who “has been convicted in any court of a misdemeanor crime of domestic violence” from shipping, transporting receiving or possessing firearms or ammunition. The term “misdemeanor crime of domestic violence” is defined in part as an offense that is a misdemeanor under Federal, State, or Tribal law and has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent or guardian of the victim (see 18 U.S.C. § 921(33)(A)). ATF has interpreted this to include current or former members of the military convicted of a violation of the Uniform Code of Military Justice, through a Special or General Court-Martial, which included, as an element, the use of force against a person as identified in the instructions on the Form 4473 relating to the Question above.

\*\*The current ATF Form 4473 is currently under revision. The newly revised form is expected to be ready for use by spring of 2020.

## NFA Forms: Common Errors

Did you know that approximately 40 percent of all tax paid applications submitted to the NFA Division are incomplete and/or contain errors? Failure to properly complete necessary paperwork will result in the application being denied or returned for correction. Attempts to resolve these errors can lead to significant delays in processing the application. In these cases, the applicant is issued an error letter and given a period of 30 days to respond to ATF. Failure to respond in a timely manner will result in the application being disapproved. These delays can be avoided by taking the time to accurately complete the application in accordance with the instructions provided on the form. Below is a list of the most frequently encountered discrepancies:

#### Common Errors associated with ATF Form 1:

- Missing Photos
- Fingerprint Cards incomplete (Often missing biometric information)
- Responsible Person Questionnaires (RPQs) - none submitted, too many submitted, insufficient number submitted (Must be one RPQ for each RP)
- Trust/Individual names do not match on forms
- Box 4a – Original Manufacturer not provided/incorrect
- Box 4i – Intent not provided
- Box 4d – Incorrect models
- Box 4h – Maker’s name, city, state not provided
- Box 7 – Missing signature of applicant
- Box 10 – Law Enforcement Notification information not provided

#### Common Errors associated with ATF Form 4:

- Missing Photos
- Fingerprint Cards incomplete
- Responsible Person Questionnaires (RPQs) - none submitted, too many submitted, insufficient number submitted (Must be one RPQ for each RP)
- Trust/Individual names do not match on forms
- Box 9 – Missing Transferor signature/date
- Box 4d – Incorrect models
- Box 12 – Law Enforcement Notification information not provided
- Box 13 – Transferee Necessity Statement left blank
- Box 17 – Missing Transferee signature/date

### **ATF FFL Alert System**

ATF has implemented an [fflAlert](#) system to notify Federal Firearms Licensees (“FFLs”) of Robberies and Burglaries. You may have heard about or read recent news accounts of the increasing number of robberies and burglaries involving FFLs. During calendar year 2016, there were over 500 burglaries at gun stores nationwide, with more than 7,000 firearms reported as stolen from FFLs. Because the security of your business operations, particularly your firearms inventory, is critical to ensuring the safety of licensees and the public, ATF implemented fflAlert.

ATF will notify FFLs via telephone and e-mail when a licensee in their county has experienced a robbery or

burglary that resulted in the loss of firearms. The intent of the notification is to provide a warning so that FFLs have the opportunity to take additional measures to secure their premises and inventory in order to prevent additional thefts. These calls will be made between 7am-7pm (all time zones), 7 days a week. It is important to note that no information will be collected from FFLs during these calls, the victimized FFL will not be identified, and there is no requirement to call back or follow-up.

Please visit [www.atf.gov](http://www.atf.gov) for more information on fflAlert.

For useful information on steps that can be taken to reduce your vulnerability to theft or burglary, please refer to [ATF P 5380.1](#), Loss Prevention for Firearms Retailers.

FFLs who discover the theft or loss of firearms are required by law to report the incident within 48 hours of discovery to their local law enforcement agency. A separate report must be made to ATF by calling 1-888-930-9275 (a toll-free number) and by completing and submitting by fax or mail [ATF Form 3310.11](#), Federal Firearms Licensee Theft/Loss Report.

Any time you identify suspicious activity related to your FFL business, please contact your local and/or State law enforcement agency. FFLs are additionally encouraged to contact their [local ATF field office](#) by calling 1-888-ATF-TIPS (1-888-283-8477), or email [ATFTips@atf.gov](mailto:ATFTips@atf.gov). You can also submit an anonymous tip on “[reportit](#)” or send a text to ATF at 63975.

### **Replacement Copies of NFA Tax Paid Transfer Forms**

Federal Firearms Regulations, [27 CFR § 479.142](#), states:

When any Forms 1, 2, 3, 4, 5, 6a, or 10 (Firearms) evidencing possession of a firearm is stolen, lost, or destroyed, the person losing possession will immediately upon discovery of the theft, loss, or destruction report the matter to the Director. The report will show in detail the circumstances of the theft, loss or destruction and will include all known facts which may serve to identify the document. Upon receipt of the report, the Director will make such

investigation as appears appropriate and may issue a duplicate document upon such conditions as the circumstances warrant.

**Please make sure your request for copies includes the following information:**

Your name, current address, reason for request in detail surrounding the loss or damage of original issued stamp and the signature of the transferor or transferee depending on who is requesting the copy. In addition, if the address provided on the request is not the current address in the National Firearms Registration and Transfer Record (NFRTR) it will be necessary to submit an [ATF Form 5320.20](#) for approval before the certified copy is mailed out.

**Transferors:** Please allow 30 days from time of approval prior to requesting a certified copy, since often times the original tax stamp is returned by the United States Postal Service as undeliverable, and the return can often take a few weeks. ATF's intent is to provide the original tax stamp to the owner before providing a certified copy whenever possible.

### FFL Renewals (Timely Renewing/Common Mistakes)

- Federal Firearms License Renewal Applications are sent to the mailing address on file 90 days prior to expiration. Renewals must be sent to ATF on or before the date of expiration to be considered timely. Failure to submit a timely renewal form will result in the discontinuance of the operations authorized by your current license and it will be placed "out of business." A new Federal Firearms License Application will need to be submitted and approved to continue business. We recommend you complete the renewal upon receipt to avoid disruption in your business operations. If your application has been received timely by FFLC, you may continue operations as usual while your application is being processed.
- If you do not receive your renewal application, you must contact the Federal Firearms Licensing Center for a duplicate renewal. (**Note:** duplicate renewals are NOT available via the internet; downloaded forms found online are not approved forms and will not be accepted.) Also, remember

to notify the licensing center if you have a change in mailing address to ensure you receive ATF correspondence.

- When submitting the renewal application, be sure to complete responses for 7A and 7B, even for C&R licensees and remember to sign and date the bottom of the reverse-side of the renewal application. Failing to do so will delay processing.

### Updated Form 7

ATF Form 7 (Application for Federal Firearms License 5310.12) and Form 7CR (Application for Federal Firearms License – Collector of Curios and Relics 5310.16) have been revised. The two forms have been combined into the ATF Form 7/7CR (5310.12/5310.16), which is divided into two parts. Part B is a Responsible Persons Questionnaire. When applying for a new license, ensure you complete and submit Part B for each responsible person (RP) including yourself. The full application and copies of the supplement are both available via [www.atf.gov](http://www.atf.gov) or the ATF Distribution Center. You should also use the Supplement Part B as a means of adding RP(s) to an existing license. When submitting this form to add RP(s), please ensure to include a photo, fingerprint card (FD-258), and a written request from a current RP on the license.

### Annual Firearms Manufacturing and Exportation Report (AFMER)

There are approximately 12,000 Manufacturer of Firearms and Manufacturers of Destructive Devices licensees. Less than 5 percent utilize the ATF E-forms portal for the submittal of their AFMER forms. The benefits of filing electronically reduces cost of postage; mitigates common errors such as annotating incorrect federal firearms license number and/or mailing address (those who have multiple licenses); and allows ATF to process the forms more efficiently.

Please note that licensed manufacturers performing a manufacturing activity on behalf of another manufacturer need not record those firearms in the AFMER, as they are not themselves distributing these firearms into commerce.

Licenses can either submit their AFMER via ATF eForms ([www.atfonline.gov/eForms](http://www.atfonline.gov/eForms)) or mail a hard copy AFMER ATF Form 5300.11 to ATF.

For additional information pertaining to the AFMER, please send an email to [FFLC@atf.gov](mailto:FFLC@atf.gov) or call 866-662-2750.

## NFA Processing Times

### eForm Applications

NFA Division	Days
ATF eForm 1 <small>Application to Make and Register a Firearm</small>	30
ATF eForm 2 <small>Notice of Firearms Manufactured or Imported</small>	7
ATF eForm 3 <small>Application for Tax-Exempt Transfer (SOT)</small>	7
ATF eForm 4 <small>Application for Tax paid Transfer and Registration</small>	<i>Not yet available</i>
ATF eForm 5 <small>Application for Tax-Exempt Transfer and Registration</small>	7
ATF eForm 9 <small>Application and Permit for Permanent Exportation</small>	7
ATF eForm 10 <small>Application for Registration of Firearms Acquired by Certain Governmental Entities</small>	7

### NFA Paper Applications

NFA Division	Months
ATF Form 1 <small>Application to Make and Register a Firearm</small>	7
ATF Form 2 <small>Notice of Firearms Manufactured or Imported</small>	1
ATF Form 3 <small>Application for Tax-Exempt Transfer (SOT)</small>	1
ATF Form 4 <small>Application for Tax paid Transfer and Registration</small>	10
ATF Form 5 <small>Application for Tax-Exempt Transfer and Registration</small>	1
ATF Form 9 <small>Application and Permit for Permanent Exportation</small>	1

\*\*Processing times depicted above represent average processing times.

ATF has taken a number of steps to address the unprecedented receipt of over 276,000 tax paid NFA applications received just prior to the July 13, 2016, effective date of the Final Rule regarding legal entities (41F). ATF has augmented normal data entry efforts so that all applications are now accounted for within days of receipt. ATF is currently applying additional overtime resources and providing an increased level of effort to research and perfect applications. ATF will continue to dedicate resources to application processing seven days a week. ATF is also diligently working to bring the tax paid application process to the eForms portal for efficient workflow management. Lastly, all business processes are being re-examined to maximize efficiency of paper application handling, and to leverage technology where possible.

## Additional Paper Processing Times

Firearms & Ammunition Technology Division	Months
Marking Variances	>3
Industry Evaluations	12+ months

Imports Branch	Weeks
ATF Form 6 <small>Application and Permit for Importation</small>	6
ATF Form 6 NIA <small>Application and Permit for Importation – Non Immigrant</small>	6

Federal Explosives Licensing Center	Months
ATF F 5400.13/16 <small>Application for Explosives License or Permit</small>	3
ATF F 5400.28 <small>Employee Possessor Questionnaire (EPQ)</small>	3

Federal Firearms Licensing Center	Months
ATF Form 7 <small>Application for Federal Firearms License</small>	2

\*Statistical Information as of: June 30, 2019

## Clarification on Federal Firearms Licensing Center Addresses

- New and Renewal applications for a Federal Firearms License which require a fee and include payment must first go to our bank (lockbox) for processing at the address listed on the application. Ensure to include proper payment with your application, and promptly send to ATF, P.O. Box 6200-20, Portland, OR 97228-6200.
- Documents not requiring any type of payment should be sent directly to ATF-FFLC, 244 Needy Road, Martinsburg, WV 25405.

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## Contact ATF

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The ATF website includes information and updates for the FFL industry at [www.atf.gov](http://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](mailto:fipb@atf.gov)

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

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

**NOTICE:** This is a guidance document that does not have the force or effect of law. It is not a final agency action, has no legally binding effect on persons or entities outside the Federal government, and may be rescinded or modified in the agency's complete discretion. To the extent this guidance document sets out voluntary standards, such as recommended practices, then compliance with those standards is voluntary and noncompliance will not, in itself, result in any enforcement action. However, persons must comply with the requirements of the underlying statutes, legislative rules, and regulations that apply to the facts presented in this guidance document. For further information, *see Memorandum from the Attorney General* (November 16, 2017) at <https://www.justice.gov/opa/press-release/file/1012271/download>