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**(Your Guide To) FEDERAL FIREARMS REGULATION****TABLE OF CONTENTS**

**NOTE:** Any reference to the Internal Revenue Code of 1954 within this document refers to the Internal Revenue Code of 1986. [§2, Public Law 99-514, 100 Stat. 2085, October 22, 1986.]

**1. LAW**

- The Gun Control Act of 1968, Titles I and II, Public Law No. 90-618, 82 Stat. 1213, October 22, 1968, as amended by:
  - Public Law No. 99-308, 100 Stat. 449, Approved May 19, 1986;
  - Public Law No. 99-360, 100 Stat. 766, Approved July 8, 1986;
  - Public Law No. 99-408, 100 Stat. 920, Approved August 28, 1986; and,
  - Public Law No. 99-570, 100 Stat. 3207, Approved October 27, 1986.
- The Arms Export Control Act of 1976, Sec. 38, Public Law 94-239, as amended, 90 Stat. 744, June 30, 1976.

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- Part 178 of Title 27, Code of Federal Regulations.
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- Rulings, Procedures, and Industry Circulars.
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[Please consult another of our publications, "State Laws and Published Ordinances - Firearms," ATF Publication 5300.5, for LOCAL requirements pertaining to firearms transactions.]

**Editorial Information**

The editor of this publication is ATF Specialist Gary Caplan of the Firearms and Explosives Operation Branch, Compliance Operations, who is responsible for the various notes and digests contained herein.

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ACQUISITIONS

# FEDERAL FIREARMS LAWS ADMINISTERED BY THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

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## GUN CONTROL ACT OF 1968 PUBLIC LAW 90-618

APPROVED OCTOBER 22, 1968  
82 STAT. 1213

- TITLE I. STATE FIREARMS CONTROL ASSISTANCE:  
TITLE 18, UNITED STATES CODE, CHAPTER 44, SECTIONS 921 - 929  
[Title IV of the Omnibus Crime Control and Safe Streets Act of 1968, as amended.]
- TITLE II. MACHINEGUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER FIREARMS:  
TITLE 26, UNITED STATES CODE, CHAPTER 53, SECTIONS 5801 - 5872  
[National Firearms Act of 1934, as amended.]  
(INTERNAL REVENUE CODE OF 1954, CHAPTER 53; redesignated as the INTERNAL REVENUE CODE OF 1986 in  
Section 2 of the Tax Reform Act of 1986.)
- TITLE III. AMENDMENTS TO TITLE VII OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.  
[REPEALED.]

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## OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968 PUBLIC LAW 90-351

Approved June 19, 1968  
82 Stat. 225

- TITLE IV. (AMENDED BY TITLE I OF THE GUN CONTROL ACT OF 1968)
- TITLE VII. UNLAWFUL POSSESSION OR RECEIPT OF FIREARMS:  
TITLE 18, UNITED STATES CODE, APPENDIX, SEC. 1201 - 1203 [AS AMENDED BY TITLE III OF THE GUN CONTROL ACT OF  
1968.]  
[REPEALED.]

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## ARMS EXPORT CONTROL ACT OF 1976, AS AMENDED PUBLIC LAW 94-239, AS AMENDED

Approved June 30, 1976  
90 Stat. 744

- SEC. 38. CONTROL OF ARMS EXPORTS AND IMPORTS:  
TITLE 22, UNITED STATES CODE, SECTION 2778  
(SECTION 414 OF THE MUTUAL SECURITY ACT OF 1954, 22 U.S.C. 1934, REPEALED.)

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## FEDERAL FIREARMS LAWS

### TITLE I OF THE GUN CONTROL ACT OF 1968

#### As Amended By:

Public Law No. 99-308, 100 Stat. 449, Approved May 19, 1986;  
Public Law No. 99-360, 100 Stat. 766, Approved July 8, 1986;  
Public Law No. 99-408, 100 Stat. 920, Approved August 28, 1986;  
and,  
Public Law No. 99-570, 100 Stat. 3207, Approved October 27, 1986.

[References to the Internal Revenue Code of 1954 within this Act or amendments thereto refer to the Internal Revenue Code of 1986. (Sec 2, Public Law 99-514, 100 Stat. 2085, October 22, 1986.)]

#### Public Law 90-618

AN ACT To amend title 18, United States Code, to provide for better control of the interstate traffic in firearms.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Gun Control Act of 1968".

### TITLE I—STATE FIREARMS CONTROL ASSISTANCE

#### PURPOSE

Sec. 101. The Congress hereby declares that the purpose of this title is to provide support to Federal, State, and local law enforcement officials in their fight against crime and violence, and it is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trapshooting, target shooting, personal protection, or any other lawful activity, and that this title is not intended to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes, or provide for the imposition by Federal regulations of any procedures or requirements other than those reasonably necessary to implement and effectuate the provisions of this title.

#### Public Law 99-308

An Act to amend chapter 44 (relating to firearms) of title 18, United States Code, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

#### SECTION 1. SHORT TITLE AND CONGRESSIONAL FINDINGS.

(a) SHORT TITLE.— This Act may be cited as the "Firearms Owners' Protection Act".

#### CHAPTER 44—FIREARMS

Sec.

- 921. Definitions.
- 922. Unlawful acts.
- 923. Licensing.
- 924. Penalties.
- 925. Exceptions: Relief from disabilities.
- 926. Rules and regulations.
- 926A. Interstate transportation of firearms.
- 927. Effect on State law.
- 928. Separability clause.
- 929. Use of restricted ammunition.

#### § 921. Definitions

(a) As used in this chapter—

(1) The term "person" and the term "whoever" include any individual, corporation, company, association, firm, partnership, society, or joint stock company.

(2) The term "interstate or foreign commerce" includes commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia, but such term does not include commerce between places within the same State but through any place outside of that State. The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).

(3) The term "firearm" means

(A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive;

(B) the frame or receiver of any such weapon;

(C) any firearm muffler or firearm silencer; or

(D) any destructive device. Such term does not include an antique firearm.

(4) The term "destructive device" means—

(A) any explosive, incendiary, or poison gas—

- (i) bomb,
- (ii) grenade,
- (iii) rocket having a propellant charge of more than four ounces,
- (iv) missile having an explosive or incendiary charge of more than one-quarter ounce,
- (v) mine, or
- (vi) device similar to any of the devices described in the preceding clauses;

(B) any type of weapon (other than a shotgun or a shotgun shell which the Secretary finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and

(C) any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraph (A) or (B) and from which a destructive device may be readily assembled.

The term "destructive device" shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10; or any other device which the Secretary of the Treasury finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting, recreational or cultural purposes.

(5) The term "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth



bore either a number of ball shot or a single projectile for each single pull of the trigger.

(6) The term "**short-barreled shotgun**" means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than twenty-six inches.

(7) The term "**rifle**" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(8) The term "**short-barreled rifle**" means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than twenty-six inches.

(9) The term "**importer**" means any person engaged in the business of importing or bringing firearms or ammunition into the United States for purposes of sale or distribution; and the term "**licensed importer**" means any such person licensed under the provisions of this chapter.

(10) The term "**manufacturer**" means any person engaged in the business of manufacturing firearms or ammunition for purposes of sale or distribution; and the term "**licensed manufacturer**" means any such person licensed under the provisions of this chapter.

(11) The term "**dealer**" means

(A) any person engaged in the business of selling firearms at wholesale or retail,

(B) any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms, or

(C) any person who is a pawnbroker.

The term "**licensed dealer**" means any dealer who is licensed under the provisions of this chapter.

(12) The term "**pawnbroker**" means any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any firearm as security for the payment or repayment of money.

(13) The term "**collector**" means any person who acquires, holds, or disposes of firearms as curios or relics, as the Secretary shall by regulation define, and the term "**licensed collector**" means any such person licensed under the provisions of this chapter.

(14) The term "**indictment**" includes an indictment or information in any court under which a crime punishable by imprisonment for a term exceeding one year may be prosecuted.

(15) The term "**fugitive from justice**" means any person who has fled from any State to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding.

(16) The term "**antique firearm**" means—

(A) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; and

(B) any replica of any firearm described in subparagraph (A) if such replica—

(i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or

(ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

(17)(A) The term "**ammunition**" means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.

(B) The term "**armor piercing ammunition**" means a projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium. Such term does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the Secretary finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the Secretary finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device.

(18) The term "**Secretary**" or "**Secretary of the Treasury**" means the Secretary of the Treasury or his delegate.

(19) The term "**published ordinance**" means a published law of any political subdivision of a State which the Secretary determines to be relevant to the enforcement of this chapter and which is contained on a list compiled by the Secretary, which list shall be published in the Federal Register, revised annually, and furnished to each licensee under this chapter.

(20) The term "**crime punishable by imprisonment for a term exceeding one year**" does not include—

(A) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or

(B) any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any conviction which has been expunged, or set aside or for which a

person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this chapter, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(21) The term "**engaged in the business**" means—

(A) As applied to a manufacturer of firearms, a person who devotes time, attention, and labor to manufacturing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured;

(B) as applied to a manufacturer of ammunition, a person who devotes time, attention, and labor to manufacturing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition manufactured;

(C) as applied to a dealer in firearms, as defined in section 921(a)(11)(A), a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms, but such term shall not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms;

(D) as applied to a dealer in firearms, as defined in section 921(a)(11)(B), a person who devotes time, attention, and labor to engaging in such activity as a regular course of trade or business with the principal objective of livelihood and profit, but such term shall not include a person who makes occasional repairs of firearms, or who occasionally fits special barrels, stocks, or trigger mechanisms to firearms;

(E) as applied to an importer of firearms, a person who devotes time, attention, and labor to importing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms imported; and

(F) as applied to an importer of ammunition, a person who devotes time, attention, and labor to importing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition imported.

(22) The term "**with the principal objective of livelihood and profit**" means that the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection:

**Provided,** That proof of profit shall not be required as to a person who engages in the regular and repetitive purchase and disposi-

tion of firearms for criminal purposes or terrorism.

For purposes of this paragraph, the term "terrorism" means activity, directed against United States persons, which—

(A) is committed by an individual who is not a national or permanent resident alien of the United States;

(B) involves violent acts or acts dangerous to human life which would be a criminal violation if committed within the jurisdiction of the United States; and

(C) is intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by assassination or kidnapping.

(23) The term "machinegun" has the meaning given such term in section 5845(b) of the National Firearms Act (26 U.S.C. 5845(b)).

(24) The terms "firearm silencer" and "firearm muffler" means any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.

(b) For the purposes of this chapter, a member of the Armed Forces on active duty is a resident of the State in which his permanent duty station is located.

(Added Pub.L. 90-351, Title IV, § 902, June 19, 1968, 82 Stat. 226, and amended Pub.L. 90-618, Title I, § 102, Oct. 22, 1968, 82 Stat. 1214; Pub.L. 93-639, § 102, Jan. 4, 1975, 88 Stat. 2217; Pub.L. 99-308, § 101, May 19, 1986, 100 Stat. 449; Pub.L. 99-360, § 1(b), July 8, 1986, 100 Stat. 766; Pub.L. 99-408, § 1, Aug. 28, 1986, 100 Stat. 920.)

## § 922. Unlawful acts

(a) It shall be unlawful—

(1) for any person—

(A) except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms, or in the course of such business to ship, transport, or receive any firearm in interstate or foreign commerce; or

(B) except a licensed importer or licensed manufacturer, to engage in the business of importing or manufacturing ammunition, or in the course of such business, to ship, transport, or receive any ammunition in interstate or foreign commerce;

(2) for any importer, manufacturer, dealer, or collector licensed under the provisions of this chapter to ship or transport in interstate or foreign commerce any firearm to any person other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, except that—

(A) this paragraph and subsection (b)(3) shall not be held to preclude a licensed importer, licensed manufacturer,

licensed dealer, or licensed collector from returning a firearm or replacement firearm of the same kind and type to a person from whom it was received; and this paragraph shall not be held to preclude an individual from mailing a firearm owned in compliance with Federal, State, and local law to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector;

(B) this paragraph shall not be held to preclude a licensed importer, licensed manufacturer, or licensed dealer from depositing a firearm for conveyance in the mails to any officer, employee, agent, or watchman who, pursuant to the provisions of section 1715 of this title, is eligible to receive through the mails pistols, revolvers, and other firearms capable of being concealed on the person, for use in connection with his official duty; and

(C) nothing in this paragraph shall be construed as applying in any manner in the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States differently than it would apply if the District of Columbia, the Commonwealth of Puerto Rico, or the possession were in fact a State of the United States;

(3) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to transport into or receive in the State where he resides (or if the person is a corporation or other business entity, the State where it maintains a place of business) any firearm purchased or otherwise obtained by such person outside that State, except that this paragraph

(A) shall not preclude any person who lawfully acquires a firearm by bequest or intestate succession in a State other than his State of residence from transporting the firearm into or receiving it in that State, if it is lawful for such person to purchase or possess such firearm in that State,

(B) shall not apply to the transportation or receipt of a firearm obtained in conformity with subsection (b)(3) of this section, and

(C) shall not apply to the transportation of any firearm acquired in any State prior to the effective date of this chapter;

(4) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, to transport in interstate or foreign commerce any destructive device, machinegun (as defined in section 5845 of the Internal Revenue Code of 1954), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Secretary consistent with public safety and necessity;

(5) for any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) to transfer, sell, trade, give, transport, or deliver any firearm to any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) who the transferor knows or has reasonable cause to believe resides in any State other than that in which the trans-

feror resides (or other than that in which its place of business is located if the transferor is a corporation or other business entity); except that this paragraph shall not apply to

(A) the transfer, transportation, or delivery of a firearm made to carry out a bequest of a firearm to, or an acquisition by intestate succession of a firearm by, a person who is permitted to acquire or possess a firearm under the laws of the State of his residence, and

(B) the loan or rental of a firearm to any person for temporary use for lawful sporting purposes;

(6) for any person in connection with the acquisition or attempted acquisition of any firearm or ammunition from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, knowingly to make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, intended or likely to deceive such importer, manufacturer, dealer, or collector with respect to any fact material to the lawfulness of the sale or other disposition of such firearm or ammunition under the provisions of this chapter;

(7) for any person to manufacture or import armor piercing ammunition, except that this paragraph shall not apply to—

(A) the manufacture or importation of such ammunition for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof;

(B) the manufacture of such ammunition for the purpose of exportation; and

(C) any manufacture or importation for the purposes of testing or experimentation authorized by the Secretary; and

(8) for any manufacturer or importer to sell or deliver armor piercing ammunition, except that this paragraph shall not apply to—

(A) the sale or delivery by a manufacturer or importer of such ammunition for use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof;

(B) the sale or delivery by a manufacturer or importer of such ammunition for the purpose of exportation;

(C) the sale or delivery by a manufacturer or importer of such ammunition for the purposes of testing or experimenting authorized by the Secretary.

(b) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or deliver—

(1) any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age;

(2) any firearm to any person in any State where the purchase or possession by such person of such firearm would be in violation of any State law or any published ordinance applicable at the place of sale, delivery or other disposition, unless the licensee knows or has reasonable cause to believe that the purchase or possession would not be in violation of such State law or such published ordinance;

(3) any firearm to any person who the licensee knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the licensee's place of business is located, except that this paragraph

(A) shall not apply to the sale or delivery of any rifle or shotgun to a resident of a State other than a State in which the licensee's place of business is located if the transferee meets in person with the transferor to accomplish the transfer, and the sale, delivery, and receipt fully comply with the legal conditions of sale in both such States (and any licensed manufacturer, importer or dealer shall be presumed, for purposes of this subparagraph, in the absence of evidence to the contrary, to have had actual knowledge of the State laws and published ordinances of both States), and

(B) shall not apply to the loan or rental of a firearm to any person for temporary use for lawful sporting purposes;

(4) to any person any destructive device, machinegun (as defined in section 5845 of the Internal Revenue Code of 1954), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Secretary consistent with public safety and necessity; and

(5) any firearm or armor-piercing ammunition to any person unless the licensee notes in his records, required to be kept pursuant to section 923 of this chapter, the name, age, and place of residence of such person if the person is an individual, or the identity and principal and local places of business of such person if the person is a corporation or other business entity.

Paragraphs (1), (2), (3), and (4) of this subsection shall not apply to transactions between licensed importers, licensed manufacturers, licensed dealers, and licensed collectors. Paragraph (4) of this subsection shall not apply to a sale or delivery to any research organization designated by the Secretary.

(c) In any case not otherwise prohibited by this chapter, a licensed importer, licensed manufacturer, or licensed dealer may sell a firearm to a person who does not appear in person at the licensee's business premises (other than another licensed importer, manufacturer, or dealer) only if—

(1) the transferee submits to the transferor a sworn statement in the following form:

"Subject to penalties provided by law, I swear that, in the case of any firearm other than a shotgun or a rifle, I am twenty-one years or more of age, or

that, in the case of a shotgun or a rifle, I am eighteen years or more of age; that I am not prohibited by the provisions of chapter 44 of title 18, United States Code, from receiving a firearm in interstate or foreign commerce; and that my receipt of this firearm will not be in violation of any statute of the State and published ordinance applicable to the locality in which I reside. Further, the true title, name, and address of the principal law enforcement officer of the locality to which the firearm will be delivered are

Signature \_\_\_\_\_  
Date \_\_\_\_\_"

and containing blank spaces for the attachment of a true copy of any permit or other information required pursuant to such statute or published ordinance:

(2) the transferor has, prior to the shipment or delivery of the firearm, forwarded by registered or certified mail (return receipt requested) a copy of the sworn statement, together with a description of the firearm, in a form prescribed by the Secretary, to the chief law enforcement officer of the transferee's place of residence, and has received a return receipt evidencing delivery of the statement or has had the statement returned due to the refusal of the named addressee to accept such letter in accordance with United States Post Office Department regulations; and

(3) the transferor has delayed shipment or delivery for a period of at least seven days following receipt of the notification of the acceptance or refusal of delivery of the statement.

A copy of the sworn statement and a copy of the notification to the local law enforcement officer, together with evidence of receipt or rejection of that notification shall be retained by the licensee as a part of the records required to be kept under section 923(g).

(d) It shall be unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person—

(1) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) is a fugitive from justice;

(3) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) has been adjudicated as a mental defective or has been committed to any mental institution;

(5) who, being an alien, is illegally or unlawfully in the United States;

(6) who has been discharged from the Armed Forces under dishonorable conditions; or

(7) who, having been a citizen of the United States, has renounced his citizenship. This subsection shall not apply with respect to the sale or disposition of a firearm or ammunition to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector who pursuant to subsection (b) of section 925 of this chapter is not precluded from dealing in firearms or ammunition, or to a person who has been granted relief from disabilities pursuant to subsection (c) of section 925 of this chapter.

(e) It shall be unlawful for any person knowingly to deliver or cause to be delivered to any common or contract carrier for transportation or shipment in interstate or foreign commerce, to persons other than licensed importers, licensed manufacturers, licensed dealers, or licensed collectors, any package or other container in which there is any firearm or ammunition without written notice to the carrier that such firearm or ammunition is being transported or shipped; except that any passenger who owns or legally possesses a firearm or ammunition being transported aboard any common or contract carrier for movement with the passenger in interstate or foreign commerce may deliver said firearm or ammunition into the custody of the pilot, captain, conductor or operator of such common or contract carrier for the duration of the trip without violating any of the provisions of this chapter.

(f) It shall be unlawful for any common or contract carrier to transport or deliver in interstate or foreign commerce any firearm or ammunition with knowledge or reasonable cause to believe that the shipment, transportation, or receipt thereof would be in violation of the provisions of this chapter.

(g) It shall be unlawful for any person—

(1) who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(3) [who] is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

(5) who, being an alien, is illegally or unlawfully in the United States;

(6) who has been discharged from the Armed Forces under dishonorable conditions; or

(7) who, having been a citizen of the United States, has renounced his citizenship; to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(h) It shall be unlawful for any individual, who to that individual's knowledge and while being employed for any person described in any paragraph of subsection (g) of this section, in the course of such employment—

(1) to receive, possess, or transport any firearm or ammunition in or affecting interstate or foreign commerce; or

(2) to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(i) It shall be unlawful for any person to transport or ship in interstate or foreign commerce, any stolen firearm or stolen ammunition, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

(j) It shall be unlawful for any person to receive, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, or which constitutes, interstate or foreign commerce, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

(k) It shall be unlawful for any person knowingly to transport, ship, or receive, in interstate or foreign commerce, any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered.

(l) Except as provided in section 925(d) of this chapter, it shall be unlawful for any person knowingly to import or bring into the United States or any possession thereof any firearm or ammunition; and it shall be unlawful for any person knowingly to receive any firearm or ammunition which has been imported or brought into the United States or any possession thereof in violation of the provisions of this chapter.

(m) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector knowingly to make any false entry in, or to fail to make appropriate entry in, or to fail to properly maintain, any record which he is required to keep pursuant to section 923 of this chapter or regulations promulgated thereunder.

(n) It shall be unlawful for any person who is under indictment for a crime punishable by imprisonment for a term exceeding one year to ship or transport in interstate or foreign commerce any firearm or ammunition or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(o)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer or possess a machinegun.

(2) This subsection does not apply with respect to—

(A) a transfer to or by, or possession by or under the authority of, the United States or any department or agency thereof or a State, or a department, agency, or political subdivision thereof; or

(B) any lawful transfer or lawful possession of a machinegun that was lawfully possessed before the date this subsection takes effect.

(Added Pub.L. 90-351, Title IV, § 902, June 19, 1968, 82 Stat. 228, and amended Pub.L. 90-618, Title I, § 102, Oct. 22, 1968, 82 Stat. 1216; Pub.L. 97-377, Title I, § 165(a), Dec. 21, 1982, 96 Stat. 1923; Pub.L. 99-308, § 102, May 19, 1986,

100 Stat. 451; Pub.L. 99-408, § 2, Aug. 28, 1986, 100 Stat. 920.)

### § 923. Licensing

(a) No person shall engage in the business of importing, manufacturing, or dealing in firearms, or importing or manufacturing ammunition, until he has filed an application with and received a license to do so from the Secretary. The application shall be in such form and contain only that information necessary to determine eligibility for licensing as the Secretary shall by regulation prescribe. Each applicant shall pay a fee for obtaining such a license, a separate fee being required for each place in which the applicant is to do business, as follows:

(1) If the applicant is a manufacturer—

(A) of destructive devices, ammunition for destructive devices or armor piercing ammunition, a fee of \$1,000 per year;

(B) of firearms other than destructive devices, a fee of \$50 per year; or

(C) of ammunition for firearms, other than ammunition for destructive devices or armor piercing ammunition, a fee of \$10 per year.

(2) If the applicant is an importer—

(A) of destructive devices, ammunition for destructive devices or armor piercing ammunition, a fee of \$1,000 per year, or

(B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, or ammunition other than armor piercing ammunition, a fee of \$50 per year.

(3) If the applicant is a dealer—

(A) in destructive devices or ammunition for destructive devices, a fee of \$1,000 per year;

(B) who is a pawnbroker dealing in firearms other than destructive devices a fee of \$25 per year; or

(C) who is not a dealer in destructive devices or a pawnbroker, a fee of \$10 per year.

(b) Any person desiring to be licensed as a collector shall file an application for such license with the Secretary. The application shall be in such form and contain only that information necessary to determine eligibility as the Secretary shall by regulation prescribe. The fee for such license shall be \$10 per year. Any license granted under this subsection shall only apply to transactions in curios and relics.

(c) Upon the filing of a proper application and payment of the prescribed fee, the Secretary shall issue to a qualified applicant the appropriate license which, subject to the provisions of this chapter and other applicable provisions of law, shall entitle the licensee to transport, ship, and receive firearms and ammunition covered by such license in interstate or foreign commerce during the period stated in the license. Nothing in this chapter shall be construed to prohibit a licensed manufacturer, importer, or dealer from maintaining and disposing of a personal collection of firearms, subject only to such restrictions as apply in this chapter to dispositions by a person other than a licensed manufacturer,

importer, or dealer. If any firearm is so disposed of by a licensee within one year after its transfer from his business inventory into such licensee's personal collection or if such disposition or any other acquisition is made for the purpose of willfully evading the restrictions placed upon licensees by this chapter, then such firearm shall be deemed part of such licensee's business inventory, except that any licensed manufacturer, importer, or dealer who has maintained a firearm as part of a personal collection for one year and who sells or otherwise disposes of such firearm shall record the description of the firearm in a bound volume, containing the name and place of residence and date of birth of the transferee if the transferee is an individual, or the identity and principal and local places of business of the transferee if the transferee is a corporation or other business entity:

**Provided**, That no other recordkeeping shall be required.

(d)(1) Any application submitted under subsection (a) or (b) of this section shall be approved if—

(A) the applicant is twenty-one years of age or over;

(B) the applicant (including, in the case of a corporation, partnership, or association, 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) is not prohibited from transporting, shipping, or receiving firearms or ammunition in interstate or foreign commerce under section 922(g) and (h) of this chapter;

(C) the applicant has not willfully violated any of the provisions of this chapter or regulations issued thereunder;

(D) the applicant has not willfully failed to disclose any material information required, or has not made any false statement as to any material fact, in connection with his application; and

(E) the applicant has in a State (i) premises from which he conducts business subject to license under this chapter or from which he intends to conduct such business within a reasonable period of time, or (ii) in the case of a collector, premises from which he conducts his collecting subject to license under this chapter or from which he intends to conduct such collecting within a reasonable period of time.

(2) The Secretary must approve or deny an application for a license within the forty-five-day period beginning on the date it is received. If the Secretary fails to act within such period, the applicant may file an action under section 1361 of title 28 to compel the Secretary to act. If the Secretary approves an applicant's application, such applicant shall be issued a license upon the payment of the prescribed fee.

(e) The Secretary may, after notice and opportunity for hearing, revoke any license issued under this section if the holder of such license has willfully violated any provision of this chapter or any rule or regulation pre-

scribed by the Secretary under this chapter. The Secretary may, after notice and opportunity for hearing, revoke the license of a dealer who willfully transfers armor piercing ammunition. The Secretary's action under this subsection may be reviewed only as provided in subsection (f) of this section.

(f)(1) Any person whose application for a license is denied and any holder of a license which is revoked shall receive a written notice from the Secretary stating specifically the grounds upon which the application was denied or upon which the license was revoked. Any notice of a revocation of a license shall be given to the holder of such license before the effective date of the revocation.

(2) If the Secretary denies an application for, or revokes, a license, he shall, upon request by the aggrieved party, promptly hold a hearing to review his denial or revocation. In the case of a revocation of a license, the Secretary shall upon the request of the holder of the license stay the effective date of the revocation. A hearing held under this paragraph shall be held at a location convenient to the aggrieved party.

(3) If after a hearing held under paragraph (2) the Secretary decides not to reverse his decision to deny an application or revoke a license, the Secretary shall give notice of his decision to the aggrieved party. The aggrieved party may at any time within sixty days after the date notice was given under this paragraph file a petition with the United States district court for the district in which he resides or has his principal place of business for a de novo judicial review of such denial or revocation. In a proceeding conducted under this subsection, the court may consider any evidence submitted by the parties to the proceeding whether or not such evidence was considered at the hearing held under paragraph (2). If the court decides that the Secretary was not authorized to deny the application or to revoke the license, the court shall order the Secretary to take such action as may be necessary to comply with the judgment of the court.

(4) If criminal proceedings are instituted against a licensee alleging any violation of this chapter or of rules or regulations prescribed under this chapter, and the licensee is acquitted of such charges, or such proceedings are terminated, other than upon motion of the Government before trial upon such charges, the Secretary shall be absolutely barred from denying or revoking any license granted under this chapter where such denial or revocation is based in whole or in part on the facts which form the basis of such criminal charges. No proceedings for the revocation of a license shall be instituted by the Secretary more than one year after the filing of the indictment or information.

(g)(1)(A) Each licensed importer, licensed manufacturer, and licensed dealer shall maintain such records of importation, production, shipment, receipt, sale, or other disposition of firearms at his place of business for such period, and in such form as the Secretary may by regulations prescribe. Such importers, manufacturers, and dealers shall

not be required to submit to the Secretary reports and information with respect to such records and the contents thereof, except as expressly required by this section. The Secretary, when he has reasonable cause to believe a violation of this chapter has occurred and that evidence thereof may be found on such premises, may, upon demonstrating such cause before a Federal magistrate and securing from such magistrate a warrant authorizing entry, enter during business hours the premises (including places of storage) of any licensed firearms importer, licensed manufacturer, licensed dealer, licensed collector, or any licensed importer or manufacturer of ammunition, for the purpose of inspecting or examining—

(i) any records or documents required to be kept by such licensed importer, licensed manufacturer, licensed dealer, or licensed collector under this chapter or rules or regulations under this chapter, and

(ii) any firearms or ammunition kept or stored by such licensed importer, licensed manufacturer, licensed dealer, or licensed collector, at such premises.

(B) The Secretary may inspect or examine the inventory and records of a licensed importer, licensed manufacturer, or licensed dealer without such reasonable cause or warrant—

(i) in the course of a reasonable inquiry during the course of a criminal investigation of a person or persons other than the licensee;

(ii) for ensuring compliance with the record keeping requirements of this chapter not more than once during any twelve-month period; or

(iii) when such inspection or examination may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation.

(C) The Secretary may inspect the inventory and records of a licensed collector without such reasonable cause or warrant—

(i) for ensuring compliance with the record keeping requirements of this chapter not more than once during any twelve-month period; or

(ii) when such inspection or examination may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation.

(D) At the election of a licensed collector, the annual inspection of records and inventory permitted under this paragraph shall be performed at the office of the Secretary designated for such inspections which is located in closest proximity to the premises where the inventory and records of such licensed collector are maintained. The inspection and examination authorized by this paragraph shall not be construed as authorizing the Secretary to seize any records or other documents

other than those records or documents constituting material evidence of a violation of law. If the Secretary seizes such records or documents, copies shall be provided the licensee within a reasonable time. The Secretary may make available to any Federal, State, or local law enforcement agency any information which he may obtain by reason of this chapter with respect to the identification of persons prohibited from purchasing or receiving firearms or ammunition who have purchased or received firearms or ammunition, together with a description of such firearms or ammunition, and he may provide information to the extent such information may be contained in the records required to be maintained by this chapter, when so requested by any Federal, State, or local law enforcement agency.

(2) Each licensed collector shall maintain in a bound volume the nature of which the Secretary may by regulations prescribe, records of the receipt, sale, or other disposition of firearms. Such records shall include the name and address of any person to whom the collector sells or otherwise disposes of a firearm. Such collector shall not be required to submit to the Secretary reports and information with respect to such records and the contents thereof, except as expressly required by this section.

(3) Each licensee shall prepare a report of multiple sales or other dispositions whenever the licensee sells or otherwise disposes of, at one time or during any five consecutive business days, two or more pistols, or revolvers, or any combination of pistols and revolvers totalling two or more, to an unlicensed person. The report shall be prepared on a form specified by the Secretary and forwarded to the office specified thereon not later than the close of business on the day that the multiple sale or other disposition occurs.

(4) Where a firearms or ammunition business is discontinued and succeeded by a new licensee, the records required to be kept by this chapter shall appropriately reflect such facts and shall be delivered to the successor. Where discontinuance of the business is absolute, such records shall be delivered within thirty days after the business discontinuance to the Secretary. However, where State law or local ordinance requires the delivery of records to other responsible authority, the Secretary may arrange for the delivery of such records to such other responsible authority.

(5)(A) Each licensee shall, when required by letter issued by the Secretary, and until notified to the contrary in writing by the Secretary, submit on a form specified by the Secretary, for periods and at the times specified in such letter, all record information required to be kept by this chapter or such lesser record information as the Secretary in such letter may specify.

(B) The Secretary may authorize such record information to be submitted in a manner other than that prescribed in subparagraph (A) of this paragraph when it is shown by a licensee that an alternate



method of reporting is reasonably necessary and will not unduly hinder the effective administration of this chapter. A licensee may use an alternate method of reporting if the licensee describes the proposed alternate method of reporting and the need therefor in a letter application submitted to the Secretary, and the Secretary approves such alternate method of reporting.

(h) Licenses issued under the provisions of subsection (c) of this section shall be kept posted and kept available for inspection on the premises covered by the license.

(i) Licensed importers and licensed manufacturers shall identify, by means of a serial number engraved or cast on the receiver or frame of the weapon, in such manner as the Secretary shall by regulations prescribe, each firearm imported or manufactured by such importer or manufacturer.

(j) A licensed importer, licensed manufacturer, or licensed dealer may, under rules or regulations prescribed by the Secretary, conduct business temporarily at a location other than the location specified on the license if such temporary location is the location for a gun show or event sponsored by any national, State, or local organization, or any affiliate of any such organization devoted to the collection, competitive use, or other sporting use of firearms in the community, and such location is in the State which is specified on the license. Records of receipt and disposition of firearms transactions conducted at such temporary location shall include the location of the sale or other disposition and shall be entered in the permanent records of the licensee and retained on the location specified on the license. Nothing in this subsection shall authorize any licensee to conduct business in or from any motorized or towed vehicle. Notwithstanding the provisions of subsection (a) of this section, a separate fee shall not be required of a licensee with respect to business conducted under this subsection. Any inspection or examination of inventory or records under this chapter by the Secretary at such temporary location shall be limited to inventory consisting of, or records relating to, firearms held or disposed at such temporary location. Nothing in this subsection shall be construed to authorize the Secretary to inspect or examine the inventory or records of a licensed importer, licensed manufacturer, or licensed dealer at any location other than the location specified on the license. Nothing in this subsection shall be construed to diminish in any manner any right to display, sell, or otherwise dispose of firearms or ammunition, which is in effect before the date of the enactment of the Firearms Owners' Protection Act.

(k) Licensed importers and licensed manufacturers shall mark all armor piercing projectiles and packages containing such projectiles for distribution in the manner prescribed by the Secretary by regulation. The Secretary shall furnish information to each dealer licensed under this chapter defining which projectiles are considered armor piercing ammunition as defined in section 921(a)(17)(B).

(Added Pub.L. 90-351, Title IV, § 902, June 19, 1968, 82 Stat. 231, and amended Pub.L. 90-618, Title I, § 102, Oct. 22, 1968, 82 Stat. 1221; Pub.L. 97-377, Title I, § 165(b), Dec. 21, 1982, 96 Stat. 1923; Pub.L. 99-308, § 103, May 19, 1986, 100 Stat. 453; Pub.L. 99-360, § 1(c), July 8, 1986, 100 Stat. 766; Pub.L. 99-408, §§ 3-7, Aug. 28, 1986, 100 Stat. 921.)

#### § 924. Penalties

(a)(1) Except as otherwise provided in paragraph (2) of this subsection, subsection (b) or (c) of this section, or in section 929, whoever—

(A) knowingly makes any false statement or representation with respect to the information required by this chapter to be kept in the records of a person licensed under this chapter or in applying for any license or exemption or relief from disability under the provisions of this chapter;

(B) knowingly violates subsection (a)(4), (a)(6), (f), (g), (i), (j), or (k) of section 922;

(C) knowingly imports or brings into the United States or any possession thereof any firearm or ammunition in violation of section 922(i); or

(D) willfully violates any other provision of this chapter,

shall be fined not more than \$5,000, imprisoned not more than five years, or both, and shall become eligible for parole as the Parole Commission shall determine.

(2) Any licensed dealer, licensed importer, licensed manufacturer, or licensed collector who knowingly—

(A) makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter, or

(B) violates subsection (m) of section 922,

shall be fined not more than \$1,000, imprisoned not more than one year, or both, and shall become eligible for parole as the Parole Commission shall determine.

(b) Whoever, with intent to commit therewith an offense punishable by imprisonment for a term exceeding one year, or with knowledge or reasonable cause to believe that an offense punishable by imprisonment for a term exceeding one year is to be committed therewith, ships, transports, or receives a firearm or any ammunition in interstate or foreign commerce shall be fined not more than \$10,000, or imprisoned not more than ten years, or both.

(c)(1) Whoever, during and in relation to any crime of violence or drug trafficking crime, including a crime of violence or drug trafficking crime, which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device, for which he may be prosecuted in a court of the United States, uses or carries a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for five years, and if the firearm is a machinegun, or is equipped with a firearm silencer or firearm muffler, to imprisonment for ten years. In the case of his second or subsequent conviction under this subsection, such person shall be

sentenced to imprisonment for ten years, and if the firearm is a machinegun, or is equipped with a firearm silencer or firearm muffler, to imprisonment for twenty years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime, or drug trafficking crime in which the firearm was used or carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.

(2) For purposes of this subsection, the term "drug trafficking crime" means any felony violation of Federal law involving the distribution, manufacture, or importation of any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

(3) For purposes of this subsection the term "crime of violence" means an offense that is a felony and—

(A) has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or

(B) that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(d)(1) Any firearm or ammunition involved in or used in any knowing violation of subsection (a)(4), (a)(6), (f), (g), (h), (i), (j), or (k) of section 922, or knowing importation or bringing into the United States or any possession thereof any firearm or ammunition in violation of section 922(i), or knowing violation of section 924, or willful violation of any other provision of this chapter or any rule or regulation promulgated thereunder, or any violation of any other criminal law of the United States, or any firearm or ammunition intended to be used in any offense referred to in paragraph (3) of this subsection, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter:

Provided, That upon acquittal of the owner or possessor, or dismissal of the charges against him other than upon motion of the Government prior to trial, the seized firearms or ammunition shall be returned forthwith to the owner or possessor or to a person delegated by the owner or possessor unless the return of the firearms or ammunition would place the owner or possessor or his delegate in violation of law. Any action or proceeding for the forfeiture of firearms or ammunition shall be commenced within one hundred and twenty days of such seizure.

(2)(A) In any action or proceeding for the return of firearms or ammunition seized under the provisions of this chapter, the court shall allow the prevailing party, other than the United States, a reasonable attorney's fee, and the United States shall be liable therefor.

(B) In any other action or proceeding under the provisions of this chapter, the court, when it finds that such action was without foundation, or was initiated vexatiously, frivolously, or in bad faith, shall allow the prevailing party, other than the United States, a reasonable attorney's fee, and the United States shall be liable therefor.

(C) Only those firearms or quantities of ammunition particularly named and individually identified as involved in or used in any violation of the provisions of this chapter or any rule or regulation issued thereunder, or any other criminal law of the United States or as intended to be used in any offense referred to in paragraph (3) of this subsection, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure, forfeiture, and disposition.

(D) The United States shall be liable for attorneys' fees under this paragraph only to the extent provided in advance by appropriation Acts.

(3) The offenses referred to in paragraphs (1) and (2)(C) of this subsection are—

(A) any crime of violence, as that term is defined in section 924(c)(3) of this title;

(B) any offense punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.);

(C) any offense described in section 922(a)(1), 922(a)(3), 922(a)(5), or 922(b)(3) of this title, where the firearm or ammunition intended to be used in any such offense is involved in a pattern of activities which includes a violation of any offense described in section 922(a)(1), 922(a)(3), 922(a)(5), or 922(b)(3) of this title;

(D) any offense described in section 922(d) of this title where the firearm or ammunition is intended to be used in such offense by the transferor of such firearm or ammunition;

(E) any offense described in section 922(j), 922(k), 922(l), 922(n), or 924(b) of this title; and

(F) any offense which may be prosecuted in a court of the United States which involves the exportation of firearms or ammunition.

(e)(1) In the case of a person who violates section 922(g) of this title and has three previous convictions by any court referred to in section 922(g)(1) of this title for a violent felony or a serious drug offense, or both, such person shall be fined not more than \$25,000 and imprisoned not less than fifteen years, and, notwithstanding any other provision of law, the court shall not suspend the sentence

of, or grant a probationary sentence to, such person with respect to the conviction under section 922(g), and such person shall not be eligible for parole with respect to the sentence imposed under this subsection.

(2) As used in this subsection—

(A) the term "serious drug offense" means—

(i) an offense under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the first section or section 3 of Public Law 96-350 (21 U.S.C. 955a et seq.), for which a maximum term of imprisonment of ten years or more is prescribed by law; or

(ii) an offense under State law, involving manufacturing, distributing, or possessing with intent to manufacture or distribute, a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), for which a maximum term of imprisonment of ten years or more is prescribed by law; and

(B) the term "violent felony" means any crime punishable by imprisonment for a term exceeding one year that—

(i) has as an element the use, attempted use, or threatened use of physical force against the person of another; or

(ii) is burglary, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another.

(Added Pub.L. 90-351, Title IV, § 902, June 19, 1968, 82 Stat. 233, and amended Pub.L. 90-618, Title I, § 102, Oct. 22, 1968, 82 Stat. 1223; Pub.L. 91-644, Title II, § 13, Jan. 2, 1971, 84 Stat. 1889; Pub.L. 98-473, Title II, § 1005(a), Oct. 12, 1984, 98 Stat. 2138; Pub.L. 99-308, § 104(a), May 19, 1986, 100 Stat. 456; Pub.L. 99-570, Title I, § 1402, Oct. 27, 1986, 100 Stat. 3207.)

#### § 925. Exceptions: Relief from disabilities

(a)(1) The provisions of this chapter shall not apply with respect to the transportation, shipment, receipt, or importation of any firearm or ammunition imported for, sold or shipped to, or issued for the use of, the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof.

(2) The provisions of this chapter shall not apply with respect to

(A) the shipment or receipt of firearms or ammunition when sold or issued by the Secretary of the Army pursuant to section 4308 of title 10, and

(B) the transportation of any such firearm or ammunition carried out to enable a person, who lawfully received such firearm or ammunition from the Secretary of the Army, to engage in military training or in competitions.

(3) Unless otherwise prohibited by this chapter or any other Federal law, a licensed importer, licensed manufacturer, or licensed dealer may ship to a member of the United States Armed Forces on active duty outside the United States or to clubs, recognized by

the Department of Defense, whose entire membership is composed of such members, and such members or clubs may receive a firearm or ammunition determined by the Secretary of the Treasury to be generally recognized as particularly suitable for sporting purposes and intended for the personal use of such member or club.

(4) was established to the satisfaction of the Secretary to be consistent with the provisions of this chapter and other applicable Federal and State laws and published ordinances, the Secretary may authorize the transportation, shipment, receipt, or importation into the United States to the place of residence of any member of the United States Armed Forces who is on active duty outside the United States (or who has been on active duty outside the United States within the sixty day period immediately preceding the transportation, shipment, receipt, or importation), of any firearm or ammunition which is

(A) determined by the Secretary to be generally recognized as particularly suitable for sporting purposes, or determined by the Department of Defense to be a type of firearm normally classified as a war souvenir, and

(B) intended for the personal use of such member.

(5) For the purpose of paragraphs (3) and (4) of this subsection, the term "United States" means each of the several States and the District of Columbia.

(b) A licensed importer, licensed manufacturer, licensed dealer, or licensed collector who is indicted for a crime punishable by imprisonment for a term exceeding one year, may, notwithstanding any other provision of this chapter, continue operation pursuant to his existing license (if prior to the expiration of the term of the existing license timely application is made for a new license) during the term of such indictment and until any conviction pursuant to the indictment becomes final.

(c) A person who is prohibited from possessing, shipping, transporting, or receiving firearms or ammunition may make application to the Secretary for relief from the disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, transportation, or possession of firearms, and the Secretary may grant such relief if it is established to his satisfaction that the circumstances regarding the conviction, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest. Any person whose application for relief from disabilities is denied by the Secretary may file a petition with the United States district court for the district in which he resides for a judicial review of such denial. The court may in its discretion admit additional evidence where failure to do so would result in a miscarriage of justice. A licensed importer, licensed manufacturer, licensed dealer, or licensed collector conducting operations under this chapter, who makes application for relief from the disabilities in-

curred under this chapter by reason of such a conviction, shall not be barred by such conviction from further operations under his license pending final action on an application for relief filed pursuant to this section. Whenever the Secretary grants relief to any person pursuant to this section he shall promptly publish in the FEDERAL REGISTER notice of such action, together with the reasons therefor.

(d) The Secretary shall authorize a firearm or ammunition to be imported or brought into the United States or any possession thereof if the firearm or ammunition—

(1) is being imported or brought in for scientific or research purposes, or is for use in connection with competition or training pursuant to chapter 401 of title 10;

(2) is an unserviceable firearm, other than a machinegun as defined in section 5845(b) of the Internal Revenue Code of 1954 (not readily restorable to firing condition), imported or brought in as a curio or museum piece;

(3) is of a type that does not fall within the definition of a firearm as defined in section 5845(a) of the Internal Revenue Code of 1954 and is generally recognized as particularly suitable for or readily adaptable to sporting purposes, excluding surplus military firearms, except in any case where the Secretary has not authorized the importation of the firearm pursuant to this paragraph, it shall be unlawful to import any frame, receiver, or barrel of such firearm which would be prohibited if assembled; or

(4) was previously taken out of the United States or a possession by the person who is bringing in the firearm or ammunition.

The Secretary shall permit the conditional importation or bringing in of a firearm or ammunition for examination and testing in connection with the making of a determination as to whether the importation or bringing in of such firearm or ammunition will be allowed under this subsection.

(e) Notwithstanding any other provision of this title, the Secretary shall authorize the importation of, by any licensed importer, the following:

(1) All rifles and shotguns listed as curios or relics by the Secretary pursuant to section 921(a)(13), and

(2) All handguns, listed as curios or relics by the Secretary pursuant to section 921(a)(13), provided that such handguns are generally recognized as particularly suitable for or readily adaptable to sporting purposes.

(Added Pub.L. 90-351, Title IV, § 902, June 19, 1968, 82 Stat. 234, and amended Pub.L. 90-618, Title I, § 102, Oct. 22, 1968, 82 Stat. 1224; Pub.L. 98-573, Title II, § 233, Oct. 30, 1984, 98 Stat. 2991; Pub.L. 99-308, § 105, May 19, 1986, 100 Stat. 459.)

#### § 926. Rules and regulations

(a) The Secretary may prescribe only such rules and regulations as are necessary to carry out the provisions of this chapter, including—

(1) regulations providing that a person licensed under this chapter, when dealing with another person so licensed, shall provide such other licensed person a certified copy of this license; and

(2) regulations providing for the issuance, at a reasonable cost, to a person licensed under this chapter, of certified copies of his license for use as provided under regulations issued under paragraph (1) of this subsection.

No such rule or regulation prescribed after the date of the enactment of the Firearms Owners' Protection Act may require that records required to be maintained under this chapter or any portion of the contents of such records, be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or any political subdivision thereof, nor that any system of registration of firearms, firearms owners, or firearms transactions or dispositions be established. Nothing in this section expands or restricts the Secretary's authority to inquire into the disposition of any firearm in the course of a criminal investigation.

(b) The Secretary shall give not less than ninety days public notice, and shall afford interested parties opportunity for hearing, before prescribing such rules and regulations.

(c) The Secretary shall not prescribe rules or regulations that require purchasers of black powder under the exemption provided in section 845(a)(5) of this title to complete affidavits or forms attesting to that exemption.

(Added Pub.L. 90-351, Title IV, § 902, June 19, 1968, 82 Stat. 234, and amended Pub.L. 90-618, Title I, § 102, Oct. 22, 1968, 82 Stat. 1226; Pub.L. 99-308, § 106, May 19, 1986, 100 Stat. 459.)

#### § 926A. Interstate transportation of firearms

Notwithstanding any other provision of any law or any rule or regulation of a State or any political subdivision thereof, any person who is not otherwise prohibited by this chapter from transporting, shipping, or receiving a firearm shall be entitled to transport a firearm for any lawful purpose from any place where he may lawfully possess and carry such firearm to any other place where he may lawfully possess and carry such firearm if, during such transportation the firearm is unloaded, and neither the firearm nor any ammunition being transported is readily accessible or is directly accessible from the passenger compartment of such transporting vehicle:

Provided, That in the case of a vehicle without a compartment separate from the driver's compartment the firearm or ammunition shall be contained in a locked container other than the glove compartment or console.

(Added Pub.L. 99-360, § 1(a), July 8, 1986, 100 Stat. 766.)

#### § 927. Effect on State law

No provision of this chapter shall be construed as indicating an intent on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of any State on the same subject matter, unless there is a direct and positive conflict between such provision and the law of the State so that the two cannot be reconciled or consistently stand together.

(Added Pub.L. 90-351, Title IV, § 902, June 19, 1968, 82 Stat. 234, and amended Pub.L. 90-618, Title I, § 102, Oct. 22, 1968, 82 Stat. 1226.)

#### § 928. Separability

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

(Added Pub.L. 90-351, Title IV, § 902, June 19, 1968, 82 Stat. 234, and amended Pub.L. 90-618, Title I, § 102, Oct. 22, 1968, 82 Stat. 1226.)

#### § 929. Use of restricted ammunition

(a)(1) Whoever, during and in relation to the commission of a crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which he may be prosecuted in a court of the United States, uses or carries a firearm and is in possession of armor piercing ammunition capable of being fired in that firearm, shall, in addition to the punishment provided for the commission of such crime of violence or drug trafficking crime, be sentenced to a term of imprisonment for not less than five years.

(2) For purposes of this subsection, the term "drug trafficking crime" means any felony violation of Federal law involving the distribution, manufacture, or importation of any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

(b) Notwithstanding any other provision of law, the court shall not suspend the sentence of any person convicted of a violation of this section, nor place the person on probation, nor shall the terms of imprisonment run concurrently with any other terms of imprisonment, including that imposed for the crime in which the armor piercing ammunition was used or possessed. No person sentenced under this section shall be eligible for parole during the term of imprisonment imposed herein.

(Added Pub.L. 98-473, Title II, § 1006(a), Oct. 12, 1984, 98 Stat. 2139; and amended Pub.L. 99-308, § 108, May 19, 1986, 100 Stat. 460; Pub.L. 99-408, § 8, Aug. 28, 1986, 100 Stat. 921.)

#### FOOTNOTES

PUBLIC LAW 99-618, APPROVED OCTOBER 22, 1986:

SEC. 101. PURPOSE. [Set out following "TITLE I—STATE FIREARMS CONTROL ASSISTANCE" within chapter 44 of title 18, U.S.C.]

SEC. 103. The administration and enforcement of the amendment made by this title shall be vested in the Secretary of the Treasury.

SEC. 104. Nothing in this title or the amendment made thereby shall be construed as modifying or affecting any provision of—

(a) the National Firearms Act (chapter 53 of the Internal Revenue Code of 1954);<sup>1</sup>

(b) section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934) as amended,<sup>2</sup> relating to munitions control; or

(c) section 1715 of title 18, United States Code, relating to nonmailable firearms.

<sup>1</sup> Now referred to as the Internal Revenue Code of 1986.

<sup>2</sup> Superseded by section 38 of the Arms Export Control Act of 1976, as amended (22 § U.S.C. 2778).

PUBLIC LAW 99-308, APPROVED MAY 19, 1986:

SEC. 1 SHORT TITLE AND CONGRESSIONAL FINDINGS—



(a) **SHORT TITLE.** [Seen immediately following text of 1968 Congressional PURPOSE within chapter 44 of title 18, U.S.C.]

(b) **CONGRESSIONAL FINDINGS.**—The Congress finds that—

(1) the rights of citizens—

(A) to keep and bear arms under the second amendment to the United States Constitution;

(B) to security against illegal and unreasonable searches and seizures under the fourth amendment;

(C) against uncompensated taking of property, double jeopardy, and assurance of due process of law under the fifth amendment; and

(D) against unconstitutional exercise of authority under the ninth and tenth amendments;

require additional legislation to correct existing firearms statutes and enforcement policies; and

(2) additional legislation is required to reaffirm the intent of the Congress, as expressed in section 101 of the Gun Control Act of 1968, that "it is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trapshooting, target shooting, personal protection or any other lawful activity, and that this title is not intended to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes."

**SEC. 109. AMENDMENT OF THE NATIONAL FIREARMS ACT.**

(a) Machinegun definition in § 5845(b) of the National Firearms Act [26 U.S.C. § 5845(b)] is amended; and

(b) **CONFORMING AMENDMENT.**—[Cross reference: § 5845(a)(7) of the National Firearms Act [26

U.S.C. § 5845(a)(7)] refers back to § 921 of title 18, U.S.C. to amend definition of "silencer.")

**SEC. 110. EFFECTIVE DATE.**

(a) **IN GENERAL.**—The amendments made by this Act [amending §§ 921, 922, 923, 924, 926, and 929 of 18 U.S.C., and § 5845 of 26 U.S.C.; and, repealing Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, §§ 1201–1203 of 18 U.S.C., Appendix] shall become effective 180 days after the date of the enactment of this Act. Upon their becoming effective, the Secretary shall publish and provide to all licensees a compilation of the State laws and published ordinances of which licensees are presumed to have knowledge pursuant to chapter 44 of title 18, United States Code, as amended by this Act. All amendments to such State laws and published ordinances as contained in the aforementioned compilation shall be published in the Federal Register, revised annually, and furnished to each person licensed under chapter 44 of title 18, United States Code, as amended by this Act.

(b) **PENDING ACTIONS, PETITIONS, AND APPELLATE PROCEEDINGS.**—The amendments made by sections 103(6)(B), 105, and 107 of this Act [see §§ 923(f)(4), 925(c), (d), and 926A, respectively] shall be applicable to any action, petition, or appellate proceeding pending on the date of the enactment of this Act.

(c) **MACHINEGUN PROHIBITION.**—Section 102(9) [see § 922(o)] shall take effect on the date of the enactment of this Act.

**PUBLIC LAW 99-360, APPROVED JULY 8, 1986:**

**SEC. 2.** This Act and the amendments [to §§ 923(c) and 926A] made by this Act, intended to amend the Firearms Owners' Protection Act [Public Law 99-308], shall become effective on the date on which the section they are intended to amend in such Firearms Owners' Protection Act becomes effective and shall apply to the amendments to title 18, United States Code, made by such Act.

**PUBLIC LAW 99-408, APPROVED AUGUST 28, 1986:**

**SEC. 9.** The amendments made by this Act [to §§ 921, 922, 923(e), (k), and 929] shall take effect on the date of the enactment of this Act, except that sections 3 [see § 923(a)(1)(A)], 4 [see § 923(a)(1)(C)], and 5 [see § 923(a)(2)(A), (B)] shall take effect on the first day of the first calendar month which begins more than 90 days after enactment of this Act.

**SEC. 10.** For purposes of section 921(a)(17)(B) of title 18, United States Code, as added by the first section of this Act, "handgun" means any firearm including a pistol or revolver designed to be fired by the use of a single hand. The term also includes any combination of parts from which a handgun can be assembled.

**PUBLIC LAW 99-514, APPROVED OCTOBER 22, 1986:**  
**SEC. 2 INTERNAL REVENUE CODE OF 1986.**

(a) **REDESIGNATION OF 1954 CODE.**—The Internal Revenue Title enacted August 16, 1954, as heretofore, hereby, or hereafter amended, may be cited as the "Internal Revenue Code of 1986".

(b) **REFERENCES IN LAWS, ETC.**—Except when inappropriate, any reference in any law, Executive order, or other document—

(1) to the Internal Revenue Code of 1954 shall include a reference to the Internal Revenue Code of 1986, and

(2) to the Internal Revenue Code of 1986 shall include a reference to the provisions of law formerly known as the Internal Revenue Code of 1954.

**PUBLIC LAW 99-570, APPROVED OCTOBER 27, 1986:**  
**ANTI-DRUG ABUSE ACT OF 1986** [chapter 13 of title 21, United States Code];

**SUBTITLE I—Armed Career Criminals**

**SEC. 1401. SHORT TITLE.** This subtitle may be cited as the "Career Criminals Amendment Act of 1986".

**SEC. 1402. EXPANSION OF PREDICATE OFFENSES FOR ARMED CAREER CRIMINAL PENALTIES.** [Amended §§ 924(e)(1) and 924(e)(2)(A), (B)]

## FEDERAL FIREARMS LAWS THE NATIONAL FIREARMS ACT

AS AMENDED BY:

Public Law No. 99-308, 100 Stat. 449, Approved May 19, 1986.

and

Public Law No. 99-100-203, 101 Stat. 1330, Approved December 22, 1987.

[References to the Internal Revenue Code of 1954 within this Act or amendments thereto refer to the Internal Revenue Code of 1986. (§2, Public Law 99-514, 100 Stat. 2085, October 22, 1986)]

## TITLE II—MACHINE GUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER FIREARMS

SEC. 201. Chapter 53 of the Internal Revenue Code of 1954 is amended to read as follows:

### "CHAPTER 53—MACHINE GUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER FIREARMS

"Subchapter A. Taxes.

"Subchapter B. General provisions and exemptions.

"Subchapter C. Prohibited acts.

"Subchapter D. Penalties and forfeitures.

### "Subchapter A—Taxes

"Part I. Special (occupational) taxes.

"Part II. Tax on transferring firearms.

"Part III. Tax on making firearms.

### "PART I—SPECIAL (OCCUPATIONAL) TAXES

"Sec. 5801. Tax.

"Sec. 5802. Registration of importers, manufacturers, and dealers.

### "SEC. 5801. TAX.

"(a) **GENERAL RULE.**—On first engaging in business and thereafter on or before July 1 of each year, every importer, manufacturer, and dealer in firearms shall pay a special

(occupational) tax for each place of business at the following rates:

"(1) Importers and manufacturers: \$1,000 a year or fraction thereof;

"(2) Dealers: \$500 a year or fraction thereof.

"(b) **REDUCED RATES OF TAX FOR SMALL IMPORTERS AND MANUFACTURERS.**—

"(1) **IN GENERAL.**—Paragraph (1) of subsection (a) shall be applied by substituting '\$500' for '\$1,000' with respect to any taxpayer the gross receipts of which (for the most recent taxable year ending before the 1st day of the taxable period to which the tax imposed by subsection (a) relates) are less than \$500,000.

"(2) **CONTROLLED GROUP RATES.**—All persons treated as 1 taxpayer under section 5061(e) (3) shall be treated as 1 taxpayer for purposes of paragraph (1).

"(3) **CERTAIN RULES TO APPLY.**—For purposes of paragraph (1), rules similar to the rules of subparagraphs (B) and (C) of section 448(c) (3) shall apply."

(Pub. L. 90-618, Title II, § 201, Oct. 22, 1968, 82 Stat. 1227; amended by Pub. L. 100-203, § 10512(g) (1), Dec. 22, 1987, effective 01/01/88.)

[Sec. 10512(h) (2) also provides:

(2) All taxpayers treated as commencing in business on January 1, 1988.

(A) In general.—Any person engaged on January 1, 1988, in any trade or business which is subject to an occupational tax shall be treated for purposes of such tax as having 1st engaged in such business on such date.

(B) Limitation on amount of tax.—In the case of a taxpayer who paid an occupational tax in respect of any premises for any taxable period which began before January 1, 1988, and includes such date, the amount of the occupational tax imposed by reason of subparagraph (A) in respect of such premises shall not exceed an amount equal to 1/2 the excess (if any) of—

(i) the rate of such tax as in effect on January 1, 1988, over

(ii) the rate of such tax as in effect on December 31, 1987.

(C) Occupational tax.—For purposes of this paragraph, the term 'occupational tax' means any tax imposed under part II of subchapter A of chapter 51, section 5276, section 5731, or section 5801 of the Internal Revenue Code of 1986 (as amended by this section).

(D) Due date of tax.—The amount of any tax required to be paid by reason of this paragraph shall be due on April 1, 1988.]

#### EDITOR'S NOTES:

1. A listing, with explanation, of the old and amended special occupational tax rates under the National Firearms Act can be seen in this publication immediately following § 179.26.

2. These rates have no impact upon either the NFA transfer tax rates, or upon Federal firearms license application fees.

#### "SEC. 5802. REGISTRATION OF IMPORTERS, MANUFACTURERS, AND DEALERS.

"On first engaging in business and thereafter on or before the first day of July of each year, each importer, manufacturer, and dealer in firearms shall register with the Secretary or his delegate in each internal revenue district in which such business is to be carried on, his name, including any trade name, and the address of each location in the district where he will conduct such business. Where there is a change during the taxable year in the location of, or the trade name used in, such business, the importer, manufacturer, or dealer shall file an application with the Secretary or his delegate to amend his registration. Firearms operations of an importer, manufacturer, or dealer may not be commenced at the new location or under a new trade name prior to approval by the Secretary or his delegate of the application.

#### "PART II—TAX ON TRANSFERRING FIREARMS

"Sec. 5811. Transfer tax.

"Sec. 5812. Transfers.

#### "SEC. 5811. TRANSFER TAX.

"(a) **RATE.**—There shall be levied, collected, and paid on firearms transferred a tax at the rate of \$200 for each firearm transferred, except, the transfer tax on any firearm classified as any other weapon under section 5845(e) shall be at the rate of \$5 for each such firearm transferred.

"(b) **BY WHOM PAID.**—The tax imposed by subsection (a) of this section shall be paid by the transferor.

"(c) **PAYMENT.**—The tax imposed by subsection (a) of this section shall be payable by the appropriate stamps prescribed for payment by the Secretary or his delegate.

#### "SEC. 5812. TRANSFERS.

"(a) **APPLICATION.**—A firearm shall not be transferred unless

(1) the transferor of the firearm has filed with the Secretary or his delegate a written application, in duplicate, for the transfer and registration of the firearm to the transferee on the application form prescribed by the Secretary or his delegate;

(2) any tax payable on the transfer is paid as evidenced by the proper stamp affixed to the original application form;

(3) the transferee is identified in the application form in such manner as the Secretary or his delegate may by regulations prescribe, except that, if such person is an individual, the identification must include his fingerprints and his photograph;

(4) the transferor of the firearm is identified in the application form in such manner as the Secretary or his delegate may by regulations prescribe;

(5) the firearm is identified in the application form in such manner as the Secretary or his delegate may by regulations prescribe; and

(6) the application form shows that the Secretary or his delegate has approved the transfer and the registration of the firearm to the transferee. Applications shall be denied if the transfer, receipt, or possession of the firearm would place the transferee in violation of law.

"(b) **TRANSFER OF POSSESSION.**—The transferee of a firearm shall not take possession of the firearm unless the Secretary or his delegate has approved the transfer and registration of the firearm to the transferee as required by subsection (a) of this section.

#### "PART III—TAX ON MAKING FIREARMS.

"Sec. 5821. Making tax.

"Sec. 5822. Making.

#### "SEC. 5821. MAKING TAX.

"(a) **RATE.**—There shall be levied, collected, and paid upon the making of a firearm a tax at the rate of \$200 for each firearm made.

"(b) **BY WHOM PAID.**—The tax imposed by subsection (a) of this section shall be paid by the person making the firearm.

"(c) **PAYMENT.**—The tax imposed by subsection (a) of this section shall be payable by the stamp prescribed for payment by the Secretary or his delegate.

#### "SEC. 5822. MAKING.

"No person shall make a firearm unless he has

(a) filed with the Secretary or his delegate a written application, in duplicate, to make and register the firearm on the form prescribed by the Secretary or his delegate;

(b) paid any tax payable on the making and such payment is evidenced by the proper stamp affixed to the original application form;

(c) identified the firearm to be made in the application form in such manner as the Secretary or his delegate may by regulations prescribe;

(d) identified himself in the application form in such manner as the Secretary or his delegate may by regulations prescribe, except that, if such person is an individual, the identification must include his fingerprints and his photograph; and

(e) obtained the approval of the Secretary or his delegate to make and register the firearm and the application form shows such approval. Applications shall be denied if the making or possession of the firearm would place the person making the firearm in violation of law.

#### "Subchapter B—General Provisions and Exemptions

"Part I. General provisions.

"Part II. Exemptions.

#### "PART I—GENERAL PROVISIONS

"Sec. 5841. Registration of firearms.

"Sec. 5842. Identification of firearms.

"Sec. 5843. Records and returns.

"Sec. 5844. Importation.

"Sec. 5845. Definitions.

"Sec. 5846. Other laws applicable.

"Sec. 5847. Effect on other law.

"Sec. 5848. Restrictive use of information.

"Sec. 5849. Citation of chapter.

#### "SEC. 5841. REGISTRATION OF FIREARMS.

"(a) **CENTRAL REGISTRY.**—The Secretary or his delegate shall maintain a central registry of all firearms in the United States which are not in the possession or under the control of the United States. This registry shall be known as the National Firearms Registration and Transfer Record. The registry shall include—

"(1) identification of the firearm;

"(2) date of registration; and

"(3) identification and address of person entitled to possession of the firearm.

"(b) **BY WHOM REGISTERED.**—Each manufacturer, importer, and maker shall register each firearm he manufactures, imports, or makes. Each firearm transferred shall be registered to the transferee by the transferor.

"(c) **HOW REGISTERED.**—Each manufacturer shall notify the Secretary or his delegate of the manufacture of a firearm in such

manner as may by regulations be prescribed and such notification shall effect the registration of the firearm required by this section. Each importer, maker, and transferor of a firearm shall, prior to importing, making, or transferring a firearm, obtain authorization in such manner as required by this chapter or regulations issued thereunder to import, make, or transfer the firearm, and such authorization shall effect the registration of the firearm required by this section.

**"(d) FIREARMS REGISTERED ON EFFECTIVE DATE OF THIS ACT.**—A person shown as possessing a firearm by the records maintained by the Secretary or his delegate pursuant to the National Firearms Act in force on the day immediately prior to the effective date of the National Firearms Act of 1968 shall be considered to have registered under this section the firearms in his possession which are disclosed by that record as being in his possession.

**"(e) PROOF OF REGISTRATION.**—A person possessing a firearm registered as required by this section shall retain proof of registration which shall be made available to the Secretary or his delegate upon request.

#### **"SEC. 5842. IDENTIFICATION OF FIREARMS.**

**"(a) IDENTIFICATION OF FIREARMS OTHER THAN DESTRUCTIVE DEVICES.**—Each manufacturer and importer and anyone making a firearm shall identify each firearm, other than a destructive device, manufactured, imported, or made by a serial number which may not be readily removed, obliterated, or altered, the name of the manufacturer, importer, or maker, and such other identification as the Secretary or his delegate may by regulations prescribe.

**"(b) FIREARMS WITHOUT SERIAL NUMBER.**—Any person who possesses a firearm, other than a destructive device, which does not bear the serial number and other information required by subsection (a) of this section shall identify the firearm with a serial number assigned by the Secretary or his delegate and any other information the Secretary or his delegate may by regulations prescribe.

**"(c) IDENTIFICATION OF DESTRUCTIVE DEVICE.**—Any firearm classified as a destructive device shall be identified in such manner as the Secretary or his delegate may by regulations prescribe.

#### **"SEC. 5843. RECORDS AND RETURNS.**

"Importers, manufacturers, and dealers shall keep such records of, and render such returns in relation to, the importation, manufacture, making, receipt, and sale, or other disposition, of firearms as the Secretary or his delegate may by regulations prescribe.

#### **"SEC. 5844. IMPORTATION.**

"No firearm shall be imported or brought into the United States or any territory under its control or jurisdiction unless the importer establishes, under regulations as may be prescribed by the Secretary or his delegate, that the firearm to be imported or brought in is—

"(1) being imported or brought in for the use of the United States or any department, independent establishment, or agency thereof or any State or possession or any political subdivision thereof; or

"(2) being imported or brought in for scientific or research purposes; or

"(3) being imported or brought in solely for testing or use as a model by a registered manufacturer or solely for use as a sample by a registered importer or registered dealer;

except that, the Secretary or his delegate may permit the conditional importation or bringing in of a firearm for examination and testing in connection with classifying the firearm.

#### **"SEC. 5845. DEFINITIONS.**

"For the purpose of this chapter—

**"(a) FIREARM.**—The term 'firearm' means

"(1) a shotgun having a barrel or barrels of less than 18 inches in length;

"(2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length;

"(3) a rifle having a barrel or barrels of less than 16 inches in length;

"(4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length;

"(5) any other weapon, as defined in subsection (e);

"(6) a machinegun;

"(7) any silencer (as defined in section 921 of title 18, United States Code); and

"(8) a destructive device.

The term 'firearm' shall not include an antique firearm or any device (other than a machinegun or destructive device) which, although designed as a weapon, the Secretary or his delegate finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon.

**"(b) MACHINEGUN.**—The term 'machinegun' means any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.

**"(c) RIFLE.**—The term 'rifle' means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed cartridge.

**"(d) SHOTGUN.**—The term 'shotgun' means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed shotgun shell.

**"(e) ANY OTHER WEAPON.**—The term 'any other weapon' means any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such term shall not include a pistol or a revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.

**"(f) DESTRUCTIVE DEVICE.**—The term 'destructive device' means

(1) any explosive, incendiary, or poison gas

(A) bomb,

(B) grenade,

(C) rocket having a propellant charge of more than four ounces,

(D) missile having an explosive or incendiary charge of more than one-quarter ounce,

(E) mine, or

(F) similar device;

(2) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half inch in diameter, except a shotgun or shotgun shell which the Secretary or his delegate finds is generally recognized as particularly suitable for sporting purposes; and

(3) any combination of parts either designed or intended for use in converting any device into a destructive device as defined in subparagraphs (1) and (2) and from which a destructive device may be readily assembled. The term 'destructive device' shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10 of the United States Code; or any other device which the Secretary of the Treasury or his delegate finds is not likely to be used as a weapon, or is an antique or is a rifle which the owner intends to use solely for sporting purposes.

"(g) **ANTIQUÉ FIREARM.**—The term 'antique firearm' means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

"(h) **UNSERVICEABLE FIREARM.**—The term 'unserviceable firearm' means a firearm which is incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition.

"(i) **MAKE.**—The term 'make', and the various derivatives of such word, shall include manufacturing (other than by one qualified to engage in such business under this chapter), putting together, altering, any combination of these, or otherwise producing a firearm.

"(j) **TRANSFER.**—The term 'transfer' and the various derivatives of such word, shall include selling, assigning, pledging, leasing, loaning, giving away, or otherwise disposing of.

"(k) **DEALER.**—The term 'dealer' means any person, not a manufacturer or importer, engaged in the business of selling, renting, leasing, or loaning firearms and shall include pawnbrokers who accept firearms as collateral for loans.

"(l) **IMPORTER.**—The term 'importer' means any person who is engaged in the business of importing or bringing firearms into the United States.

"(m) **MANUFACTURER.**—The term 'manufacturer' means any person who is engaged in the business of manufacturing firearms.

#### "SEC. 5846. OTHER LAWS APPLICABLE.

"All provisions of law relating to special taxes imposed by chapter 51 and to engraving, issuance, sale, accountability, cancellation, and distribution of stamps for tax payment shall, insofar as not inconsistent with the provisions of this chapter, be applicable with respect to the taxes imposed by sections 5801, 5811, and 5821.

#### "SEC. 5847. EFFECT ON OTHER LAWS.

"Nothing in this chapter shall be construed as modifying or affecting the requirements of section 414 of the Mutual Security Act of 1954, as amended, [now section 38 of the Arms Export Control Act of 1976, as amended], with respect to the manufacture, exportation, and importation of arms, ammunition, and implements of war.

#### "SEC. 5848. RESTRICTIVE USE OF INFORMATION.

"(a) **GENERAL RULE.**—No information or evidence obtained from an application, registration, or records required to be submitted or retained by a natural person in order to comply with any provision of this chapter or regulations issued thereunder, shall, except

as provided in subsection (b) of this section, be used, directly or indirectly, as evidence against that person in a criminal proceeding with respect to a violation of law occurring prior to or concurrently with the filing of the application or registration, or the compiling of the records containing the information or evidence.

"(b) **FURNISHING FALSE INFORMATION.**—Subsection (a) of this section shall not preclude the use of any such information or evidence in a prosecution or other action under any applicable provision of law with respect to the furnishing of false information.

#### "SEC. 5849. CITATION OF CHAPTER.

"This chapter may be cited as the 'National Firearms Act' and any reference in any other provision of law to the 'National Firearms Act' shall be held to refer to the provisions of this chapter.

### "PART II—EXEMPTIONS

"Sec. 5851. Special (occupational) tax exemption.

"Sec. 5852. General transfer and making exemption.

"Sec. 5853. Exemption from transfer and making tax available to certain governmental entities and officials.

"Sec. 5854. Exportation of firearms exempt from transfer tax.

#### "SEC. 5851. SPECIAL (OCCUPATIONAL) TAX EXEMPTION.

"(a) **BUSINESS WITH UNITED STATES.**—Any person required to pay special (occupational) tax under section 5801 shall be relieved from payment of that tax if he establishes to the satisfaction of the Secretary or his delegate that his business is conducted exclusively with, or on behalf of, the United States or any department, independent establishment, or agency thereof. The Secretary or his delegate may relieve any person manufacturing firearms for, or on behalf of, the United States from compliance with any provision of this chapter in the conduct of such business.

"(b) **APPLICATION.**—The exemption provided for in subsection (a) of this section may be obtained by filing with the Secretary or his delegate an application on such form and containing such information as may be regulations prescribed. The exemptions must thereafter be renewed on or before July 1 of each year. Approval of the application by the Secretary or his delegate shall entitle the applicant to the exemptions stated on the approved application.

#### "SEC. 5852. GENERAL TRANSFER AND MAKING TAX EXEMPTION.

"(a) **TRANSFER.**—Any firearm may be transferred to the United States or any department, independent establishment, or agency thereof, without payment of the transfer tax imposed by section 5811.

"(b) **MAKING BY A PERSON OTHER THAN A QUALIFIED MANUFACTURER.**—Any firearm may be made by, or on behalf of, the United States, or any department, independent establishment, or agency thereof, without payment of the making tax imposed by section 5821.

"(c) **MAKING BY A QUALIFIED MANUFACTURER.**—A manufacturer qualified under this chapter to engage in such business may make the type of firearm which he is qualified to manufacture without payment of the making tax imposed by section 5821.

"(d) **TRANSFERS BETWEEN SPECIAL (OCCUPATIONAL) TAXPAYERS.**—A firearm registered to a person qualified under this chapter to engage in business as an importer, manufacturer, or dealer may be transferred by that person without payment of the transfer tax imposed by section 5811 to any other person qualified under this chapter to manufacture, import, or deal in that type of firearm.

"(e) **UNSERVICEABLE FIREARM.**—An unserviceable firearm may be transferred as a curio or ornament without payment of the transfer tax imposed by section 5811, under such requirements as the Secretary or his delegate may by regulations prescribe.

"(f) **RIGHT TO EXEMPTION.**—No firearm may be transferred or made exempt from tax under the provisions of this section unless the transfer or making is performed pursuant to an application in such form and manner as the Secretary or his delegate may by regulations prescribe.

#### "SEC. 5853. TRANSFER AND MAKING TAX EXEMPTION AVAILABLE TO CERTAIN GOVERNMENTAL ENTITIES.

"(a) **TRANSFER.**—A firearm may be transferred without the payment of the transfer tax imposed by section 5811 to any State, possession of the United States, any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations.

"(b) **MAKING.**—A firearm may be made without payment of the making tax imposed by section 5821 by, or on behalf of, any State, or possession of the United States, any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations.

"(c) **RIGHT TO EXEMPTION.**—No firearm may be transferred or made exempt from tax under this section unless the transfer or making is performed pursuant to an application in such form and manner as the Secretary or his delegate may by regulations prescribe.

#### "SEC. 5854. EXPORTATION OF FIREARMS EXEMPT FROM TRANSFER TAX.

"A firearm may be exported without payment of the transfer tax imposed under section 5811 provided that proof of the exportation is furnished in such form and manner as the Secretary or his delegate may by regulations prescribe.

#### "Subchapter C—Prohibited Acts

#### "SEC. 5861. PROHIBITED ACTS.

"It shall be unlawful for any person—

"(a) to engage in business as a manufacturer or importer of, or dealer in, firearms without having paid the special (occupational) tax required by section 5801 for his business or having registered as required by section 5802; or

"(b) to receive or possess a firearm transferred to him in violation of the provisions of this chapter; or

"(c) to receive or possess a firearm made in violation of the provisions of this chapter; or

"(d) to receive or possess a firearm which is not registered to him in the National Firearms Registration and Transfer Record; or

"(e) to transfer a firearm in violation of the provisions of this chapter; or

"(f) to make a firearm in violation of the provisions of this chapter; or

"(g) to obliterate, remove, change, or after the serial number or other identification of a firearm required by this chapter; or

"(h) to receive or possess a firearm having the serial number or other identification required by this chapter obliterated, removed, changed, or altered; or

"(i) to receive or possess a firearm which is not identified by a serial number as required by this chapter; or

"(j) to transport, deliver, or receive any firearm in interstate commerce which has not been registered as required by this chapter; or

"(k) to receive or possess a firearm which has been imported or brought into the United States in violation of section 5844; or

"(l) to make, or cause the making of, a false entry on any application, return, or record required by this chapter, knowing such entry to be false.

#### "Subchapter D—Penalties and Forfeitures

"Sec. 5871. Penalties.

"Sec. 5872. Forfeitures.

#### "SEC. 5871. PENALTIES.

"Any person who violates or fails to comply with any provision of this chapter shall,

upon conviction, be fined not more than \$10,000, or be imprisoned not more than ten years, or both, and shall become eligible for parole as the Board of Parole shall determine.

#### "SEC. 5872. FORFEITURES.

"(a) **LAWS APPLICABLE.**—Any firearm involved in any violation of the provisions of this chapter shall be subject to seizure and forfeiture, and (except as provided in subsection (b)) all the provisions of internal revenue laws relating to searches, seizures, and forfeitures of unstamped articles are extended to and made to apply to the articles taxed under this chapter, and the persons to whom this chapter applies.

"(b) **DISPOSAL.**—In the case of the forfeiture of any firearm by reason of a violation of this chapter, no notice of public sale shall be required; no such firearm shall be sold at public sale; if such firearm is forfeited for a violation of this chapter and there is no remission or mitigation of forfeiture thereof, it shall be delivered by the Secretary or his delegate to the Administrator of General Services, General Services Administration, who may order such firearm destroyed or may sell it to any State, or possession, or political subdivision thereof, or at the request of the Secretary or his delegate, may authorize its retention for official use of the Treasury Department, or may transfer it without charge to any executive department or independent establishment of the Government for use by it."

#### FOOTNOTES

PUBLIC LAW 90-618, APPROVED OCTOBER 22, 1968:  
SEC. 202. The amendments made by section 201 of this title shall be cited as the "National Firearms Act Amendments of 1968."

\*\*\*

#### SEC. 207.

(a) Section 201 of this title shall take effect on the first day of the first month following the month in which is enacted.

(b) Notwithstanding the provisions of subsection (a) or any other provision of law, any person possessing a

firearm as defined in section 5845(a) of the Internal Revenue Code of 1954 (as amended by this title) which is not registered to him in the National Firearms Registration and Transfer Record shall register such firearm so possessed with the Secretary of the Treasury or his delegate in such form and manner as the Secretary or his delegate may require within the thirty days immediately following this effective date of section 201 of this Act. Such registration shall become a part of the National Firearms Registration and Transfer Record required to be maintained by section 5841 of the Internal Revenue Code of 1954 (as amended by this title). No information or evidence required to be submitted or retained by a natural person to register a firearm under this section shall be used, directly or indirectly, as evidence against such person in any criminal proceeding with respect to a prior or concurrent violation of law.

(c) The amendments made by section 202 \*\*\* of this title shall take effect on the day of enactment.

(d) The Secretary of the Treasury, after publication in the FEDERAL REGISTER of his intention to do so, is authorized to establish such periods of amnesty, not to exceed ninety days in the case of any single period, as the Secretary determines will contribute to the purposes of this title.

\* \* \* \* \*  
PUBLIC LAW 99-308, APPROVED MAY 19, 1986:

#### SEC. 109. AMENDMENT OF THE NATIONAL FIREARMS ACT.

(a) Machinegun definition in §5845(b) of the National Firearms Act [26 U.S.C. § 5845(b)] is amended; and

(b) CONFORMING AMENDMENT.—(Cross reference: § 5845(a)(7) of the National Firearms Act [26 U.S.C. § 5845(a)(7)] refers back to §921 of title 18, U.S.C. to amend definition of "silencer.")

\* \* \* \* \*  
PUBLIC LAW 100-203, APPROVED December 22, 1987:  
OMNIBUS BUDGET RECONCILIATION ACT OF 1987:

TITLE X. REVENUES.—Extension and increase in certain alcohol, tobacco and firearms occupational taxes.

10512(g), (h).—FIREARMS—Special Occupational Tax Imposed by 26 U.S.C. §5801: AMENDED. [Set out within the National Firearms Act, 26 U.S.C. §5801.]

\* \* \* \* \*  
[Historical Note: Except for the Importation provisions which went into effect on the date of enactment (October 22, 1968), Title I went into effect on December 16, 1968, and Title II became effective on November 1, 1968.]

## FEDERAL FIREARMS LAWS

### THE ARMS EXPORT CONTROL ACT OF 1976, SEC. 38, AS AMENDED

#### EDITOR'S NOTE:

With respect to the Arms Export Control Act of 1976 (22 U.S.C. 2778), only the importation provisions are administered by ATF.

#### § 2778. Control of arms exports and imports

(a) Presidential control of exports and imports of defense articles and services, guidance of policy, etc.; designation of United States Munitions List; Issuance of export licenses; condition for export; negotiations information.

(1) In furtherance of world peace and the security and foreign policy of the United States, the President is authorized to control the import and the export of defense articles and defense services and to provide foreign policy guidance to persons of the United States involved in the export and import of such articles and services. The President is authorized to designate those items which shall be considered as defense articles and defense services for the purposes of this section and to promulgate regulations for the import and export of such articles and services. The items so designated shall constitute the United States Munitions List.

(2) Decisions on issuing export licenses under this section shall be made in coordination with the Director of the United States Arms Control and Disarmament Agency and shall take into account the Director's opinion as to whether the export of an article will contribute to an arms race, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control arrangements.

(3) In exercising the authorities conferred by this section, the President may require that any defense article or defense service be sold under this Act as a condition of its eligibility for export, and may require that persons engaged in the negotiation for the

export of defense articles and services keep the President fully and currently informed of the progress and future prospects of such negotiations.

**(b) Registration and licensing requirements for manufacturers, exporters, or importers of designated articles and defense services; exceptions.**

**(1)(A)** As prescribed in regulations issued under this section, every person (other than an officer or employee of the United States Government acting in an official capacity) who engages in the business of manufacturing, exporting, or importing any defense articles or defense services designated by the President under subsection (a)(1) shall register with the United States agency charged with the administration of this section, and shall pay a registration fee which shall be prescribed by such regulations. Such regulations shall prohibit the return to the United States for sale in the United States (other than for the Armed Forces of the United States and its allies or for any State or local law enforcement agency) of any military firearms or ammunition of United States manufacture furnished to foreign government by the United States under this Act or any other foreign assistance or sales program of the United States, whether or not enhanced in value or improved in condition in a foreign country. This prohibition shall not extend to similar firearms that have been so substantially transformed as to become, in effect, articles of foreign manufacture.

**(B)** The prohibition under such regulations required by the second sentence of subparagraph (A) shall not extend to any military firearms (or ammunition, components, parts, accessories, and attachments for such firearms) of United States manufacture furnished to any foreign government by the United States under this Act or any other foreign assistance or sales program of the United States if—

(i) such firearms are among those firearms that the Secretary of the Treasury is, or was at any time, required to authorize the importation of by reason of the provisions of section 925(e) of title 18, United States Code (including the requirement for the listing of such firearms as curios or relics under section 921(a)(13) of that title); and

(ii) such foreign government certifies to the United States Government that such firearms are owned by such foreign government.

**[C]** (B) A copy of each registration made under this paragraph shall be transmitted to the Secretary of the Treasury for review regarding law enforcement concerns. The Secretary shall report to the President regarding such controls as necessary.

[NOTE: Acts of Dec. 22, 1987, Public Laws 100-202 and 100-204, added the foregoing as subparagraph (B).]

**(2)** Except as otherwise specifically provided in regulations issued under (a)(1), no defense articles or defense services designated by the President under subsection (a)(1) may be exported or imported without a license for

such export or import, issued in accordance with this Act and regulations issued under this Act, except that no license shall be required for exports or imports made by or for an agency of the United States Government

**(A)** for official use by a department or agency of the United States Government; or

**(B)** for carrying out any foreign assistance or sales program authorized by law and subject to the control of the President by other means.

**(3)(A)** For each of the fiscal years 1988 and 1989, \$250,000 of registration fees collected pursuant to paragraph (1) shall be credited to a Department of State account, to be available without fiscal year limitation. Fees credited to that account shall be available only for the payment of expenses incurred for—

(i) contract personnel to assist in the evaluation of munitions control license applications, reduce processing time for license applications, and improve monitoring of compliance with the terms of licenses; and

(ii) the automation of munitions control functions and the processing of munitions control license applications, including the development, procurement, and utilization of computer equipment and related software.

**(B)** The authority of this paragraph may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.

**(c) Criminal violations; punishment.** Any person who willfully violates any provision of this section or section 39 [22 USC § 2779], or any rule or regulation issued under either section, or who willfully, in a registration or license application or required report, makes any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading, shall upon conviction be fined for each violation not more than \$1,000,000 or imprisoned not more than ten years, or both.

**(d)** [Repealed]

**(e) Enforcement powers of President.** In carrying out functions under this section with respect to the export of defense articles and defense services, the President is authorized to exercise the same powers concerning violations and enforcement which are conferred upon departments, agencies and officials by subsections (c), (d), (e), and (g) of section 11 of the Export Administration Act of 1979 [50 USC Appx § 2410(c)-(e), (g)], and by subsections (a) and (c) of section 12 of such Act [50 USC Appx § 2411(a) and (c)], subject to the same terms and conditions as are applicable to such powers under such Act. Nothing in this subsection shall be construed as authorizing the withholding of information from the Congress. Notwithstanding section 11(c) of the Export Administration Act of 1979 [50 USC Appx § 2410], the civil penalty for each violation involving controls imposed on the export of defense articles and defense services under this section may not exceed \$500,000.

**(f) Periodic review of items on the munitions list.** The President shall periodically

review the items on the United States Munitions List to determine what items, if any, no longer warrant export controls under this section. The results of such reviews shall be reported to the Speaker of the House of Representatives and to the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate. Such a report shall be submitted at least 30 days before any item is removed from the Munitions List and shall describe the nature of any controls to be imposed on that item under the Export Administration Act of 1979.

(Oct. 22, 1968, P. L. 90-629, Ch 3, § 38, as added June 30, 1976, P. L. 94-329, Title II, § 212(a)(1), 90 Stat. 744; Aug. 4, 1977, P. L. 95-92, § 20, 91 Stat. 623; Sept. 27, 1979, P. L. 96-70, Title III, Ch 3, § 3303(a)(4), 93 Stat. 499; Sept. 29, 1979, P. L. 96-72, § 22(a), 93 Stat. 535; Oct. 29, 1979, P. L. 96-92, § 21, 93 Stat. 710; Dec. 16, 1980, P. L. 96-533, Title I, § 107(a), (c), 94 Stat. 3136; Dec. 29, 1981, P. L. 97-113, Title I, §§ 106, 107, 95 Stat. 1522; July 12, 1985, P. L. 99-64, Title I, § 123(a), 99 Stat. 156; Aug. 8, 1985, P. L. 99-83, Title I, § 119(a), (b), 99 Stat. 203; Dec. 22, 1987, P. L. 100-202, § 101(b) [Title VIII, § 8142(a)], 101 Stat. 1329-88; Dec. 22, 1987, P. L. 100-204, Title XII, § 1255, 101 Stat. 1429.)

[References to section 414 of the Mutual Security Act of 1954 to be deemed references to this section. Act June 30, 1976, P. L. 94-329, Title II, § 212(b)(1), 90 Stat. 745, provided: "Any reference to such section [section 414 of the Mutual Security Act of 1954, former 22 USC § 1934] shall be deemed to be a reference to section 38 of the Arms Export Control Act [this section] and any reference to licenses issued under section 38 of the Arms Export Control Act [this section] shall be deemed to include a reference to licenses issued under section 414 of the Mutual Security Act of 1954 [former 22 USC § 1934]."]

[Effective date of amendment made by Act Sept. 29, 1979. The amendment made to this section by Act Sept. 29, 1979 is effective upon the expiration of the Export Administration Act of 1969, (Act Dec. 30, 1969, P. L. 91-184, 83 Stat. 841, which formerly appeared as 50 USC Appx §§ 2401 et seq.), which terminated on Sept. 30, 1979, or upon any prior date which the Congress by concurrent resolution or the President by proclamation designated, as provided by 50 USC Appx § 2418 and former 50 USC Appx § 2413.]

## CERTAIN FIREARMS LAWS ADMINISTERED BY OTHER FEDERAL AGENCIES

POSTAL SERVICE:

### Title 18, United States Code, Chapter 83

#### § 1715. Firearms as nonmailable; regulations.

Pistols, revolvers, and other firearms capable of being concealed on the person are nonmailable and shall not be deposited in or carried by the mails or delivered by any officer or employee of the Postal Service. Such articles may be conveyed in the mails, under such regulations as the Postal Service shall prescribe, for use in connection with their official duty, to officers of the Army, Navy, Air Force, Coast Guard, Marine Corps, or Organized Reserve Corps; to officers of the National Guard or Militia of a State, Territory, or District; to officers of the United States or of a State, Territory, or District whose official duty is to serve warrants of arrest or commitments; to employees of the Postal Service; to officers and employees of enforcement agencies of the United States; and to watchmen engaged in guarding the property of the United



States, a State, Territory, or District. Such articles also may be conveyed in the mails to manufacturers of firearms or bona fide dealers therein in customary trade shipments, including such articles for repairs or replacement of parts, from one to the other, under such regulations as the Postal Service shall prescribe.

Whoever knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail according to the direction thereon, or at any place to which it is directed to be delivered by the person to whom it is addressed, any pistol, revolver, or firearm declared nonmailable by this section, shall be

fined not more than \$1,000 or imprisoned not more than two years, or both.

**INTERNAL REVENUE SERVICE:**  
**Title 26, United States**  
**Code, Chapter 32**

**§ 4181. Imposition of tax**

There is hereby imposed upon the sale by the manufacturer, producer, or importer of the following articles a tax equivalent to the specified percent of the price for which so sold:

Articles taxable at 10 percent—  
Pistols.

Revolvers.

Articles taxable at 11 percent—

Firearms (other than pistols and revolvers)  
Shells, and cartridges.

**§ 4182. Exemptions**

(a) **Machine guns and short barreled firearms.**—The tax imposed by section 4181 shall not apply to any firearm on which the tax provided by section 5811 has been paid.

(b) **Sales to Defense Department.**—No firearms, pistols, revolvers, shells, and cartridges purchased with funds appropriated for the military department shall be subject to any tax imposed on the sale of transfer of such articles.

\* \* \* \*

**FEDERAL FIREARMS REGULATIONS  
ADMINISTERED BY  
THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS**

**TITLE 27, Code of Federal Regulations, Part 178 —  
Commerce in Firearms and Ammunition**

**TITLE 27, Code of Federal Regulations, Part 179 —  
Machine Guns, Destructive Devices, and  
Certain Other Firearms**

**TITLE 27, Code of Federal Regulations, Part 47 —  
Importation of Arms, Ammunition and  
Implements of War**



**EDITOR'S NOTE:**

1. The subject indexes, cross references, bracketed notes, and editor's notes seen in the regulations are for guidance and assistance purposes only, and do not appear in the official Code of Federal Regulations published by the Office of the Federal Register, National Archives and Records Service, General Services Administration.
2. The ATF Rulings cited do not purport to be all the rulings pertaining to the subject matter.



# TITLE 27, CODE OF FEDERAL REGULATIONS, PART 178: COMMERCE IN FIREARMS AND AMMUNITION

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[NOTE: This listing is not necessarily all-inclusive]

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AUTHORITY: 18 U.S.C. 921 - 929, unless otherwise noted.  
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**Subpart A—Introduction**

**§ 178.1 Scope of regulations.**

(a) **General.** The regulations contained in this part relate to commerce in firearms and ammunition and are promulgated to implement Title I, State Firearms Control Assistance (18 U.S.C. Chapter 44), of the Gun

Control Act of 1968 (82 Stat. 1213) as amended by Public Law 99-308 (100 Stat. 449), Public Law 99-360 (100 Stat. 766), and Public Law 99-408 (100 Stat. 920).

(b) **Procedural and substantive requirements.** This part contains the procedural and substantive requirements relative to:

- (1) The interstate or foreign commerce in firearms and ammunition;
- (2) The licensing of manufacturers and importers of firearms and ammunition, collectors of firearms, and dealers in firearms;
- (3) The conduct of business or activity by licensees;
- (4) The importation of firearms and ammunition;
- (5) The records and reports required of licensees;
- (6) Relief from disabilities under this part;
- (7) Exempt interstate and foreign commerce in firearms and ammunition; and
- (8) Restrictions on armor piercing ammunition.

[T.D. ATF-241, 51 FR 39614, Oct. 27, 1986;

**§ 178.2 Relation to other provisions of law.**

The provisions in this part are in addition to, and are not in lieu of, any other provision of law, or regulations, respecting commerce in firearms or ammunition. For regulations applicable to traffic in machineguns, destructive devices, and certain other firearms, see Part 179 of this chapter. For statutes applicable to the registration and licensing of persons engaged in the business of manufacturing, importing or exporting arms, ammunition, or implements of war, see section 38 of the Arms Export Control Act (22 U.S.C. 2778) and regulations thereunder and Part 47 of this chapter. For statutes applicable to nonmailable firearms, see 18 U.S.C. 1715 and regulations thereunder.

[T.D. ATF-241, 51 FR 39614, Oct. 29, 1986]

**Subpart B—Definitions**

**§ 178.11 Meaning of terms.**

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude other things not enumerated which are in the same general class or are otherwise within the scope thereof.

**Act.** 18 U.S.C. Chapter 44.

**Ammunition.** Ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm other than an antique firearm. The term shall not include:

- (a) Any shotgun shot or pellet not designed for use as the single, complete projectile load for one shotgun hull or casing; nor
- (b) Any unloaded, non-metallic shotgun hull or casing not having a primer.

**Antique firearm.**

(a) Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; and

(b) Any replica of any firearm described in paragraph (a) of this definition if such replica:

- (1) Is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or
- (2) Uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

**Armor piercing ammunition.** Projectiles or projectile cores which may be used in a handgun and which are constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium.

The term does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, frangible projectiles designed for target shooting, projectiles which the Director finds are primarily intended to be used for sporting purposes, or any other projectiles or projectile cores which the Director finds are intended to be used for industrial purposes, including charges used in oil and gas well perforating devices. [Cross references: § 178.99(e) and Industry Circular 86-15]

**ATF officer.** An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

**Business premises.** The property on which the manufacturing or importing of firearms or ammunition or the dealing in firearms is or will be conducted. A private dwelling, no part of which is open to the public, shall not be recognized as coming within the meaning of the term. [See, also, ATFR 73-13, Consultant or expert, operations of, and ATFR 73-19, Gunsmith, operations of]

**Collection premises.** The premises described on the license of a collector as the location at which he maintains his collection of curios and relics.

**Collector.** Any person who acquires, holds, or disposes of firearms as curios or relics.

**Commerce.** Travel, trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia and any State, or between any foreign country or any territory or possession and any State or the District of Columbia, or between points in the same State but through any other State or the District of Columbia or a foreign country.

**Crime punishable by imprisonment for a term exceeding 1 year.** Any Federal, State or foreign offense for which the maximum penalty, whether or not imposed, is capital punishment or imprisonment in excess of 1 year. The term shall not include:

- (a) Any Federal or State offenses pertaining to antitrust violations, unfair trade prac-

tices, restraints of trade, or other similar offenses relating to the regulation of business practices; or

(b) Any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of 2 years or less.

What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held.

Any conviction which has been expunged or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for the purposes of the Act or this part, unless such pardon, expunction, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms, or unless the person is prohibited by the law of the jurisdiction in which the proceedings were held from receiving or possessing any firearms.

**Curios or relics.** Firearms which are of special interest to collectors by reason of some quality other than is associated with firearms intended for sporting use or as offensive or defensive weapons. To be recognized as curios or relics, firearms must fall within one of the following categories:

(a) Firearms which were manufactured at least 50 years prior to the current date, but not including replicas thereof;

(b) Firearms which are certified by the curator of a municipal, State, or Federal museum which exhibits firearms to be curios or relics of museum interest; and

(c) Any other firearms which derive a substantial part of their monetary value from the fact that they are novel, rare, bizarre, or because of their association with some historical figure, period, or event. Proof of qualification of a particular firearm under this category may be established by evidence of present value and evidence that like firearms are not available except as collector's items, or that the value of like firearms available in ordinary commercial channels is substantially less. [ATF Publication 5300.11, **Firearms Curios and Relics List**, consists of lists of those firearms determined to be curios or relics from 1972 to the present.]

**Customs officer.** Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

**Dealer.** Any person engaged in the business of selling firearms at wholesale or retail; any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms; or any person who is a pawnbroker. The term shall include any person who engages in such business or occupation on a part-time basis. [See, also, ATFR 73-13, **Consultant or expert, operations of, and ATFR 73-19, Gunsmith, operations of**]

**Destructive device.**

(a) Any explosive, incendiary, or poison gas:

(1) Bomb;

(2) Grenade;

(3) Rocket having a propellant charge of more than 4 ounces;

(4) Missile having an explosive or incendiary charge of more than one-quarter [ $\frac{1}{4}$ ] ounce;

(5) Mine; or

(6) Device similar to any of the devices described in the preceding paragraphs of this definition;

(b) Any type of weapon (other than a shotgun or shotgun shell which the Director finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half [ $\frac{1}{2}$ ] inch in diameter; and

(c) Any combination of parts either designed or intended for use in converting any device into any destructive device described in paragraph (a) or (b) of this section and from which a destructive device may be readily assembled.

The term shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signalling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of Title 10, United States Code; or any other device which the Director finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting, recreational, or cultural purposes.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C. [20226]

**Discharged under dishonorable conditions.** Separation from the U.S. Armed Forces resulting from a Dishonorable Discharge.

**Engaged in the business.**

(a) **Manufacturer of firearms.** A person who devotes time, attention, and labor to manufacturing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured;

(b) **Manufacturer of ammunition.** A person who devotes time, attention, and labor to manufacturing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition manufactured;

(c) **Dealer in firearms other than a gunsmith or a pawnbroker.** A person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms, but such a term shall not include a person who makes occa-

sional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms;

(d) **Gunsmith.** A person who devotes time, attention, and labor to engaging in such activity as a regular course of trade or business with the principal objective of livelihood and profit, but such a term shall not include a person who makes occasional repairs of firearms or who occasionally fits special barrels, stocks, or trigger mechanisms to firearms;

(e) **Importer of firearms.** A person who devotes time, attention, and labor to importing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms imported; and

(f) **Importer of ammunition.** A person who devotes time, attention, and labor to importing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition imported.

**Executed under penalties of perjury.** Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return form, or other document or, where no form of declaration is prescribed, with the declaration:

"I declare under the penalties of perjury that this— (insert type of document, such as, statement, application, request, certificate), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete."

**Federal Firearms Act.** 15 U.S.C. Chapter 18 [Enacted June 30, 1938; repealed June 19, 1968].

**Firearm.** Any weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; or any destructive device; but the term shall not include an antique firearm. In the case of a licensed collector, the term shall mean only curios and relics. [See, also, ATFR 80-20, **Taser Models TF76 and TF76A classified as "firearms."**]

**Firearm frame or receiver.** That part of a firearm which provides housing for the hammer, bolt or breechblock, and firing mechanism, and which is usually threaded at its forward portion to receive the barrel.

**Firearm muffler or firearm silencer.** Any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.

**Fugitive from justice.** Any person who has fled from any State to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding.

**Handgun.** Any firearm including a pistol or revolver designed to be fired by the use of a single hand.

**Importation.** The bringing of a firearm or ammunition into the United States; except that the bringing of a firearm or ammunition from outside the United States into a foreign-trade zone for storage pending shipment to a foreign country or subsequent importation into this country, pursuant to this part, shall not be deemed importation.

**Importer.** Any person engaged in the business of importing or bringing firearms or ammunition into the United States. The term shall include any person who engages in such business on a part-time basis.

**Indictment.** Includes an indictment or information in any court under which a crime punishable by imprisonment for a term exceeding 1 year may be prosecuted.

**Interstate or foreign commerce.** Includes commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia. The term shall not include commerce between places within the same State but through any place outside of that State.

**Licensed collector.** A collector of curios and relics only and licensed under the provisions of this part.

**Licensed dealer.** A dealer licensed under the provisions of this part.

**Licensed importer.** An importer licensed under the provisions of this part.

**Licensed manufacturer.** A manufacturer licensed under the provisions of this part.

**Machinegun.** Any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.

**Manufacture.** This term and the various derivatives thereof shall include making, putting together, altering, any combination of these, or otherwise producing a firearm.

**Manufacturer.** Any person engaged in the business of manufacturing firearms or ammunition. The term shall include any person who engages in such business on a part-time basis.

**National Firearms Act.** 26 U.S.C. Chapter 53 [Enacted June 26, 1934; extensively amended and designated as Title II of the Gun Control Act of 1968 (October 22, 1968).]

**Pawnbroker.** Any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any firearm as security for the payment or repayment of money. The term shall include any person who engages in such business on a part-time basis.

**Person.** Any individual, corporation, company, association, firm, partnership, society, or joint stock company.

**Pistol.** A weapon originally designed, made, and intended to fire a projectile (bullet) from one or more barrels when held in one hand, and having:

(a) A chamber(s) as an integral part(s) of, or permanently aligned with, the bore(s); and

(b) A short stock designed to be gripped by one hand and at an angle to and extending below the line of the bore(s).

**Principal objective of livelihood and profit.** The intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents such as improving or liquidating a personal firearms collection:

**Provided,** That proof of profit shall not be required as to a person who engages in the regular and repetitive purchase and disposition of firearms for criminal purposes or terrorism.

For purposes of this part, the term "**terrorism**" means activity, directed against United States persons, which:

(a) Is committed by an individual who is not a national or permanent resident alien of the United States;

(b) Involves violent acts or acts dangerous to human life which would be a criminal violation if committed within the jurisdiction of the United States; and

(c) Is intended:

(1) To intimidate or coerce a civilian population;

(2) To influence the policy of a government by intimidation or coercion; or

(3) To affect the conduct of a government by assassination or kidnapping.

**Published ordinance.** A published law of any political subdivision of a State which the Director determines to be relevant to the enforcement of this part and which is contained on a list compiled by the Director, which list is incorporated by reference in the FEDERAL REGISTER, revised annually, and furnished to licensees under this part.

**Region.** A Bureau of Alcohol, Tobacco, and Firearms Region.

**Regional director (compliance).** The principal ATF regional official responsible for administering regulations in this part.

**Revolver.** A projectile weapon, of the pistol type, having a breech-loading chambered cylinder so arranged that the cocking of the hammer or movement of the trigger rotates it and brings the next cartridge in line with the barrel for firing.

**Rifle.** A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

**Short-barreled rifle.** A rifle having one or more barrels less than 16 inches in length, and any weapon made from a rifle, whether by alteration, modification, or otherwise, if such weapon, as modified, has an overall length of less than 26 inches.

**Short-barreled shotgun.** A shotgun having one or more barrels less than 18 inches in length, and any weapon made from a shotgun, whether by alteration, modification, or otherwise, if such weapon as modified has an overall length of less than 26 inches.

**Shotgun.** A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

**State.** A State of the United States. The term shall include the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).

**State of residence.** The State in which an individual regularly resides, or maintains a home, or if such person is on active duty as a member of the United States Armed Forces, the State in which the person's permanent duty station is located:

**Provided,** That an alien who is legally in the United States shall be considered to be a resident of the State in which:

(a) The alien is residing or has so resided for a period of at least 90 days prior to the date of sale or delivery of a firearm; or

(b) The alien's embassy or consulate is located if the principal officer of such embassy or consulate issues a written statement to such alien authorizing the alien to acquire a firearm.

Temporary stay in a State does not make the State of temporary stay the State of residence.

**Example 1.** 'A' maintains a home in State 'X'. 'A' travels to State 'Y' on a hunting, fishing, business or other type of trip. 'A' does not become a resident of State 'Y' by reason of such trip.

**Example 2.** 'A' maintains a home in State 'X' and a home in State 'Y'. 'A' resides in State 'X' except for weekends or the summer months of the year and in State 'Y' for the weekends or the summer months of the year. During the time that 'A' actually resides in State 'X', 'A' is a resident of State 'X', and during the time that 'A' actually resides in State 'Y', 'A' is a resident of State 'Y'.

**Example 3.** 'A' is a member of the Armed Forces whose permanent duty station is located in State 'X'. However, 'A' actually resides and maintains a home in State 'Y' and commutes daily to the permanent duty station in State 'X' to perform military duties. 'A' is a resident of both State 'X' and State 'Y' at the same time.

[See, also, ATFR 80-21, College students]

**Unserviceable firearm.** A firearm which is incapable of discharging a shot by means of an explosive and is incapable of being readily restored to a firing condition.

**U.S.C.** The United States Code.

#### **Subpart C—Administrative and Miscellaneous Provisions**

##### **§ 178.21 Forms prescribed.**

(a) The Director is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in



each form shall be furnished as required by this part. [§ 923(g)]

(b) "Public Use Forms" (ATF Publication 1322.1) is a numerical listing of forms issued or used by the Bureau of Alcohol, Tobacco and Firearms. This publication is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(c) Requests for forms should be mailed to the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153.

**§ 178.22 Alternate methods or procedures; emergency variations from requirements.**

(a) **Alternate methods or procedures.** The licensee, on specific approval by the Director as provided in this paragraph, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in this part.

The Director may approve an alternate method or procedure, subject to stated conditions, when it is found that:

(1) Good cause is shown for the use of the alternate method or procedure;

(2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure and that the alternate method or procedure is substantially equivalent to that specifically prescribed method or procedure; and

(3) The alternate method or procedure will not be contrary to any provision of law and will not result in an increase in cost to the Government or hinder the effective administration of this part.

Where the licensee desires to employ an alternate method or procedure, a written application shall be submitted to the appropriate regional director (compliance), for transmittal to the Director. The application shall specifically describe the proposed alternate method or procedure and shall set forth the reasons for it.

Alternate methods or procedures may not be employed until the application is approved by the Director. The licensee shall, during the period of authorization of an alternate method or procedure, comply with the terms of the approved application.

Authorization of any alternate method or procedure may be withdrawn whenever, in the judgment of the Director, the effective administration of this part is hindered by the continuation of the authorization.

(b) **Emergency variations from requirements.** The Director may approve a method of operation other than as specified in this part, where it is found that an emergency exists and the proposed variation from the specified requirements are necessary and the proposed variations:

(1) Will not hinder the effective administration of this part; and

(2) Will not be contrary to any provisions of law.

Variations from requirements granted under this paragraph are conditioned on compliance with the procedures, conditions, and

limitations set forth in the approval of the application.

Failure to comply in good faith with the procedures, conditions, and limitations shall automatically terminate the authority for the variations, and the licensee shall fully comply with the prescribed requirements of regulations from which the variations were authorized.

Authority for any variation may be withdrawn whenever, in the judgment of the Director, the effective administration of this part is hindered by the continuation of the variation.

Where the licensee desires to employ an emergency variation, a written application shall be submitted to the appropriate regional director (compliance) for transmittal to the Director. The application shall describe the proposed variation and set forth the reasons for it. Variations may not be employed until the application is approved.

(c) **Retention of approved variations.** The licensee shall retain, as part of the licensee's records, available for examination by ATF officers, any application approved by the Director under this section.

[T.D. ATF-241, 51 FR 39616, Oct. 29, 1986]

**§ 178.23 Right of entry and examination.**

(a) Except as provided in paragraph (b), any ATF officer, when there is reasonable cause to believe a violation of the Act has occurred and that evidence of the violation may be found on the premises of any licensed manufacturer, licensed importer, licensed dealer, or licensed collector, may, upon demonstrating such cause before a Federal magistrate and obtaining from the magistrate a warrant authorizing entry, enter during business hours (or, in the case of a licensed collector, the hours of operation) the premises, including places of storage, of any such licensee for the purpose of inspecting or examining:

(1) Any records or documents required to be kept by such licensee under this part; and

(2) Any inventory of firearms or ammunition kept or stored by any licensed manufacturer, licensed importer, or licensed dealer at such premises or any firearms curios or relics or ammunition kept or stored by any licensed collector at such premises.

(b) Any ATF officer, without having reasonable cause to believe a violation of the Act has occurred or that evidence of the violation may be found and without demonstrating such cause before a Federal magistrate or obtaining from the magistrate a warrant authorizing entry, may enter during business hours the premises, including places of storage, of any licensed manufacturer, licensed importer, or licensed dealer for the purpose of inspecting or examining the records, documents, ammunition and firearms referred to in paragraph (a) of this section:

(1) In the course of a reasonable inquiry during the course of a criminal investigation of a person or persons other than the licensee;

(2) For insuring compliance with the recordkeeping requirements of this part not

more than once during any 12-month period; or

(3) When such inspection or examination may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation.

(c) Any ATF officer, without having reasonable cause to believe a violation of the Act has occurred or that evidence of the violation may be found and without demonstrating such cause before a Federal magistrate or obtaining from the magistrate a warrant authorizing entry, may enter during hours of operations the premises, including places of storage, of any licensed collector for the purpose of inspecting or examining the records, documents, firearms, and ammunition referred to in paragraph (a) of this section:

(1) For ensuring compliance with the recordkeeping requirements of this part not more than once during any 12-month period; or

(2) When such inspection or examination may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation.

At the election of the licensed collector, the annual inspection permitted by this paragraph shall be performed at the ATF office responsible for conducting such inspection in closest proximity to the collector's premises.

(d) The inspections and examinations provided by this section do not authorize an ATF officer to seize any records or documents other than those records or documents constituting material evidence of a violation of law. If an ATF officer seizes such records or documents, copies shall be provided the licensee within a reasonable time. [§923(g)]

[T.D. ATF-241, 51 FR 39616, Oct. 29, 1986]

**§ 178.24 Compilation of State laws and published ordinances.**

(a) The Director shall annually revise and furnish to Federal firearms licensees a compilation of State laws and published ordinances which are relevant to the enforcement of this part. The Director annually revises the compilation and publishes it as "State Laws and Published Ordinances—Firearms" which is furnished free of charge to licensees under this part. Where the compilation has previously been furnished to licensees, the Director need only furnish amendments of the relevant laws and ordinances to such licensees. [§921(a)(19)]

(b) "State Laws and Published Ordinances—Firearms" is incorporated by reference in this part. It is ATF Publication 5300.5, revised yearly. The current edition is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. It is also available for inspection at the Office of the FEDERAL REGISTER, Room 8401, 1100 L Street, NW, Washington, DC. This incorporation by reference was approved by the Director of the Federal Register. [5 U.S.C. §552(a)(1)]

[T.D. ATF-173, 49 FR 19004, May 4, 1984; T.D. ATF-241, 51 FR 39617, Oct. 29, 1986]

### § 178.25 Disclosure of information.

The regional director (compliance) may make available to any Federal, State or local law enforcement agency any information which is obtained by reason of the provisions of the Act with respect to the identification of persons prohibited from purchasing or receiving firearms or ammunition who have purchased or received firearms or ammunition, together with a description of such firearms or ammunition.

Upon the request of any Federal, State or local law enforcement agency, the regional director (compliance) may provide such agency any information contained in the records required to be maintained by the Act or this part. [§923(g)(1)(D)]

[T.D. ATF-241, 51 FR 39617, Oct. 29, 1986]

### § 178.26 Curio and relic determination.

Any person who desires to obtain a determination whether a particular firearm is a curio or relic shall submit a written request, in duplicate, for a ruling thereon to the Director. Each such request shall be executed under the penalties of perjury and shall contain a complete and accurate description of the firearm, and such photographs, diagrams, or drawings as may be necessary to enable the Director to make a determination.

The Director may require the submission of the firearm for examination and evaluation. If the submission of the firearm is impractical, the person requesting the determination shall so advise the Director and designate the place where the firearm will be available for examination and evaluation. [§921(a)(13)]

[T.D. ATF-241, 51 FR 39617, Oct. 29, 1986]

### § 178.27 Destructive device determination.

The Director shall determine in accordance with 18 U.S.C. 921(a)(4) whether a device is excluded from the definition of a destructive device. A person who desires to obtain a determination under that provision of law for any device which he believes is not likely to be used as a weapon shall submit a written request, in triplicate, for a ruling thereon to the Director. Each such request shall be executed under the penalties of perjury and contain a complete and accurate description of the device, the name and address of the manufacturer or importer thereof, the purpose of and use for which it is intended, and such photographs, diagrams, or drawings as may be necessary to enable the Director to make his determination.

The Director may require the submission to him, of a sample of such device for examination and evaluation. If the submission of such device is impracticable, the person requesting the ruling shall so advise the Director and designate the place where the device will be available for examination and evaluation. [§921(a)(4)]

### § 178.28 Transportation of destructive devices and certain firearms.

(a) The Director may authorize a person to transport in interstate or foreign commerce any destructive device, machine gun, short-barreled shotgun, or short-barreled rifle, if he finds that such transportation is reasonably necessary and is consistent with public safety

and applicable State and local law. A person who desires to transport in interstate or foreign commerce any such device or weapon shall submit a written request so to do, in duplicate, to the Director. The request shall contain:

(1) A complete description and identification of the device or weapon to be transported;

(2) A statement whether such transportation involves a transfer of title;

(3) The need for such transportation;

(4) The approximate date such transportation is to take place;

(5) The present location of such device or weapon and the place to which it is to be transported;

(6) The mode of transportation to be used (including, if by common or contract carrier, the name and address of such carrier); and

(7) Evidence that the transportation or possession of such device or weapon is not inconsistent with the laws at the place of destination.

(b) No person shall transport any destructive device, machine gun, short-barreled shotgun, or short-barreled rifle in interstate or foreign commerce under the provisions of this section until he has received specific authorization to do so from the Director. Authorization granted under this section does not carry or import relief from any other statutory or regulatory provision relating to firearms.

(c) This section shall not be construed as requiring licensees to obtain authorization to transport destructive devices, machine guns, short-barreled shotguns, and short-barreled rifles in interstate or foreign commerce:

**Provided,** That in the case of a licensed importer, licensed manufacturer, or licensed dealer, such a licensee is qualified under the National Firearms Act (see also Part 179 of this chapter) and this part to engage in the business with respect to the device or weapon to be transported, and that in the case of a licensed collector, the device or weapon to be transported is a curio or relic. [§922(a)(4)]

[T.D. ATF-138, 48 FR 35399, Aug. 5, 1983]

### § 178.29 Out-of-State acquisition of firearms by nonlicensees.

No person, other than a licensed importer, licensed manufacturer, or licensed collector, shall transport into or receive in the State where the person resides (or if a corporation or other business entity, where it maintains a place of business) any firearm purchased or otherwise obtained by such person outside that State:

**Provided,** That the provisions of this section:

(a) Shall not preclude any person who lawfully acquires a firearm by bequest or intestate succession in a State other than his State of residence from transporting the firearm into or receiving it in that State, if it is lawful for such person to purchase or possess such firearm in that State; and

(b) Shall not apply to the transportation or receipt of a rifle or shotgun obtained from a licensed manufacturer, licensed importer, li-

censed dealer, or licensed collector in a State other than the transferee's State of residence in an over-the-counter transaction at the licensee's premises obtained in conformity with the provisions of § 178.96(c); and

(c) Shall not apply to the transportation or receipt of a firearm obtained in conformity with the provisions of §§ 178.30 and 178.97. [§922(a)(3), (b)(3)]

[T.D. ATF-241, 51 FR 39617, Oct. 29, 1986]

### § 178.30 Out-of-State disposition of firearms by nonlicensees.

No nonlicensee shall transfer, sell, trade, give, transport, or deliver any firearm to any other nonlicensee, who the transferor knows or has reasonable cause to believe resides in any State other than that in which the transferor resides (or if a corporation or other business entity, where it maintains a place of business):

**Provided,** That the provisions of this section shall not apply to:

(a) The transfer, transportation, or delivery of a firearm made to carry out a bequest of a firearm to, or any acquisition by intestate succession of a firearm by, a person who is permitted to acquire or possess a firearm under the laws of the State of his residence; and

(b) The loan or rental of a firearm to any person for temporary use for lawful sporting purposes. [§922(a)(5)]

### § 178.31 Delivery by common or contract carrier.

(a) No person shall knowingly deliver or cause to be delivered to any common or contract carrier for transportation or shipment in interstate or foreign commerce to any person other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, any package or other container in which there is any firearm or ammunition without written notice to the carrier that such firearm or ammunition is being transported or shipped:

**Provided,** That any passenger who owns or legally possesses a firearm or ammunition being transported aboard any common or contract carrier for movement with the passenger in interstate or foreign commerce may deliver said firearm or ammunition into the custody of the pilot, captain, conductor or operator of such common or contract carrier for the duration of that trip without violating any provision of this part.

(a) No common or contract carrier shall transport or deliver in interstate or foreign commerce any firearm or ammunition with knowledge or reasonable cause to believe that the shipment, transportation, or receipt thereof would be in violation of any provision of this part:

**Provided, however,** That the provisions of this paragraph shall not apply in respect to the transportation of firearms or ammunition in in-bond shipment under Customs laws and regulations. [§922(e), (f)]



**§ 178.32 Prohibited shipment, transportation, possession, or receipt of firearms and ammunition by certain persons.**

(a) No person may ship or transport any firearm or ammunition in interstate or foreign commerce, or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce, or possess any firearm or ammunition in or affecting commerce, who:

(1) Has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year;

(2) Is a fugitive from justice;

(3) Is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substance Act, 21 U.S.C. 802);

(4) Has been adjudicated as a mental defective or has been committed to a mental institution;

(5) Is an alien illegally or unlawfully in the United States;

(6) Has been discharged from the Armed Forces under dishonorable conditions; or

(7) Having been a citizen of the United States, has renounced citizenship. [§922(g)]

(b) No person who is under indictment for a crime punishable by imprisonment for a term exceeding one year may ship or transport any firearm or ammunition in interstate or foreign commerce or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce. [§922(n)]

(c) Any individual, who to that individual's knowledge and while being employed by any person described in paragraph (a) of this section, may not, in the course of such employment receive, possess, or transport any firearm or ammunition in commerce or affecting commerce or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce. [§922(h)]

(d) No person may sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person:

(1) Is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year;

(2) Is a fugitive from justice;

(3) Is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802);

(4) Has been adjudicated as a mental defective or has been committed to a mental institution;

(5) Is an alien illegally or unlawfully in the United States;

(6) Has been discharged from the Armed Forces under dishonorable conditions; or

(7) Having been a citizen of the United States, has renounced citizenship. [§922(d)]

[T.D. ATF-241, 51 FR 39617, Oct. 29, 1986]

**§ 178.33 Stolen firearms and ammunition.**

No person shall transport or ship in interstate or foreign commerce any stolen firearm or stolen ammunition or pledge or accept as security for a loan any stolen firearm or ammunition knowing or having reasonable cause to believe that the firearm or ammunition was stolen, and no person shall receive, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition which is moving as, which is a part of, or which constitutes interstate or foreign commerce, knowing or having reasonable cause to believe that the firearm or ammunition was stolen [§922(i),(j)]

**§178.34 Removed, obliterated, or altered serial number.**

No person shall knowingly transport, ship, or receive in interstate or foreign commerce any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered. [§922(k)]

**§ 178.35 Skeet, trap, target, and similar shooting activities.**

Licensing and recordkeeping requirements, including permissible alternate records, for skeet, trap, target, and similar organized activities shall be determined by the regional director (compliance) on a case by case basis.

**§ 178.36 Transfer or possession of machineguns.**

No person shall transfer or possess a machinegun except:

(a) A transfer to or by, or possession by or under the authority of, the United States, or any department or agency thereof, or a State, or a department, agency, or political subdivision thereof (See Part 179 of this chapter); or

(b) Any lawful transfer or lawful possession of a machinegun that was lawfully possessed before May 19, 1986 (See Part 179 of this chapter). [§922(o)]

[T.D. ATF-241, 51 FR 39618, Oct. 29, 1986]

**§ 178.37 Manufacture, importation and sale of armor piercing ammunition.**

No person shall manufacture or import, and no manufacturer or importer shall sell or deliver, armor piercing ammunition, except:

(a) The manufacture or importation, or the sale or delivery by any manufacturer or importer, of armor piercing ammunition for the use of the United States or any department or agency thereof or any State or any department, agency or political subdivision thereof;

(b) The manufacture, or the sale or delivery by a manufacturer or importer, of armor piercing ammunition for the purpose of exportation; or

(c) The sale or delivery by a manufacturer or importer of armor piercing ammunition for the purposes of testing or experimentation as authorized by the Director under the provisions of § 178.149. [§922(a)(7),(8)]

[T.D. ATF-247, 52 FR 2049, Jan. 16, 1987]

**§ 178.38 Transportation of firearms.**

Notwithstanding any other provision of any law or any rule or regulation of a State or any political subdivision thereof, any person who is not otherwise prohibited by this chap-

ter from transporting, shipping, or receiving a firearm shall be entitled to transport a firearm for any lawful purpose from any place where such person may lawfully possess and carry such firearm to any other place where such person may lawfully possess and carry such firearm if, during such transportation the firearm is unloaded, and neither the firearm nor any ammunition being transported is readily accessible or is directly accessible from the passenger compartment of such transporting vehicle:

**Provided,** That in the case of a vehicle without a compartment separate from the driver's compartment the firearm or ammunition shall be contained in a locked container other than the glove compartment or console. [§926A]

[T.D. ATF-270, 53 FR 10480, Mar. 31, 1988]

**Subpart D—Licenses**

**§ 178.41 General.**

(a) Each person intending to engage in business as an importer or manufacturer of firearms or ammunition, or a dealer in firearms, shall, before commencing such business, obtain the license required by this subpart for the business to be operated. Each person who desires to obtain a license as a collector of curios or relics may obtain such a license under the provisions of this subpart.

(b) Each person intending to engage in business as a firearms or ammunition importer or manufacturer, or dealer in firearms shall file an application, with the required fee (see § 178.42), with ATF in accordance with the instructions on the form (see § 178.44), and, pursuant to § 178.47, receive the license required for such business from the regional director (compliance).

Except as provided in § 178.50, a license must be obtained for each business and each place at which the applicant is to do business. [Also, see § 178.100.]

A license as an importer or manufacturer of firearms or ammunition, or a dealer in firearms shall, subject to the provisions of the Act and other applicable provisions of law, entitle the licensee to transport, ship, and receive firearms and ammunition covered by such license in interstate or foreign commerce and to engage in the business specified by the license, at the location described on the license, and for the period stated on the license.

However, it shall not be necessary for a licensed importer or a licensed manufacturer to also obtain a dealer's license in order to engage in business on the licensed premises as a dealer in the same type of firearms authorized by the license to be imported or manufactured.

Payment of the license fee as an importer or manufacturer of destructive devices, ammunition for destructive devices or armor piercing ammunition or as a dealer in destructive devices includes the privilege of importing or manufacturing firearms other than destructive devices and ammunition for other than destructive devices or ammunition other than armor piercing ammunition, or dealing in

firearms other than destructive devices, as the case may be, by such a licensee at the licensed premises. [§923(a),(c). See, also, ATFR 73-9, Common expiration date for licensees.]

(c) Each person seeking the privileges of a collector licensed under this part shall file an application, with the required fee (see § 178.42), with ATF in accordance with the instructions on the form (see § 178.44), and, pursuant to § 178.47, receive from the regional director (compliance) the license covering the collection of curios or relics.

A separate license may be obtained for each collection premises, and such license shall, subject to the provisions of the Act and other applicable provisions of law, entitle the licensee to transport, ship, receive, and acquire curios and relics in interstate or foreign commerce and to make disposition of curios and relics in interstate or foreign commerce, to any other person licensed under the provisions of this part, for the period stated on the license. [§923(b)]

(d) The collector license provided by this part shall apply only to transactions related to a collector's activity in acquiring, holding or disposing of curios or relics.

A collector's license does not authorize the collector to engage in a business required to be licensed under the Act or this part. Therefore, if the acquisitions and dispositions of curios and relics by a collector bring the collector within the definition of a manufacturer, importer, or dealer under this part, he shall qualify as such. (See also § 178.93 of this part.)

#### § 178.42 License fees.

Each applicant shall pay a fee at a yearly rate for obtaining a firearms license or ammunition license, a separate fee being required for each business or collecting activity at each place of such business or activity, as follows:

##### (a) For a manufacturer:

(1) Of destructive devices, ammunition for destructive devices or armor piercing ammunition - \$1,000 per year.

(2) Of firearms other than destructive devices - \$50 per year.

(3) Of ammunition for firearms other than ammunition for destructive devices or armor piercing ammunition - \$10 per year.

##### (b) For an importer:

(1) Of destructive devices, ammunition for destructive devices or armor piercing ammunition - \$1,000 per year.

(2) Of firearms other than destructive devices or ammunition for firearms other than destructive devices or ammunition other than armor piercing ammunition - \$50 per year.

##### (c) For a dealer:

(1) In destructive devices - \$1,000 per year.

(2) Who is a pawnbroker dealing in firearms other than destructive devices - \$25 per year.

(3) Who is not a dealer in destructive devices or pawnbroker - \$10 per year.

(d) For a collector of curios and relics: - \$10 per year. [§923(a)-(c). See, also, ATFR 73-9, Common expiration date for licensees.]

[T.D. ATF-135, 48 FR 24067, May 31, 1983; T.D. ATF-247, 52 FR 2049, Jan. 16, 1987]

#### § 178.43 license fee not refundable.

No refund of any part of the amount paid as a license fee shall be made where the operations of the license are, for any reason, discontinued during the period of an issued license. However, the license fee submitted with an application for a license shall be refunded if that application is denied or withdrawn by the applicant prior to being acted upon.

#### § 178.44 Original license.

(a) Any person who intends to engage in business as a firearms or ammunition importer or manufacturer, or firearms dealer, or who has not previously been licensed under the provisions of this part to so engage in business, or who has not timely submitted an application for renewal of the previous license issued under this part, shall file an application for license, ATF Form 7 (Firearms), with ATF in accordance with the instructions on the form. The application must be executed under the penalties of perjury and the penalties imposed by 18 U.S.C. 924. The application shall be accompanied by the appropriate fee in the form of money order or check made payable to the Bureau of Alcohol, Tobacco and Firearms. ATF Forms 7 (Firearms) may be obtained from any ATF office.

(b) Any person who desires to obtain a license as a collector under the Act and this part, or who has not timely submitted an application for renewal of the previous license issued under this part, shall file an application, ATF Form 7 (Firearms) with ATF in accordance with the instructions on the form. The application must be executed under the penalties of perjury and the penalties imposed by 18 U.S.C. 924. The application shall be accompanied by the appropriate fee in the form of a money order or check made payable to the Bureau of Alcohol, Tobacco and Firearms. ATF Form 7 (Firearms) may be obtained from any ATF office. [18 U.S.C. 926 (82 Stat.1226)]

[T.D. ATF-200, 48 FR 24067, May 31, 1983; T.D. ATF-241, 51 FR 39618, Oct. 29, 1986]

#### § 178.45 Renewal of license.

If a licensee intends to continue the business or activity described on a license issued under this part during any portion of the ensuing year, the licensee shall, unless otherwise notified in writing by the regional director (compliance), execute and file prior to the expiration of the license an application for a license renewal, ATF Form 8 Part II, accompanied by the required fee, with ATF in accordance with the instructions on the form. The regional director (compliance) may, in writing, require the applicant for license renewal to also file completed ATF Form 7 in the manner required by § 178.44.

In the event the licensee does not timely file an ATF Form 8 Part II, the licensee must file an ATF Form 7 as required by § 178.44, and obtain the required license before con-

tinuing business or collecting activity. If an ATF Form 8, Part II is not timely received through the mails, the licensee should so notify the regional director (compliance).

[18 U.S.C. 926 (82 Stat.1226)]

[T.D. ATF-200, 48 FR 24067, May 31, 1983; T.D. ATF-241, 51 FR 39619, Oct. 29, 1986]

#### § 178.46 Insufficient fee.

If an applicant is filed with an insufficient fee, the application and any fee submitted will be returned to the applicant.

[18 U.S.C. 847 (84 Stat. 959); 18 U.S.C. 926 (82 Stat.1226)]

[T.D. ATF-200, 50 FR 10498, Mar. 15, 1985]

#### § 178.47 Issuance of license

(a) Upon receipt of a properly executed application for a license on ATF Form 7, or ATF Form 8 Part II, the regional director (compliance) shall, upon finding through further inquiry or investigation, or otherwise, that the applicant is qualified, issue the appropriate license. Each license shall bear a serial number and such number may be assigned to the licensee to whom issued for so long as the licensee maintains continuity of renewal in the same location (State).

(b) The regional director (compliance) shall approve a properly executed application for license on ATF Form 7, or ATF Form 8 Part II, if:

(1) The applicant is 21 years of age or over;

(2) The applicant (including, in the case of a corporation, partnership, or association, 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) is not prohibited under the provisions of the Act from shipping or transporting in interstate or foreign commerce, or possessing in or affecting commerce, any firearm or ammunition, or from receiving any firearm or ammunition which has been shipped or transported in interstate or foreign commerce;

(3) The applicant has not willfully violated any of the provisions of the Act or this part;

(4) The applicant has not willfully failed to disclose any material information required, or has not made any false statement as to any material fact, in connection with his application;

(5) The applicant has in a State:

(i) Premises from which he conducts business subject to license under the Act or from which he intends to conduct business within a reasonable period of time; or

(ii) In the case of a collector, premises from which he conducts his collecting subject to license under the Act or from which he intends to conduct such collecting within a reasonable period of time. [§923(d)(1)]

(c) The regional director (compliance) shall approve or deny an application for license within the 45-day period beginning on the date the application was received:

**Provided,** That when an applicant for license renewal is a person who is, pursuant to the provisions of § 178.78, § 178.143, or § 178.144, conducting business or collecting

activity under a previously issued license, action regarding the application will be held in abeyance pending the completion of the proceedings against the applicant's existing license application, final determination of the applicant's criminal case, or final action by the Director on an application for relief submitted pursuant to § 178.144, as the case may be.

(d) When the regional director (compliance) fails to act on the application for license within the 45-day period prescribed by paragraph (c) of this section, the applicant may file an action under section 1361 of the title 28, United States Code, to compel the regional director (compliance) to act. [§923(d)(2)]

#### § 178.48 Correction of error on license.

(a) Upon receipt of a license issued under the provisions of this part, each licensee shall examine same to ensure that the information contained thereon is accurate. If the license is incorrect, the licensee shall return the license to the regional director (compliance) with a statement showing the nature of the error. The regional director (compliance) shall correct the error, if the error was made in his office, and return the license. However, if the error resulted from information contained in the licensee's application for the license, the regional director (compliance) shall require the licensee to file an amended application setting forth the correct information and a statement explaining the error contained in the application. Upon receipt of the amended application and a satisfactory explanation of the error, the regional director (compliance) shall make the correction on the license and return same to the licensee.

(b) When the regional director (compliance) finds through any means other than notice from the licensee that an incorrect license has been issued, the regional director (compliance) may require the holder of the incorrect license to:

(1) Return the license for correction, and

(2) If the error resulted from information contained in the licensee's application for the license, the regional director (compliance) shall require the licensee to file an amended application setting forth the correct information, and a statement explaining the error contained in the application.

The regional director (compliance) then shall make the correction on the license and return same to the licensee.

#### § 178.49 Duration of license.

The license entitles the person to whom issued to engage in the business or activity specified on the license, within the limitations of the Act and the regulations contained in this part, for a three year period, unless terminated sooner. [See, also, ATFR 73-9, Common expiration date for licenses.]

[T.D. ATF-135, 48 FR 24068, May 31, 1983 T.D. ATF-241, 51 FR 39619, Oct. 29, 1986]

#### § 178.50 Locations covered by license.

The license covers the class of business or the activity specified in the license at the address specified therein. A separate license must be obtained for each location at which a firearms or ammunition business or activity

requiring a license under this part is conducted except:

(a) No license is required to cover a separate warehouse used by the licensee solely for storage of firearms or ammunition if the records required by this part are maintained at the licensed premises served by such warehouse;

(b) A licensed collector may acquire curios and relics at any location, and dispose of curios or relics to any licensee or to other persons who are residents of the State where the collector's license is held and the disposition is made; or

(c) A licensee may conduct business at a gun show pursuant to the provision of § 178.100.

[T.D. ATF-191, 49 FR 46890, Nov 29, 1984]

#### § 178.51 License not transferable.

Licenses issued under this part are not transferable. In the event of the lease, sale, or other transfer of the operations authorized by the license, the successor must obtain the license required by this part prior to commencing such operations. However, for rules on right of succession, see § 178.56.

#### § 178.52 Change of address.

A licensee may during the term of his current license remove his business or activity to a new location at which he intends regularly to carry on such business or activity, without procuring a new license. However, in every case, whether or not the removal is from one region to another, notification of the new location of the business or activity must be given not less than 10 days prior to such removal to the regional director (compliance) for the region from which or within which the removal is to be made, and the regional director (compliance) for the region to which the removal is to be made. In each instance, the license must be submitted for endorsement to the regional director (compliance) having jurisdiction over the region to which or within which removal is to be made. After endorsement of the license to show the new address and the new license number, if any, the regional director (compliance) will return same to the licensee.

[T.D. ATF-135, 48 FR 24068, May 31, 1983]

#### § 178.53 Change in trade name.

A licensee continuing to conduct business at the location shown on his license is not required to obtain a new license by reason of a mere change in trade name under which he conducts his business:

**Provided,** That such licensee furnishes his license for endorsement of such change to the regional director (compliance) for the region in which the licensee conducts his business within 30 days from the date the licensee begins his business under the new trade name.

[T.D. ATF-48, 44 FR 55842, Sept. 28, 1979]

#### § 178.54 Change of control.

In the case of a corporation or association holding a license under this part, if actual or legal control of the corporation or association changes, directly or indirectly, whether by reason of change in stock ownership or control (in the licensed corporation or in any

other corporation), by operations of law, or in any other manner, the licensee shall, within 30 days of such change, give written notification thereof, executed under the penalties of perjury, to the regional director (compliance). Upon expiration of the license, the corporation or association must file a Form 7 (Firearms) as required by § 178.44.

#### § 178.55 Continuing partnerships.

Where, under laws of the particular State, the partnership is not terminated on death or insolvency of a partner, but continues until the winding up of the partnership affairs is completed, and the surviving partner has the exclusive right to the control and possession of the partnership assets for the purpose of liquidation and settlement, such surviving partner may continue to operate the business under the license of the partnership. If such surviving partner acquires the business on completion of the settlement of the partnership, he shall obtain a license in his own name from the date of acquisition, as provided in § 178.44. The rule set forth in this section shall also apply where there is more than one surviving partner.

#### § 178.56 Right of succession by certain persons.

(a) Certain persons other than the licensee may secure the right to carry on the same firearms or ammunition business at the same address shown on, and for the remainder of the term of, a current license. Such persons are:

(1) The surviving spouse or child, or executor, administrator, or other legal representative of a deceased licensee; and

(2) A receiver or trustee in bankruptcy, or an assignee for benefit of creditors.

(b) In order to secure the right provided by this section, the person or persons continuing the business shall furnish the license for that business for endorsement of such succession to the regional director (compliance) for the region in which the business is conducted within 30 days from the date on which the successor begins to carry on the business.

[T.D. ATF-48, 44 FR 55842, Sept. 28, 1979]

#### § 178.57 Discontinuance of business.

Where a firearm or ammunition business is either discontinued or succeeded by a new owner, the owner of the business discontinued or succeeded shall within 30 days thereof furnish to the regional director (compliance) for the region in which his business was located, notification of the discontinuance or succession. (See, also, § 178.127.) [§ 923(g)(4)]

[T.D. ATF-48, 44 FR 55842, Sept. 28, 1979]

#### EDITOR'S NOTE:

**When there is no successor operator of the business, the out-of-business records should be shipped to the ATF Firearms Out-of-Business Records Center, 3361F 75th Avenue, Landover, MD 20785.**

#### § 178.58 State or other law.

A license issued under this part confers no right or privilege to conduct business or activity contrary to State or other law. The

holder of such a license is not by reason of the rights and privileges granted by that license immune from punishment for operating a firearm or ammunition business or activity in violation of the provisions of any State or other law. Similarly, compliance with the provisions of any State or other law affords no immunity under Federal law or regulations. [§ 927]

#### § 178.59 Abandoned application.

Upon receipt of an incomplete or improperly executed application on ATF form 7 (5310.12), or ATF Form 8 (5310.11) Part II, the applicant shall be notified of the deficiency in the application. If the application is not corrected and returned within 30 days following the date of notification, the application shall be considered as having been abandoned and the license fee returned.

[T.D. ATF-135, 48 FR 24068, May 31, 1983]

#### § 178.60 Certain continuances of business.

A licensee who furnishes his license to the regional director (compliance) for correction or endorsement in compliance with the provisions contained in this subpart may continue his operations while awaiting its return.

### Subpart E—License Proceedings

[18 U.S.C. §923(e), (f)]

#### § 178.71 Denial of an application for license.

Whenever the regional director (compliance) has reason to believe that an applicant is not qualified to receive a license under the provisions of § 178.47, he may issue a notice of denial, on Form 4498, to the applicant. The notice shall set forth the matters of fact and law relied upon in determining that the application should be denied, and shall afford the applicant 15 days from the date of receipt of the notice in which to request a hearing to review the denial. If no request for a hearing is filed within such time, the application shall be disapproved and a copy, so marked, shall be returned to the applicant.

#### § 178.72 Hearing after application denial.

If the applicant for an original or renewal license desires a hearing to review the denial of his application, he shall file a request therefor, in duplicate, with the regional director (compliance) within 15 days after receipt of the notice of denial. The request should include a statement of the reasons therefor. On receipt of the request, the regional director (compliance) shall, as expeditiously as possible, make the necessary arrangements for the hearing and advise the applicant of the date, time, location, and the name of the officer before whom the hearing will be held. Such notification shall be made not less than 10 days in advance of the date set for the hearing. On conclusion of the hearing and consideration of all relevant facts and circumstances presented by the applicant or his representative, the regional director (compliance) shall render his decision confirming or reversing the denial of the application. If the decision is that the denial should stand, a certified copy of the regional director (compliance) findings and conclusions shall be furnished to the applicant with a final notice of

denial, Form 4501. A copy of the application, marked "Disapproved," will be returned to the applicant. If the decision is that the license applied for should be issued, the applicant shall be so notified, in writing, and the license shall be issued as provided by § 178.47.

#### § 178.73 Notice of revocation.

Whenever the regional director (compliance) has reason to believe that a licensee has willfully violated any provision of the Act or this part, a notice of revocation of the license, ATF Form 4500, may be issued. The notice shall set forth the matters of fact constituting the violations specified, dates, places, and the sections of law and regulations violated. The regional director (compliance) shall afford the licensee 15 days from the date of receipt of the notice in which to request a hearing prior to revocation of the license. If the licensee does not file a timely request for a hearing, the regional director (compliance) shall issue a final notice of revocation, ATF Form 4501, as provided in § 178.74.

[T.D. ATF-241, 51 FR 39619, Oct. 29, 1986]

#### § 178.74 Request for hearing after notice of revocation.

If a licensee desires a hearing after receipt of a notice of revocation of a license, the licensee shall file a request, in duplicate, with the regional director (compliance) within 15 days after receipt of the notice of revocation. On receipt of such request, the regional director (compliance) shall, as expeditiously as possible, make necessary arrangements for the hearing and advise the licensee of the date, time, location and the name of the officer before whom the hearing will be held. Such notification shall be made not less than 10 days in advance of the date set for hearing. On conclusion of the hearing and consideration of all the relevant presentations made by the licensee or the licensee's representative, the regional director (compliance) shall render a decision and shall prepare a brief summary of the findings and conclusions on which the decision is based. If the decision is that the license should be revoked, a certified copy of the summary shall be furnished to the licensee with the final notice of revocation on ATF Form 4501. If the decision is that the license should not be revoked, the licensee shall be notified in writing.

[T.D. ATF-241, 51 FR 39619, Oct. 29, 1986]

#### § 178.75 Service on applicant or licensee.

All notices and other documents required to be served on an applicant or licensee under this subpart shall be served by certified mail or by personal delivery. Where service is by certified mail, a signed duplicate original copy of the document shall be mailed, with return receipt requested, to the applicant or licensee at the address stated in his application or license, or at his last known address. Where service is by personal delivery, a signed duplicate original copy of the document shall be delivered to the applicant or licensee, or, in the case of a corporation, partnership, or association, by delivering it to an officer, manager, or general agent thereof, or to its attorney of record.

[Redesignated by T.D. ATF-241, 51 FR 39619, Oct. 29, 1986]

#### § 178.76 Representation at a hearing.

An applicant or licensee may be represented by an attorney, certified public accountant, or other person recognized to practice before the Bureau of Alcohol, Tobacco and Firearms as provided in 31 CFR Part 8 (Practice Before the Bureau of Alcohol, Tobacco and Firearms), if he has otherwise complied with the applicable requirements of Internal Revenue regulations, 26 CFR §§ 601.521 - 601.527 (conference and practice requirements for alcohol, tobacco and firearms activities).

The regional director (compliance) may be represented in proceedings by an attorney in the office of the regional counsel who is authorized to execute and file motions, briefs and other papers in the proceeding, on behalf of the regional director (compliance), as "Attorney for the Government."

[Redesignated by T.D. ATF-241, 51 FR 39619, Oct. 29, 1986]

#### § 178.77 Designated place of hearing.

The designated place of the hearing shall be a location convenient to the aggrieved party.

[T.D. ATF-241, 51 FR 39619, Oct. 29, 1986]

#### § 178.78 Operations by licensees after notice.

In any case where denial or revocation proceedings are pending before the Bureau of Alcohol, Tobacco and Firearms, or notice of denial or revocation has been served on the licensee and he has filed timely request for a hearing, the license in possession of the licensee shall remain in effect, even though:

(a) Such license has expired; or

(b) The revocation date specified in the notice of revocation on Form 4500 served on the licensee has passed:

**Provided,** That under the condition of paragraph (a) of this section, the licensee has timely filed an application for the renewal of his license.

If a licensee is dissatisfied with a post-hearing decision revoking the license or denying the application, as the case may be, he may, pursuant to 18 U.S.C. 923(f)(3), within 60 days after receipt of the final notice denying the application or revoking the license, file a petition for judicial review of such action. Such petition should be filed with the U.S. district court for the district in which the applicant or licensee resides or has his principal place of business.

In such case, when the regional director (compliance) finds that justice so requires, he may:

(1) Postpone the effective date of revocation of a license; or

(2) Authorize continued operations under the expired license, as applicable, pending judicial review.

[T.D. ATF-48, 44 FR 55842, Sept. 28, 1979; Redesignated by T.D. ATF-241, 51 FR 39619, Oct. 29, 1986]

### Subpart F—Conduct of Business

#### § 178.91 Posting of license.

Any license issued under this part shall be kept posted and kept available for inspection.

tion on the premises covered by the license. [§923(h)]

### § 178.92 Identification of firearms and armor piercing ammunition.

(a) **Firearms.** Each licensed manufacturer or licensed importer of any firearm manufactured or imported shall legibly identify each such firearm by engraving, casting, stamping (impressing), or otherwise conspicuously placing or causing to be engraved, cast, stamped (impressed) or placed on the frame or receiver thereof in a manner not susceptible of being readily obliterated, altered, or removed, an individual serial number not duplicating any serial number placed by the manufacturer or importer on any other firearm, and by engraving, casting, stamping (impressing), or otherwise conspicuously placing or causing to be engraved, cast, stamped (impressed) or placed on the frame, receiver, or barrel thereof in a manner not susceptible of being readily obliterated, altered or removed, the model, if such designation has been made; the caliber or gauge; the name (or recognized abbreviation of same) of the manufacturer and also, when applicable, of the importer; in the case of a domestically made firearm, the city and State (or recognized abbreviation thereof) wherein the licensed manufacturer maintains its place of business; and in the case of an imported firearm, the name of the country in which manufactured and the city and State (or recognized abbreviation thereof) of the importer.

**Provided,** That the Director may authorize other means of identification of the licensed manufacturer or licensed importer upon receipt of letter application, in duplicate, showing that such other identification is reasonable and will not hinder the effective administration of this part;

**Provided, further,** That in the case of a destructive device, the Director may authorize other means of identifying that weapon upon receipt of letter application, in duplicate, from the licensed manufacturer or licensed importer showing that engraving, casting, or stamping (impressing) such a weapon would be dangerous or impracticable.

A firearm frame or receiver, or any part defined as a machinegun, firearm muffler, or firearm silencer in § 178.11, which is not a component part of a complete weapon at the time it is sold, shipped, or otherwise disposed of by a licensed manufacturer or licensed importer, shall be identified as required by this section.

The Director may authorize other means of identification of parts defined as machineguns other than frames or receivers and parts defined as mufflers or silencers upon receipt of a letter application, in duplicate, showing that such other identification is reasonable and will not hinder the effective administration of this part.

#### (b) Armor piercing ammunition:

(1) **Marking of ammunition.** Each licensed manufacturer or licensed importer of armor piercing ammunition shall identify such ammunition by means of painting, staining or dyeing the exterior of the projectile with an

opaque black coloring. This coloring must completely cover the point of the projectile and at least 50 percent of that portion of the projectile which is visible when the projectile is loaded into a cartridge case.

(2) **Labeling of packages.** Each licensed manufacturer or licensed importer of armor piercing ammunition shall clearly and conspicuously label each package in which armor piercing ammunition is contained, e.g., each box, carton, case, or other container. The label shall include the words "ARMOR PIERCING" in block letters at least 1/4 inch in height. The lettering shall be located on the exterior surface of the package which contains information concerning the caliber or gauge of the ammunition. There shall also be placed on the same surface of the package in block lettering at least 1/8 inch in height the words "FOR GOVERNMENTAL ENTITIES OR EXPORTATION ONLY." The statements required by this subparagraph shall be on a contrasting background. [§923(k)]

[T.D. ATF-241, 51 FR 39615, Oct. 29, 1986; T.D. ATF-247, 52 FR 2050, Jan. 16, 1987]

### § 178.93 Authorized operation by a licensed collector.

The license issued to a collector of curios or relics under the provisions of this part shall cover only transactions by the licensed collector in curios and relics. The collector's license is of no force or effect and a licensed collector is of the same status under the Act and this part as a nonlicensee with respect to:

(a) Any acquisition or disposition of firearms other than curios or relics, or any transportation, shipment, or receipt of firearms other than curios or relics in interstate or foreign commerce; and

(b) Any transaction with a nonlicensee involving any firearm other than a curio or relic. (See also § 178.50) [§923(b)]

A collector's license is not necessary to receive or dispose of ammunition, and a licensed collector is not precluded by law from receiving or disposing of armor piercing ammunition. However, a licensed collector may not dispose of any ammunition to a person prohibited from receiving or possessing ammunition (see § 178.99(c)). Any licensed collector who disposes of armor piercing ammunition must record the disposition as required by § 178.125(a) and (b).

[T.D. ATF-241, 51 FR 39620, Oct. 29, 1986]

### § 178.94 Sales or deliveries between licensees.

A licensed importer, licensed manufacturer, or licensed dealer selling or otherwise disposing of firearms, and a licensed collector selling or otherwise disposing of curios or relics, to another licensee shall verify the identity and licensed status of the transferee prior to making the transaction. Verification shall be established by the transferee furnishing to the transferor a certified copy of the transferee's license and by such other means as the transferor deems necessary:

**Provided,** That it shall not be required:

(a) For a transferee who has furnished a certified copy of its license to a transferor to again furnish such certified copy to that

transferor during the term of the transferee's current license;

(b) For a licensee to furnish a certified copy of its license to another licensee if a firearm is being returned either directly or through another licensee to such licensee; and

(c) For licensees of multilicensed business organizations to furnish certified copies of their licenses to other licensed locations operated by such organization:

**Provided, further,** That a multilicensed business organization may furnish to a transferor, in lieu of a certified copy of each license, a list, certified to be true, correct and complete, containing the name, address, license number, and the date of license expiration of each licensed location operated by such organization, and the transferor may sell or otherwise dispose of firearms as provided by this section to any licensee appearing on such list without requiring a certified copy of a license therefrom. [§926(a)(1)]

A transferor licensee who has the certified information required by this section may sell or dispose of firearms to a licensee for not more than 45 days following the expiration date of the transferee's license. [See, also, ATFR 75-27, Operations under pending renewal application]

(Approved by the Office of Management and Budget under control number 1512-0387)

[T.D. ATF-241, 51 FR 39620, Oct. 29, 1986]

### § 178.95 Certified copy of license.

The license furnished to each person licensed under the provisions of this part contains a purchasing certification statement. This original license may be reproduced and the reproduction then certified by the licensee for use pursuant to § 178.94.

If the licensee desires an additional copy of the license for certification (instead of making a reproduction of the original license), the licensee may submit a request, in writing, for a certified copy or copies of the license to the regional director (compliance) for the region in which the premises is located. The request must set forth the name, trade name (if any) and address of the licensee, and the number of license copies desired.

There is a charge of \$1 for each copy. The fee paid for copies of the license must accompany the request for copies. The fee may be paid by:

(a) Cash; or

(b) Money order or check made payable to the Bureau of Alcohol, Tobacco and Firearms. [§926(a)(2)]

(Approved by the Office of Management and Budget under control number 1512-0387)

[T.D. ATF-241, 51 FR 39620, Oct. 29, 1986]

### § 178.96 Out-of-State and mail order sales.

(a) The provisions of this section shall apply when a firearm is purchased by or delivered to a person not otherwise prohibited by the Act from purchasing or receiving it.

#### EDITOR'S NOTE:

The form 4473 referred to in § 178.96(b), below, is Form 4473, Part II, the



**green form used for intrastate, non-over-the-counter sales.**

(b) A licensed importer, licensed manufacturer, or licensed dealer may sell a firearm to a nonlicensee who does not appear in person at the licensee's business premises if the nonlicensee is a resident of the same State in which the licensee's business premises is located, and the nonlicensee furnishes to the licensee the firearms transaction record, Form 4473, required by § 178.124.

The nonlicensee shall attach to such record a true copy of any permit or other information required pursuant to any statute of the State and published ordinance applicable to the locality in which he resides.

The licensee shall, prior to shipment or delivery of the firearm, forward by registered or certified mail (return receipt requested) a copy of the record, Form 4473, to the chief law enforcement officer named on such record, and delay shipment or delivery of the firearm for a period of at least 7 days following receipt by the licensee of the return receipt evidencing delivery of the copy of the record to such chief law enforcement officer, or the return of the copy of the record to him due to the refusal of such chief law enforcement officer to accept same in accordance with U.S. Postal Service regulations.

The original Form 4473, and evidence of receipt or rejection of delivery of the copy of the Form 4473 sent to the chief law enforcement officer shall be retained by the licensee as a part of the records required of him to be kept under the provisions of Subpart H of this part. [§922(c)]

(c) A licensed importer, licensed manufacturer, or licensed dealer may sell or deliver a rifle or shotgun, and a licensed collector may sell or deliver a rifle or shotgun which is a curio or relic, to a nonlicensed resident of State other than the State in which the licensee's place of business is located if the purchaser meets with the licensee in person at the licensee's premises to accomplish the transfer, sale and delivery of the rifle or shotgun and the sale, delivery and receipt fully comply with the legal conditions of sale in both such States.

For purposes of this paragraph, any licensed manufacturer, licensed importer, or licensed dealer is presumed, in the absence of evidence to the contrary, to have had actual knowledge of the State laws and published ordinances of both such States. [§922(b)(3)]

(Approved by the Office of Management and Budget under control number 1512-0130)

[T.D. ATF-48, 44 FR 55842, Sept. 28, 1979; T.D. ATF-241, 51 FR 39620, Oct. 29, 1986]

**§ 178.97 Loan or rental of firearms.**

A licensee may loan or rent a firearm to any person for temporary use off the premises of the licensee for lawful sporting purposes:

**Provided,** That the delivery of the firearm to such person is not prohibited by § 178.99(b) or § 178.99(c), and the licensee records such loan or rental in the records required to be kept by him under Subpart H of this part.

A club, association, or similar organization temporarily furnishing firearms (whether by loan, rental, or otherwise) to participants in a skeet, trap, target, or similar shooting activity for use at the time and place such activity is held does not, unattended by other circumstances, cause such club, association, or similar organization to be engaged in the business of a dealer in firearms or as engaging in firearms transactions.

Therefore, the licensing and record-keeping requirements contained in this part pertaining to firearms transactions would not apply to this temporary furnishing of firearms for use on premises on which such an activity is conducted. [§922(b)(3)] **A Form 4473, Part I (yellow) must be completed for off-premises use of firearms, per § 178.124(e). See, also, § 178.35 regarding organized shooting activities]**

**§ 178.98 Sales or deliveries of destructive devices and certain firearms.**

The sale or delivery by a licensee of any destructive device, machinegun, short-barreled shotgun, or short-barreled rifle, to any person other than another licensee who is licensed under this part to deal in such device or firearm, is prohibited unless the person to receive such device or firearm furnishes to the licensee a sworn statement setting forth:

(a) The reasons why there is a reasonable necessity for such person to purchase or otherwise acquire the device or weapon; and

(b) That such person's receipt or possession of the device or weapon would be consistent with public safety.

Such sworn statement shall be made on the application to transfer and register the firearm required by Part 179 of this chapter. The sale or delivery of the device or weapon shall not be made until the application for transfer is approved by the Director and returned to the licensee (transferor) as provided in Part 179 of this chapter. (See § 178.145, research organizations.) [§922(b)(5)]

[T.D. ATF-241, 51 FR 39620, Oct. 29, 1986]

**§ 178.99 Certain prohibited sales or deliveries.**

(a) **Interstate sales or deliveries.** 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 and 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 §178.96(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 (see §178.97). [§922(b)(3)]

(b) **Sales or deliveries to underaged persons.** A licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall not sell or deliver:

(1) Any firearm or ammunition to any individual who the importer, manufacturer, dealer, or collector knows or has reasonable cause to believe is less than 18 years of age, and, if the firearm, or ammunition, is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the importer, manufacturer, dealer, or collector knows or has reasonable cause to believe is less than 21 years of age; or

(2) Any firearm to any person in any State where the purchase or possession by such person of such firearm would be in violation of any State law or any published ordinance applicable at the place of sale, delivery or other disposition, unless the importer, manufacturer, dealer or collector knows or has reasonable cause to believe that the purchase or possession would not be in violation of such State law or such published ordinance. [§922(b)(1),(2)]

(c) **Sales or deliveries to prohibited categories of persons.** A licensed manufacturer, licensed importer, licensed dealer, or licensed collector shall not sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person:

(1) Is, except as provided by § 178.143, under indictment for, or, except as provided by § 178.144, has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year;

(2) Is a fugitive from justice;

(3) Is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substance Act, 21 U.S.C. 802);

(4) Has been adjudicated as a mental defective or has been committed to any mental institution;

(5) Is an alien illegally or unlawfully in the United States;

(6) Has been discharged from the Armed Forces under dishonorable conditions; or

(7) Who, having been a citizen of the United States, has renounced citizenship. [§922(d)]

(d) **Manufacture, importation, and sale of armor piercing ammunition by licensed importers and licensed manufacturers.** A licensed importer or licensed manufacturer shall not import or manufacture armor piercing ammunition or sell or deliver such ammunition, except:

(1) For use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof;

(2) For the purpose of exportation; or

(3) For the purpose of testing or experimentation authorized by the Director under the provisions of §178.149. [§922(a)(7),(8)]

(e) **Transfer of armor piercing ammunition by licensed dealers.** A licensed dealer shall not willfully transfer armor piercing ammunition:

**Provided,** That armor piercing ammunition received and maintained by the licensed dealer as business inventory prior to August 28, 1986, may be transferred to any department or agency of the United States or any State or political subdivision thereof if a record of such ammunition is maintained in the form and manner prescribed by § 178.125(c).

Any licensed dealer who violates this paragraph is subject to license revocation. See Subpart E of this part. [§923(e)]

For purposes of this paragraph, the Director shall furnish each licensed dealer information defining which projectiles are considered armor piercing. Such information may not be all-inclusive for purposes of the prohibition on manufacture, importation, or sale or delivery by a manufacturer or importer of such ammunition or 18 U.S.C. 929 relating to criminal misuse of such ammunition. [§923(k)]

[T.D. ATF-241, 51 FR 39621, Oct. 29, 1986; T.D. ATF-247, 52 FR 2050, Jan. 16, 1987]

**§ 178.100 Conduct of business away from licensed premises.**

(a) A licensee may conduct business temporarily at a gun show or event as defined in paragraph (b) if the gun show or event is located in the same State specified on the license:

**Provided,** That such business shall not be conducted from any motorized or towed vehicle. The premises of the gun show or event at which the licensee conducts business shall be considered part of the licensed premises. Accordingly, no separate fee or license is required for the gun show or event locations. However, licensees shall comply with the provisions of § 178.91 relating to posting of licenses (or a copy thereof) while conducting business at the gun show or event.

(b) A gun show or an event is a function sponsored by any national, State, or local organization, devoted to the collection, competitive use, or other sporting use of firearms, or an organization or association that sponsors functions devoted to the collection, competitive use or other sporting use of firearms in the community.

(c) Licensees conducting business at gun shows or events shall maintain firearms records in the form and manner prescribed by Subpart H of this part. In addition, records of firearms transactions conducted at gun shows or events shall include the location of the sale or other disposition and be entered in the acquisition and disposition records of the licensee and retained on the premises specified on the license. [§923(i)]

[T.D. ATF-241, 51 FR 39621, Oct. 29, 1986; T.D. ATF-247, 52 FR 2050, Jan. 16, 1987]

**§ 178.101 Record of transactions.**

Every licensee shall maintain firearms and armor piercing ammunition records in such form and manner as is prescribed by Subpart H of this part. [§§922(b)(5); 923(g)]

[T.D. ATF-247, 52 FR 2050, Jan. 16, 1987]

**Subpart G—Importation**

**§ 178.111 General.**

(a) Section 922(a)(3) of the Act makes it unlawful, with certain exceptions not pertinent here, for any person other than a licensee to transport into or receive in the State where the person resides any firearm purchased or otherwise obtained by the person outside of that State.

However, section 925(a)(4) provides a limited exception for the transportation, shipment, receipt or importation of certain firearms and ammunition by certain members of the United States Armed Forces.

Section 922(l) of the Act makes it unlawful for any person knowingly to import or bring into the United States or any possession thereof any firearm or ammunition except as provided by section 925(d) of the Act, which section provides standards for importing or bringing firearms or ammunition into the United States. Section 925(d) also provides standards for importing or bringing firearm barrels into the United States.

Accordingly, no firearm, firearm barrel, or ammunition may be imported or brought into the United States except as provided by this part.

(b) Where a firearm, firearm barrel, or ammunition is imported and the authorization for importation required by this subpart has not been obtained by the person importing same, such person shall:

(1) Store, at the person's expense, such firearm, firearm barrel, or ammunition at a facility designated by U.S. Customs or the regional director (compliance) to await the issuance of the required authorization or other disposition; or

(2) Abandon such firearm, firearm barrel, or ammunition to the U.S. Government; or

(3) Export such firearm, firearm barrel, or ammunition.

(c) Any inquiry relative to the provisions or procedures under this subpart, other than that pertaining to the payment of customs duties or the release from Customs custody of firearms, firearm barrels, or ammunition authorized by the Director to be imported, shall be directed to the regional director (compliance) for reply. [See, also, ATFR 81-3, **Returning nonresident citizens and lawfully immigrating aliens may obtain permit to import firearms**]

[T.D. ATF-241, 51 FR 39621, Oct. 29, 1986]

**§ 178.112 Importation by a licensed importer.**

(a) No firearm, firearm barrel, or ammunition shall be imported or brought to the United States by a licensed importer (as defined in § 178.11) unless the Director has authorized the importation of the firearm, firearm barrel, or ammunition.

(b) An application for a permit, ATF Form 6, to import or bring a firearm, firearm barrel, or ammunition into the United States or a possession thereof under this section shall be filed, in triplicate, with the Director. The application shall contain:

(1) The name, address, and license number of the importer;

(2) A description of the firearm, firearm barrel, or ammunition to be imported, including type

(e.g., rifle, shotgun, pistol, revolver; and in the case of ammunition only, ball, wadcutter), model, caliber, size or gauge, barrel length (if a firearm or firearm barrel), country of manufacture, and name of the manufacturer;

(3) The unit cost of the firearm, firearm barrel, or ammunition to be imported;

(4) The country from which to be imported;

(5) The name and address of the foreign seller and the foreign shipper;

(6) Verification that if a firearm, it will be identified as required by this part; and

(7)(i) If a firearm or ammunition imported or brought in for scientific or research purposes, a statement describing such purposes; or

(ii) If a firearm or ammunition for use in connection with competition or training pursuant to Chapter 401 of Title 10, U.S.C., a statement describing such intended use; or

(iii) If an unserviceable firearm (other than a machinegun) being imported as a curio or museum piece, a description of how it was rendered unserviceable and an explanation of why it is a curio or museum piece; or

(iv) If a firearm other than a surplus military firearm, of a type that does not fall within the definition of a firearm under section 5845(a) of the Internal Revenue Code of 1986, and is for sporting purposes, an explanation of why the firearm is generally recognized as particularly suitable for or readily adaptable to sporting purposes; or

(v) If ammunition being imported for sporting purposes, a statement why the ammunition is particularly suitable for or readily adaptable to sporting purposes; or

(vi) If a firearm barrel, and is for a handgun, an explanation why the handgun is generally recognized as particularly suitable for, or readily adaptable to sporting purposes.

If the Director approves the application, such approved application shall serve as the permit to import the firearm, firearm barrel, or ammunition described therein, and importation of such firearms, firearm barrels, or ammunition may continue to be made by the licensed importer under the approved application (permit) during the period specified thereon. The Director shall furnish the approved application (permit) to the applicant and retain two copies for administrative use. If the Director disapproves the application, the licensed importer shall be notified of the basis for the disapproval.

(c) A firearm, firearm barrel, or ammunition imported or brought into the United States by a licensed importer may be released from Customs custody to the licensed importer upon showing that the importer has obtained a permit from the Director for the importation of the firearm, firearm barrel, or ammunition to be released.

In obtaining the release from Customs custody of a firearm, firearm barrel, or ammunition authorized by this section to be imported through use of a permit, the licensed importer shall prepare ATF Form 6A, in duplicate, and furnish the original ATF Form 6A to the Customs officer releasing the firearm, firearm barrel, or ammunition. The Customs officer shall, after certification, forward the ATF Form 6A to the address specified on the form.

The ATF Form 6A shall show the name, address, and license number of the importer, the name of the manufacturer of the firearm, firearm barrel, or ammunition, the country of manufacture, the type, model, and caliber, size or gauge, and the number of firearms, firearm barrels, or rounds of ammunition released.

(d) Within 15 days of the date of release from Customs custody, the licensed importer shall:

(1) Forward to the address specified on the form a copy of ATF Form 6A on which shall be reported any error or discrepancy appearing on the ATF Form 6A certified by Customs;

(2) Pursuant to § 178.92, place all required identification data on each imported firearm if same did not bear such identification data at the time of its release from Customs custody; and

(3) Post in the records required to be maintained by the importer under Subpart H of this part all required information regarding the importation.

[T.D. ATF-241, 51 FR 39622, Oct. 29, 1986]

#### § 178.113 Importation by other licensees.

(a) No person other than a licensed importer (as defined in § 178.11) shall engage in the business of importing firearms or ammunition. Therefore, no firearm or ammunition shall be imported or brought into the United States or a possession thereof by any licensee other than a licensed importer unless the Director issues a permit authorizing the importation of the firearm or ammunition.

No barrel for a handgun not generally recognized as particularly suitable for or readily adaptable to sporting purposes shall be imported or brought into the United States or a possession thereof by any person. Therefore, no firearm barrel shall be imported or brought into the United States or a possession thereof by any licensee other than a licensed importer unless the Director issues a permit authorizing the importation of the firearm barrel.

(b) An application for a permit, ATF Form 6, to import or bring a firearm, firearm barrel or ammunition into the United States or a possession thereof by a licensee, other than a licensed importer, shall be filed, in triplicate, with the Director. The application shall contain:

(1) The name, address, and license number of the applicant;

(2) A description of the firearm, firearm barrel or ammunition to be imported, including type

(e.g.; rifle, shotgun, pistol, revolver; and in the case of ammunition only, ball, wadcutter), model, caliber, size or gauge, barrel length (if a firearm or firearm barrel), country of manufacture, and name of the manufacturer;

(3) The unit cost of the firearm, firearm barrel or ammunition to be imported;

(4) The name and address of the foreign seller and the foreign shipper;

(5) The country from which the firearm, firearm barrel, or ammunition is to be imported; and

(6)(i) If a firearm or ammunition imported or brought in for scientific or research purposes, a statement describing such purposes; or

(ii) If a firearm or ammunition for use in connection with competition or training pursuant to Chapter 401 of Title 10, U.S.C., a statement describing such intended use; or

(iii) If an unserviceable firearm (other than a machinegun) being imported as a curio or museum piece, a description of how it was rendered unserviceable and an explanation of why it is a curio or museum piece; or

(iv) If a firearm other than a surplus military firearm, of a type that does not fall within the definition of a firearm under section 5845(a) of the Internal Revenue Code of 1986 and is for sporting purposes, an explanation of why the firearm is generally recognized as particularly suitable for or readily adaptable to sporting purposes; or

(v) If ammunition being imported for sporting purposes, a statement why the ammunition is generally recognized as particularly suitable for or readily adaptable to sporting purposes; or

(vi) If a firearm barrel and is for a handgun, an explanation why the handgun is generally recognized as particularly suitable for or readily adaptable to sporting purposes.

If the Director approves the application, such approved application shall serve as the permit to import the firearm, firearm barrel or ammunition described therein. The Director shall furnish the approved application (permit) to the applicant and retain two copies for administrative use. If the Director disapproves the application, the applicant shall be notified of the basis for the disapproval.

(c) A firearm, firearm barrel, or ammunition imported or brought into the United States or a possession thereof under the provisions of this section may be released from Customs custody to the licensee importing the firearm, firearm barrel, or ammunition upon showing that the licensee has obtained a permit from the Director for the importation.

In obtaining the release of the firearm, firearm barrel, or ammunition from Customs custody, the licensee importing same shall furnish ATF Form 6A to the Customs officer releasing the firearm, firearm barrel, or ammunition. The Customs officer shall, after certification, forward the ATF Form 6A to the address specified on the form.

The ATF Form 6A shall show the name, address, and the license number of the licensee, the name of the manufacturer, the

country of manufacture, and the type, model, and caliber, size (if ammunition) or gauge of the firearm, firearm barrel or ammunition so released, and, if applicable, the number of firearms, firearm barrels, or rounds of ammunition released.

[T.D. ATF-241, 51 FR 39622, Oct. 29, 1986]

#### § 178.113a Importation of firearm barrels by nonlicensees.

(a) A permit will not be issued for a firearm barrel for a handgun not generally recognized as particularly suitable for or readily adaptable to sporting purposes. No firearm barrel shall be imported or brought into the United States or possession thereof by any nonlicensee unless the Director issues a permit authorizing the importation of the firearm barrel.

(b) An application for a permit, ATF Form 6, to import or bring a firearm barrel into the United States or a possession thereof under this section shall be filed, in triplicate, with the Director. The application shall contain:

(1) The name and address of the applicant;

(2) A description of the firearm barrel to be imported, including type (e.g.; rifle, shotgun, pistol, revolver), model, caliber, size or gauge, barrel length, country of manufacture, and name of the manufacturer;

(3) The unit cost of the firearm barrel;

(4) The name and address of the foreign seller and the foreign shipper;

(5) The country from which the firearm barrel is to be imported; and,

(6) If a handgun barrel, an explanation of why the barrel is for a handgun that is generally recognized as particularly suitable for or readily adaptable to sporting purposes.

If the Director approves the application, such approved application shall serve as the permit to import the firearm barrel. The Director shall furnish the approved application (permit) to the applicant and retain two copies for administrative use. If the Director disapproves the application, the applicant shall be notified of the basis for the disapproval.

(c) A firearm barrel imported or brought into the United States or a possession thereof under the provisions of this section may be released from Customs custody to the person importing the firearm barrel upon showing that the person has obtained a permit from the Director for the importation.

In obtaining the release of the firearm barrel from Customs custody, the person importing same shall furnish ATF Form 6A to the Customs officer releasing the firearm barrel. The Customs officer shall, after certification, forward the ATF Form 6A to the address specified on the form.

The ATF Form 6A shall show the name and address of the person importing the firearm barrel, the name of the manufacturer, the country of manufacture, and the type, model, and caliber or gauge of the firearm barrel so released, and, if applicable, the number of firearm barrels released.

[T.D. ATF-270, 53 FR 10480, Mar. 31, 1988]



**§ 178.114 Importation by members of the U.S. Armed Forces.**

(a) The Director may issue a permit authorizing the importation of a firearm or ammunition into the United States to the place of residence of any military member of the U.S. Armed Forces who is on active duty outside the United States, or who has been on active duty outside the United States within the 60-day period immediately preceding the intended importation:

**Provided,** That such firearm or ammunition is generally recognized as particularly suitable for or readily adaptable to sporting purposes and is intended for the personal use of such member.

An application for such a permit, ATF Form 6, shall be filed, in triplicate, with the Director. The application shall contain:

(1) The name and current address of the applicant;

(2) Certification that the transportation, receipt, or possession of the firearm or ammunition to be imported would not constitute a violation of any provision of the Act or of any State law or local ordinance at the place of the applicant's residence;

(3) A description of the firearm or ammunition to be imported, including type (e.g.; rifle, shotgun, pistol, revolver; and in the case of ammunition only, ball, wadcutter), model, caliber, size or gauge, barrel length (if a firearm), country of manufacture, and the name of the manufacturer;

(4) The unit cost of the firearm or ammunition to be imported;

(5) The name and address of the foreign seller (if applicable) and the foreign shipper;

(6) The country from which the firearm or ammunition is to be imported;

(7)(i) That the firearm or ammunition being imported is for the personal use of the applicant; and

(ii) If a firearm, a statement that it is not a surplus military firearm, that it does not fall within the definition of a firearm under section 5845(a) of the Internal Revenue Code of 1986, and an explanation of why the firearm is generally recognized as particularly suitable for or readily adaptable to sporting purposes; or

(iii) If ammunition, a statement why it is generally recognized as particularly suitable for or readily adaptable to sporting purposes; and

(8) The applicant's date of birth, rank or grade, place of residence, present foreign duty station or last foreign duty station, as the case may be, the date of the applicant's reassignment to a duty station within the United States, if applicable, and the military branch of which the applicant is a member.

If the Director approves the application, such approved application shall serve as the permit to import the firearm or ammunition described therein. The Director shall furnish the approved application (permit) to the applicant and shall retain the two copies for administrative purposes. If the Director disap-

proves the application, the applicant shall be notified of the basis for the disapproval.

(b) Upon receipt of an approved application (permit) to import the firearm or ammunition, the applicant may obtain the release of same from Customs custody upon showing that the applicant has obtained a permit from the Director for the importation.

In obtaining the release of the firearm or ammunition from Customs custody, the military member of the U.S. Armed Forces importing same shall furnish ATF Form 6A to the Customs officer releasing the firearm or ammunition. The Customs officer shall, after certification, forward the ATF Form 6A to the address specified on the form.

The ATF Form 6A shall show the name and address of such military member, the name of the manufacturer, the country of manufacture, and the type, model, and caliber, size or gauge of the firearm or ammunition so released, and, if applicable, the number of firearms or rounds of ammunition released.

However, when such military member is on active duty outside the United States, the military member may appoint, in writing, an agent to obtain the release of the firearm or ammunition from Customs custody for such member. Such agent shall present sufficient identification of the agent and the written authorization to act on behalf of such military member to the Customs officer who is to release the firearm or ammunition.

(c) Firearms determined by the Department of Defense to be war souvenirs may be imported into the United States by the military members of the U.S. Armed Forces under such provisions and procedures as the Department of Defense may issue.

[T.D. ATF-241, 51 FR 39623, Oct. 29, 1986]

**§ 178.115 Exempt importation.**

(a) Firearms and ammunition may be brought into the United States or any possession thereof by any person who can establish to the satisfaction of Customs, that such firearm or ammunition was previously taken out of the United States or any possession thereof by such person.

Registration on Customs Form 4457 or on any other registration document available for this purpose may be completed before departure from the United States at any U.S. customhouse or any office of a regional director (compliance). A bill of sale or other commercial document showing transfer of the firearm or ammunition in the United States to such person also may be used to establish proof that the firearm or ammunition was taken out of the United States by such person.

Firearms and ammunition furnished under the provisions of section 925(a)(3) of the Act to military members of the U.S. Armed Forces on active duty outside of the United States also may be imported into the United States or any possession thereof by such military members upon establishing to the satisfaction of Customs that such firearms and ammunition were so obtained.

(b) Firearms, firearm barrels and ammunition may be imported or brought into the United States by or for the United States or any department or agency thereof, or any State or any department, agency, or political subdivision thereof. A firearm, firearm barrel or ammunition imported or brought into the United States under this paragraph may be released from Customs custody upon a showing that the firearm, firearm barrel or ammunition is being imported or brought into the United States by or for such a governmental entity.

(c) The provisions of this subpart shall not apply with respect to the importation into the United States of any antique firearm.

(d) Firearms and ammunition are not imported into the United States, and the provisions of this subpart shall not apply, when such firearms and ammunition are brought into the United States by:

(1) A nonresident of the United States for legitimate hunting or lawful sporting purposes, and such firearms and such ammunition as remains following such shooting activity are to be taken back out of the territorial limits of the United States by such person upon conclusion of the shooting activity;

(2) Foreign military personnel on official assignment to the United States who bring such firearms or ammunition into the United States for their exclusive use while on official duty in the United States;

(3) Official representatives of foreign governments who are accredited to the U.S. Government or are en route to or from other countries to which accredited;

(4) Officials of foreign governments and distinguished foreign visitors who have been so designated by the Department of State; and

(5) Foreign law enforcement officers of friendly foreign governments entering the United States on official law enforcement business.

(e) Notwithstanding the provisions of paragraphs (d)(2), (3), (4) and (5) of this section, the Secretary of the Treasury or his delegate may in the interest of public safety and necessity require a permit for the importation or bringing into the United States of any firearms or ammunition.

[T.D. ATF-58, 44 FR 32367, June 6, 1979; T.D. ATF-241, 51 FR 39623, Oct. 29, 1986]

**§ 178.116 Conditional importation.**

The Director shall permit the conditional importation or bringing into the United States or any possession thereof of any firearm, firearm barrel, or ammunition for the purpose of examining and testing the firearm, firearm barrel, or ammunition in connection with making a determination as to whether the importation or bringing in of such firearm, firearm barrel, or ammunition will be authorized under this part.

An application on ATF Form 6 for such conditional importation shall be filed, in triplicate with the Director. The Director may impose conditions upon any importation under this section including a requirement that the firearm, firearm barrel, or ammunition be

shipped directly from Customs custody to the Director and that the person importing or bringing in the firearm, firearm barrel, or ammunition must agree to either export the firearm, firearm barrel, or ammunition or destroy same if a determination is made that the firearm, firearm barrel, or ammunition may not be imported or brought in under this part.

A firearm, firearm barrel, or ammunition imported or brought into the United States or any possession thereof under the provision of this section shall be released from Customs custody upon the payment of customs duties, if applicable, and in the manner prescribed in the conditional authorization issued by the Director. [925(d)(4)]

[T.D. ATF-241, 51 FR 39623, Oct. 29, 1986]

**§ 178.117 Function outside a customs territory.**

In the insular possessions of the United States outside customs territory, the functions performed by U.S. Customs officers under this subpart within a customs territory may be performed by the appropriate authorities of a territorial government or other officers of the United States who have been designated to perform such functions. For the purpose of this subpart, the term customs territory means the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

**§ 178.118 Importation of certain firearms classified as curios or relics.**

Notwithstanding any other provision of this part, a licensed importer may import all rifles and shotguns classified by the Director as curios or relics, and all handguns classified by the Director as curios or relics that are determined to be generally recognized as particularly suitable for or readily adaptable to sporting purposes. The importation of such curio or relic firearms must be in accordance with the applicable importation provisions of this part and the importation provisions of 27 CFR Part 47. Curios or relics which fall within the definition of "firearm" under 26 U.S.C. 5845(a) must also meet the importation provisions of 27 CFR Part 179 before they may be imported.

ions of 27 CFR Part 179 before they may be imported.

[T.D. ATF-202, 50 FR 14383, Apr. 12, 1985]

**Subpart H—Records**

**§ 178.121 General.**

(a) The records pertaining to firearms transactions prescribed by this part shall be retained on the licensed premises in the manner prescribed by this subpart and for the length of time prescribed by § 178.129. The records pertaining to ammunition prescribed by this part shall be retained on the licensed premises in the manner prescribed by § 178.125.

(b) ATF officers may, for the purposes and under the conditions prescribed in § 178.23, enter the premises of any licensed importer, licensed manufacturer, licensed dealer, or licensed collector for the purpose of examining or inspecting any record or document required by or obtained under this part. Section 923(g) of the Act requires licensed importers, licensed manufacturers, licensed dealers, and licensed collectors to make such records available for such examination or inspection during business hours or, in the case of licensed collectors, hours of operation, as provided in § 178.23.

(c) Each licensed importer, licensed manufacturer, licensed dealer, and licensed collector shall maintain such records of importation, production, shipment, receipt, sale, or other disposition, whether temporary or permanent, of firearms and such records of the disposition of ammunition as the regulations contained in this part prescribe. Section 922(m) of the Act makes it unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector knowingly to make any false entry in, to fail to make appropriate entry in, or to fail to properly maintain any such record. [§§922(m); 923(g). See, also, ATFP 75-3, Drop shipments of firearms and ammunition; ATFR 76-25, Recordkeeping requirements for firearms parts; ATFR 77-1, Recordkeeping requirements for licensed gunsmiths]

(d) For recordkeeping requirements for sales by licensees at gun shows, see § 178.100(c)

(Information collection requirements in paragraph (a) approved by the Office of Management and Budget under control number 1512-0129; information collection requirements in paragraphs (b) and (c) approved by the Office of Management and Budget under control number 1512-0387)

[T.D. ATF-191, 49 FR 46891, Nov. 29, 1984; T.D. ATF-208, 50 FR 26703, June 28, 1985; T.D. ATF-241, 51 FR 39624, Oct. 29, 1986]

**§ 178.122 Records maintained by importers.**

(a) Each licensed importer 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.

(b) A record of firearms disposed of by a licensed importer to another licensee and a separate record of armor piercing ammunition dispositions to governmental entities, for exportation, or for testing or experimentation authorized under the provisions of § 178.149 shall be maintained by the licensed importer on the licensed premises.

For firearms, the record shall show the quantity, type, model, manufacturer, country of manufacture, caliber or gauge, model, serial number of the firearms so transferred, the name and license number of the licensee to whom the firearms were transferred, and the date of the transaction [FIGURE 1].

For armor piercing ammunition, the record shall show the date of the transaction, manufacturer, caliber or gauge, quantity of projectiles, and the name and address of the purchaser [FIGURE 2].

The information required by this paragraph shall be entered in the proper record book not later than the seventh day following the date of the transaction, and such information shall be recorded under one of the following formats; [FIGURE 1] or [FIGURE 2]:

[FIGURE 1] Importer's Firearms Disposition Record

Quantity	Type	Manufacturer	Country of manufacture	Caliber or gauge	Model	Serial number	Name and license number of licensee to whom transferred	Date of the transaction
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[FIGURE 2] Importer's Armor Piercing Ammunition Disposition Record

Date	Manufacturer	Caliber or gauge	Quantity of projectiles	Purchaser name and address
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(c) Notwithstanding the provisions of paragraph (b) of this section, the regional director (compliance) may authorize alternate records to be maintained by a licensed importer to record the disposal of firearms and

armor piercing ammunition when it is shown by the licensed importer that such alternate records will accurately and readily disclose the information required by paragraph (b) of this section.

A licensed importer who proposes to use alternate records shall submit a letter application, in duplicate, to the regional director (compliance) and shall describe the proposed alternate records and the need thereof. Such

alternate records shall not be employed by the licensed importer until approval in such regard is received from the regional director (compliance).

(d) Each licensed importer shall maintain separate records of the sales or other dispositions made of firearms to nonlicensees. Such records shall be maintained in the form and manner as prescribed by §§ 178.124 and 178.125 in regard to firearms transaction records and records of acquisition and disposition of firearms.

(Approved by the Office of Management and Budget under control number 1512-0387)

[T.D. ATF-241, 51 FR 39624, Oct. 29, 1986; T.D. ATF-247, 52 FR 2050, Jan. 16, 1987]

#### § 178.123 Records maintained by manufacturers.

(a) Each licensed manufacturer shall record the type, model, caliber or gauge, and serial number of each complete firearm manufactured or otherwise acquired, and the date such manufacture or other acquisition was made. The information required by this paragraph shall be recorded not later than the seventh day following the date such manufacture or other acquisition was made.

(b) A record of firearms disposed of by a manufacturer to another licensee and a separate record of armor piercing ammunition dispositions to governmental entities, for exportation, or for testing or experimentation authorized under the provision of § 178.149 shall be maintained by the licensed manufacturer on the licensed premises.

For firearms, the record shall show the quantity, type, model, manufacturer, caliber or gauge, serial number of the firearms so transferred, the name and license number of the licensee to whom the firearms were transferred, and the date of the transaction [see FIGURE 1].

For armor piercing ammunition, the record shall show the manufacturer, caliber or gauge, quantity, the name and address of the transferee to whom the armor piercing ammunition was transferred, and the date of the transaction [see FIGURE 2].

The information required by this paragraph shall be entered in the proper record book not later than the seventh day following the date of the transaction, and such information shall be recorded under the format prescribed by § 178.122, except that the name of the manufacturer of a firearm or armor piercing ammunition need not be recorded if the firearm or armor piercing ammunition is of the manufacturer's own manufacture.

(c) Notwithstanding the provisions of paragraph (b) of this section, the regional director (compliance) may authorize alternate records to be maintained by a licensed manufacturer to record the disposal of firearms and armor piercing ammunition when it is shown by the licensed manufacturer that such alternate records will accurately and readily disclose the information required by paragraph (b) of this section.

A licensed manufacturer who proposes to use alternate records shall submit a letter application, in duplicate, to the regional director (compliance) and shall describe the pro-

posed alternate record and the need therefor. Such alternate records shall not be employed by the licensed manufacturer until approval in such regard is received from the regional director (compliance).

(d) Each licensed manufacturer shall maintain separate records of the sales or other dispositions made of firearms to nonlicensees. Such records shall be maintained in the form and manner as prescribed by §§ 178.124 and 178.125 in regard to firearms transaction records and records of acquisition and disposition of firearms.

(Approved by the Office of Management and Budget under control number 1512-0369)

[T.D. ATF-241, 51 FR 39624, Oct. 29, 1986; T.D. ATF-247, 52 FR 2051, Jan. 16, 1987]

#### § 178.124 Firearms transaction record.

(a) **General.** A licensed importer, licensed manufacturer, or licensed dealer shall not sell or otherwise dispose, temporarily or permanently, of any firearm to any person, other than another licensee, unless the licensee records the transaction on a firearms transaction record, Form 4473:

**Provided,** That a firearms transaction record, Form 4473, shall not be required to record the disposition made of a firearm delivered to a licensee for the sole purpose of repair or customizing when such firearm or a replacement firearm is returned to the person from whom received.

(b) **Form 4473 retention.** A licensed manufacturer, licensed importer, or licensed dealer shall retain in alphabetical (by name of purchaser), chronological (by date of disposition), or numerical (by transaction serial number) order, and as a part of the required records, each Form 4473 obtained in the course of transferring custody of the firearms. [For the period of record retention, see § 178.129.]

#### EDITOR'S NOTE:

The Form 4473 referred to in § 178.124(c),(d) and (e), below, is Form 4473, Part I, the yellow form used for over-the-counter sales/transfers.

(c) **Over-the-counter sale to nonlicensee resident of same State as licensee's premises.** Prior to making an over-the-counter transfer of a firearm to a nonlicensee who is a resident of the State in which the licensee's business premises is located, the licensed importer, licensed manufacturer, or licensed dealer so transferring the firearm shall obtain a Form 4473 from the transferee showing the name, address (including county or similar political subdivision), date and place of birth, height, weight, and race of the transferee, and certification by the transferee that the transferee is not prohibited by the Act from transporting or shipping a firearm in interstate or foreign commerce or receiving a firearm which has been shipped or transported in interstate or foreign commerce or possessing a firearm in or affecting commerce.

The licensee shall identify the firearm to be transferred by listing in the Form 4473 the name of the manufacturer, the name of the importer (if any), the type, model, caliber or gauge, and the serial number of the firearm.

Before transferring the firearm described in the Form 4473, the licensee:

(1) Shall cause the transferee to be identified in any manner customarily used in commercial transactions (e.g., a driver's license), and shall note on the form the method used; and

(2) If the licensee does not know or have reasonable cause to believe that the transferee is disqualified by law from receiving the firearm, shall sign and date the form.

(d) **Over-the-counter sale of shotgun or rifle, only, by licensee to out-of-State nonlicensee.** Prior to making an over-the-counter transfer of a shotgun or rifle under provisions contained in § 178.96(c) to a nonlicensee who is not a resident of the State in which the licensee's business premises is located, the licensee so transferring the shotgun or rifle, and such transferee, shall comply with the requirements of paragraph (c) of this section.

(e) **Over-the-counter loan or rental by licensee to out-of-State nonlicensee.** Prior to making an over-the-counter transfer of a firearm to any nonlicensee who is not a resident of the State in which the licensee's business premises is located, and such nonlicensee is acquiring the firearm by loan or rental from the licensee for temporary use for lawful sporting purposes, the licensed importer, licensed manufacturer, or licensed dealer so furnishing the firearm, and such transferee, shall comply with the provisions of paragraph (c) of this section.

#### EDITOR'S NOTE:

The Form 4473 referred to in § 178.124(f), below, is Form 4473, Part II, the green form used for intrastate, non-over-the-counter sales/transfers.

(f) **Non-over-the-counter sale to nonlicensee resident of same State as licensee's premises.** Form 4473 shall be submitted, in duplicate, to a licensed importer, licensed manufacturer, or licensed dealer by a transferee who is purchasing or otherwise acquiring a firearm by other than an over-the-counter transaction, and who is a resident of the State in which the licensee's business premises is located.

The Form 4473 shall show the name, address, date and place of birth, height, weight, and race of the transferee; and the title, name, and address of the principal law enforcement officer of the locality to which the firearm will be delivered.

The transferee also must date and execute the sworn statement contained on the form showing that, in case the firearm to be transferred is a firearm other than a shotgun or rifle, the transferee is 21 years or more of age; that, in case the firearm to be transferred is a shotgun or rifle, the transferee is 18 years or more of age; that the transferee is not prohibited by the provisions of the Act from shipping or transporting a firearm in interstate or foreign commerce or receiving a firearm which has been shipped or transported in interstate or foreign commerce or possessing a firearm in or affecting commerce; and that

the transferee's receipt of the firearm would not be in violation of any statute of the State or published ordinance applicable to the locality in which the transferee resides.

Upon receipt of such Forms 4473, the licensee shall identify the firearm to be transferred by listing in the Forms 4473 the name of the manufacturer, the name of the importer (if any), the type, model, caliber or gauge, and the serial number of the firearm to be transferred.

The licensee shall, prior to shipment or delivery of the firearm to such transferee, forward by registered or certified mail (return receipt requested) a copy of the Form 4473 to the principal law enforcement officer named in the Form 4473 by the transferee, and shall delay shipment or delivery of the firearm to the transferee for a period of at least 7 days following receipt by the licensee of the return receipt evidencing delivery of the copy of the Form 4473 to such principal law enforcement officer, or the return of the copy of the Form 4473 to the licensee due to the refusal of such principal law enforcement officer to accept same in accordance with U.S. Postal Service regulations.

The original Form 4473, and evidence of receipt or rejection of delivery of the copy of the Form 4473 sent to the principal law enforcement officer, shall be retained by the licensee as a part of the records required to be kept under this subpart.

(g) A licensee who sells or otherwise disposes of a firearm to a nonlicensee who is other than an individual, shall obtain from the transferee the information required by this section from an individual authorized to act on behalf of the transferee.

In addition, the licensee shall obtain from the individual acting on behalf of the transferee a written statement, executed under the penalties of perjury, that the firearm is being acquired for the use of and will be the property of the transferee, and showing the name and address of that transferee.

(h) The requirements of this section shall be in addition to any other recordkeeping requirement contained in this part.

(i) A licensee may obtain, upon request, an emergency supply of Forms 4473 from any regional director (compliance). For normal usage, a licensee should request a year's supply from the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153.

(Paragraph (f) approved by the Office of Management and Budget under control number 1512-0130; all other recordkeeping approved by the Office of Management and Budget under control number 1512-0129)

[T.D. ATF-172, 49 FR 14942, Apr. 16, 1984; T.D. ATF-241, 51 FR 39625, Oct. 29, 1986]

#### EDITOR'S NOTES:

**1. ATFR 76-15 discusses the record-keeping and reporting requirements of pawnbrokers.**

#### **2. ATFR 79-7 discusses the identification needed to purchase a firearm.**

##### **§ 178.124a Firearms transaction record in lieu of record of receipt and disposition.**

(a) A licensed dealer acquiring firearms after August 1, 1988, and contemplating the disposition of not more than 50 firearms within a succeeding 12-month period to licensees or nonlicensees, may maintain a record of the acquisition and disposition of such firearms on a firearms transaction record, Form 4473(LV), Part I or II, in lieu of the records prescribed by § 178.125.

Such 12-month period shall commence from the date the licensed dealer first records the purchase or other acquisition of a firearm on Form 4473(LV) pursuant to this section. A licensed dealer who maintains records pursuant to this section, but whose firearms dispositions exceed 50 firearms within such 12-month period, shall make and maintain the acquisition and disposition records required by § 178.125 with respect to each firearm exceeding 50.

(b) Each licensed dealer maintaining firearms acquisition and disposition records pursuant to this section shall record the purchase or other acquisition of a firearm on Form 4473(LV), Part I or II, in accordance with the instructions on the form no later than the close of the next business day following the date of such purchase or acquisition. However, when disposition is made of a firearm before the close of the next business day after the receipt of that firearm, the licensed dealer making such disposition shall enter all required acquisition information regarding the firearm on the Form 4473(LV) at the time such transfer or disposition is made.

The record on Form 4473(LV) shall show the date of receipt, the name and address or the name and license number of the person from whom received, the name of the manufacturer and importer (if any), the model, serial number, type, and caliber or gauge of the firearm.

(c) Each licensed dealer maintaining firearms acquisition and disposition records pursuant to this section shall retain Form 4473(LV), Part I or II, reflecting firearms possessed by such business in chronological (by date of receipt) or numerical (by transaction serial number) order. Forms 4473(LV) reflecting the licensee's sale or disposition of firearms shall be retained in alphabetical (by name of purchaser), chronological (by date of disposition) or numerical (by transaction serial number) order.

(d) A licensed dealer maintaining records pursuant to this section shall record the sale or other disposition of a firearm to another licensee by entering on the Form 4473(LV), Part I, associated with such firearm, the name and license number of the person to whom transferred and by signing and dating the form.

(e) A licensed dealer shall obtain the Form 4473(LV), Part I, associated with the firearm in lieu of a Form 4473 and comply with the requirements specified in § 178.124(c) prior to making an over-the-counter transfer of a firearm to a nonlicensee:

(1) Who is a resident of the State in which the licensee's business premises is located;

(2) Who is not a resident of the State in which the licensee's business premises is located and the firearm is a shotgun or rifle and the transfer is under the provisions of § 178.96(c); or

(3) Who is not a resident of the State in which the licensee's business premises is located and who is acquiring the firearm by loan or rental for temporary use for lawful sporting purposes.

(f) A licensed dealer shall obtain the Form 4473(LV), Part II, associated with the firearm in lieu of a Form 4473 and comply with the requirements specified in § 178.124(f) prior to making a disposition of a firearm to a nonlicensee who is purchasing or otherwise acquiring a firearm by other than an over-the-counter transaction and who is a resident of the State in which the licensee's business premises is located. If the licensee's records of the acquisition of the firearm is, at the time of the disposition, being maintained on a Form 4473(LV), Part I, for over-the-counter transactions, the licensee shall transfer the information relative to the receipt of the firearm, as required by paragraph (b) of this section, to Form 4473(LV), Part II. The corresponding Form 4473(LV), Part I, may then be destroyed.

##### **§ 178.125 Record of receipt and disposition.**

(a) **Armor piercing ammunition sales by licensed collectors to nonlicensees.** The sale or other disposition of armor piercing ammunition by licensed collectors shall be recorded in a bound record at the time a transaction is made.

The bound record shall be maintained in chronological order by date of sale or disposition of the armor piercing ammunition, and shall be retained on the licensed premises of the license for a period not less than two years following the date of the recorded sale or disposition of the armor piercing ammunition.

The bound record entry shall show:

- (1) The date of the transaction;
- (2) The name of the manufacturer;
- (3) The caliber or gauge;
- (4) The quantity of projectiles;
- (5) The name, address, and date of birth of the nonlicensee; and
- (6) The method used to establish the identity of the armor piercing ammunition purchaser.

The format required for the bound record is as follows [FIGURE 3]:

[FIGURE 3] Disposition Record of Armor Piercing Ammunition

Date	Manufacturer	Calib. or gauge	Quantity of projectiles	Purchaser		Enter an 'X' in the "known" column if purchaser is personally known to you. Otherwise, establish the purchaser's identification.		
				Name and address	Date of birth	Known	Driver's license	Other type (specify)

However, when a commercial record is made at the time a transaction is made, a licensee may delay making an entry into the bound record if the provisions of paragraph (d) of this section are complied with.

**(b) Armor piercing ammunition sales by licensed collectors to licensees.** Sales or other dispositions of armor piercing ammunition from a licensed collector to another licensee shall be recorded and maintained in the manner prescribed in § 178.122(b) for importers [see FIGURE 2]:

**Provided,** That the license number of the transferee may be recorded in lieu of the transferee's address.

**(c) Armor piercing ammunition sales by licensed dealers to governmental entities.** A record of armor piercing ammunition disposed of by a licensed dealer to a governmental entity pursuant to § 178.99(e) shall be maintained by the licensed dealer on the licensed premises and shall show the name of the manufacturer, the caliber or gauge, the quantity, the name and address of the entity to which the armor piercing ammunition was transferred, and the date of the transaction. Such information shall be recorded under the format prescribed by § 178.122(b) [see FIGURE 2].

Each licensed dealer disposing of armor piercing ammunition pursuant to § 178.99(e) shall also maintain a record showing the date of acquisition of such ammunition which shall be filed in an orderly manner separate from other commercial records maintained and be readily available for inspection.

The records required by this paragraph shall be retained on the licensed premises of the licensee for a period not less than two

years following the date of the recorded sale or disposition of the armor piercing ammunition.

**(d) Commercial records of armor piercing ammunition transactions.** When a commercial record is made at the time of sale or other disposition of armor piercing ammunition, and such record contains all information required by the bound record prescribed by paragraph (a) of this section, the licensed collector transferring the armor piercing ammunition may, for a period not exceeding 7 days following the date of such transfer, delay making the required entry into such bound record:

**Provided,** That the commercial record pertaining to the transfer is:

(1) Maintained by the licensed collector separate from other commercial documents maintained by such licensee; and

(2) Readily available for inspection on the licensed premises until such time as the required entry into the bound record is made.

**(e) Firearms receipt and disposition by licensed dealers.** Except as provided in § 178.124a with respect to alternate records for the receipt and disposition of firearms by dealers, each licensed dealer shall enter into a record each receipt and disposition of firearms. In addition, before commencing or continuing firearms business, each licensed dealer shall inventory the firearms possessed for such business and shall record same in the record required by this paragraph.

The record required by this paragraph shall be maintained in bound form under the format prescribed below.

The purchase or other acquisition of a firearm by a licensed dealer shall, except as

provided in paragraph (g) of this section, be recorded not later than the close of the next business day following the date of such purchase or acquisition.

The record shall show the date of receipt, the name and address or the name and license number of the person from whom received, the name of the manufacturer and importer (if any), the model, serial number, type, and the caliber or gauge of the firearm.

The sale or other disposition of a firearm shall be recorded by the licensed dealer not later than 7 days following the date of such transaction.

When such disposition is made to a nonlicensee, the firearms transaction record, Form 4473, obtained by the licensed dealer, shall be retained until the transaction is recorded, separate from the licensee's Form 4473 file, and be readily available for inspection.

When such disposition is made to a licensee, the commercial record of the transaction shall be retained, until the transaction is recorded, separate from other commercial documents maintained by the licensed dealer, and be readily available for inspection.

The record shall show the date of the sale or other disposition of each firearm, the name and address of the person to whom the firearm is transferred, or the name and license number of the person to whom transferred if such person is a licensee, or the firearms transaction record Form 4473 serial number, if the licensed dealer transferring the firearm serially numbers the Forms 4473 and files them numerically.

The format required for the record of receipt and disposition of firearms is as follows [FIGURE 4]:

[FIGURE 4] Firearms Acquisition and Disposition Record

Description of Firearm					Receipt		Disposition		
Manufacturer and/or importer	Model	Serial number	Type	Caliber or gauge	Date	Name and address or name and license number	Date	Name	Address or license number if licensee, or Form 4473 serial number if Forms 4473 filed numerically

**(f) Firearms receipt and disposition by licensed collectors.** Each licensed collector

shall enter into a record each receipt and disposition of firearms curios or relics. In

addition, before commencing or continuing a firearms curio or relic collection, each li-

censed collector shall inventory the curios or relics possessed in such collection and shall record same in the record required by this paragraph.

The record required by this paragraph shall be maintained in bound form under the format prescribed below.

The purchase or other acquisition of a curio or relic shall, except as provided in paragraph (g) of this section, be recorded not later than the close of the next business day following the date of such purchase or other acquisition.

The record shall show the date of receipt, the name and address or the name and license number of the person from whom

received, the name of the manufacturer and importer (if any), the model, serial number, type, and the caliber or gauge of the firearm curio or relic.

The sale or other disposition of a curio or relic shall be recorded by the licensed collector not later than 7 days following the date of such transaction.

When such disposition is made to a licensee, the commercial record of the transaction shall be retained until the transaction is recorded, separate from other commercial documents maintained by the licensee, and be readily available for inspection.

The record shall show the date of the sale or other disposition of each firearm curio

or relic, the name and address of the person to whom the firearm curio or relic is transferred, or the name and license number of the person to whom transferred 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), and shall note on the record the method used.

The format required for the record of receipt and disposition of firearms by collectors is as follows [FIGURE 5]:

[FIGURE 5] Firearms Collectors Acquisition and Disposition Record

Description of Firearm					Receipt		Disposition			
Manufacturer and/or importer	Model	Serial number	Type	Caliber or gauge	Date	Name and address or name and license number	Date	Name and address or name and license number	Date of birth if nonlicensee	Driver's license number or other identification if nonlicensee

**(g) Commercial records of firearms received.** When a commercial record is held by a licensed dealer or licensed collector showing the acquisition of a firearm or firearm curio or relic, and such record contains all acquisition information required by the bound record prescribed by paragraphs (e) and (f) of this section, the licensed dealer or licensed collector acquiring such firearm or curio or relic, may, for a period not exceeding 7 days following the date of such acquisition, delay making the required entry into such bound record:

**Provided,** That the commercial record is, until such time as the required entry into the bound record is made:

(1) Maintained by the licensed dealer or licensed collector separate from other commercial documents maintained by such licensee; and

(2) Readily available for inspection on the licensed premises:

**Provided, further,** That when disposition is made of a firearm or firearm curio or relic not entered in the bound record under the provisions of this paragraph, the licensed dealer or licensed collector making such disposition shall enter all required acquisition information regarding the firearm or firearm curio or relic in the bound record at the time such transfer or disposition is made.

**(h) Alternate records.** Notwithstanding the provisions of paragraphs (a), (e), and (f) of this section, the regional director (compliance) may authorize alternate records to be maintained by a licensed dealer or licensed collector to record the acquisition and dispo-

sition of firearms or curios or relics and the disposition of armor piercing ammunition when it is shown by the licensed dealer or the licensed collector that such alternate records will accurately and readily disclose the required information.

A licensed dealer or licensed collector who proposes to use alternate records shall submit a letter application, in duplicate, to the regional director (compliance) and shall describe the proposed alternate records and the need therefor. Such alternate records shall not be employed by the licensed dealer or licensed collector until approval in such regard is received from the regional director (compliance).

**(i) Requirements for importers and manufacturers.** Each licensed importer and licensed manufacturer selling or otherwise disposing of firearms or armor piercing ammunition to nonlicensees shall maintain such records of such transactions as are required of licensed dealers by this section.

(Approved by the Office of Management and Budget under control number 1512-0387)

[T.D. ATF-241, 51 FR 39627, Oct. 29, 1986; T.D. ATF-247, 52 FR 2052, Jan. 16, 1987]

**§ 178.125a Personal firearms collection.**

(a) Notwithstanding any other provision of this subpart, a licensed manufacturer, licensed importer, or licensed dealer is not required to record on a firearms transaction record, Form 4473, the sale or other disposition of a firearm maintained as part of the licensee's personal firearms collection:

**Provided, that:**

(1) 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;

(2) The licensee recorded in the bound record prescribed by § 178.125(e) [FIGURE 4] the receipt of the firearm into the business inventory or other acquisition;

(3) The licensee recorded the firearm as a disposition in the bound record prescribed by § 178.125(e) [FIGURE 4] when the firearm was transferred from the business inventory into the personal firearms collection or otherwise acquired as a personal firearm; and

(4) The licensee enters the sale or other disposition of the firearm from the personal firearms collection into a bound record, under the format prescribed below, 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 license number 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), and shall note on the record the method used.

The format required for the disposition record of personal firearms is as follows [FIGURE 6]:



[FIGURE 6] Disposition Record of Personal Firearms

Description of Firearm					Disposition			
Manufacturer and/or importer	Model	Serial number	Type	Caliber or gauge	Date	Name and address or name and license number	Date of birth if nonlicensee	Driver's license number or other identification if nonlicensee

(b) Any licensed manufacturer, licensed importer, or licensed dealer selling or otherwise disposing of a firearm from the licensee's personal firearms collection under this section shall be subject to the restriction imposed by the Act and this part on the dispositions of firearms by persons other than licensed manufacturers, licensed importers, and licensed dealers.

(Approved by the Office of Management and Budget under control number 1512-0387)

[T.D. ATF-241, 51 FR 39627, Oct. 29, 1986; T.D. ATF-247, 52 FR 2052, Jan. 16, 1987]

**§ 178.126 Furnishing transaction information.**

(a) Each licensee shall, when required by letter issued by the regional director (compliance), and until notified to the contrary in writing by such officer, submit on Form 4483, **Report of Firearms Transactions**, for the periods and at the times specified in the letter issued by the regional director (compliance), all record information required by this subpart, or such lesser record information as the regional director (compliance) in his letter may specify.

(b) The regional director (compliance) may authorize the information to be submitted in a manner other than that prescribed in paragraph (a) of this section when it is shown by a licensee that an alternate method of reporting is reasonably necessary and will not unduly hinder the effective administration of this part. A licensee who proposes to use an alternate method of reporting shall submit a letter application, in duplicate, to the regional director (compliance) and shall describe the proposed alternate method of reporting and the need therefor. An alternate method of reporting shall not be employed by the licensee until approval in such regard is received from the regional director (compliance).

(Approved by the Office of Management and Budget under control number 1512-0387)

[T.D. ATF-172, 49 FR 14942, Apr. 16, 1984]

**EDITOR'S NOTE:**

An annual report of firearms manufactured and/or exported is to be prepared and furnished ATF Bureau Headquarters on ATF Form 4483-A by licensed firearms manufacturers.

**§ 178.126a Reporting multiple sales or other dispositions of pistols and revolvers.**

Each licensee shall prepare a report of multiple sales or other dispositions whenever

the licensee sells or otherwise disposes of, at one time or during any five consecutive business days, two or more pistols, or revolvers, or any combination of pistols and revolvers totaling two or more, to an unlicensed person;

**Provided,** That a report need not be made where pistols or revolvers, or any combination thereof, are returned to the same person from whom they were received. The report shall be prepared on Form 3310.4, **Report of Multiple Sale or Other Disposition of Pistols and Revolvers**, and forwarded to the office specified thereon not later than the close of business on the day that the multiple sale or other disposition occurs. [§923(g)(3)]

**Example 1. A licensee sells a pistol and revolver in a single transaction to an unlicensed person. This is a multiple sale and must be reported not later than the close of business on the date of the transaction.**

**Example 2. A licensee sells a pistol on Monday and sells a revolver on the following Friday to the same unlicensed person. This is a multiple sale and must be reported not later than the close of business on Friday. If the licensee sells the same unlicensed person another pistol or revolver on the following Monday, this would constitute an additional multiple sale and must also be reported.**

**Example 3. A licensee maintaining business hours on Monday through Saturday sells a revolver to an unlicensed person on Monday and sells another revolver to the same person on the following Saturday. This does not constitute a multiple sale and need not be reported since the sales did not occur during five consecutive business days.**

(Approved by the Office of Management and Budget under control number 1512-0006)

[T.D. ATF-241, 51 FR 39627, Oct. 29, 1986]

**§ 178.127 Discontinuance of business.**

Where a firearms or ammunition business is discontinued and succeeded by a new licensee, the records prescribed by this subpart shall appropriately reflect such facts and shall be delivered to the successor. Where discontinuance of the business is absolute, the records prescribed by this subpart shall be delivered within 30 days following the business discontinuance to the regional director (compliance) for the region in which the business was located, any other ATF office located in that region, or the ATF Firearms Out-of-Business Records Center, 3361F 75th Avenue, Landover, Maryland 20785:

**Provided, however,** Where State law or local ordinance requires the delivery of records to other responsible authority, the regional director (compliance) may arrange for the delivery of the records required by this subpart to such authority. [§923(g)(4)]

[T.D. ATF-241, 51 FR 39628, Oct. 29, 1986]

**§ 178.128 False statement or representation.**

(a) Any person who knowingly makes any false statement or representation in applying for any license or exemption or relief from disability under the provisions of the Act shall be fined not more than \$5,000 or imprisoned not more than 5 years, or both.

(b) Any person other than a licensed manufacturer, licensed importer, licensed dealer, or licensed collector who knowingly makes any false statement or representation with respect to any information required by the provisions of the Act or this part to be kept in the records of a person licensed under the Act or this part shall be fined not more than \$5,000 or imprisoned not more than 5 years, or both.

(c) Any licensed manufacturer, licensed importer, licensed dealer, or licensed collector who knowingly makes any false statement or representation with respect to any information required by the provisions of the Act or this part to be kept in the records of a person licensed under the Act or this part shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

[T.D. ATF-241, 51 FR 39628, Oct. 29, 1986]

**§ 178.129 Record retention.**

(a) **Records prior to Act.** Licensed importers and licensed manufacturers may dispose of records of sale or other disposition of firearms prior to December 16, 1968. Licensed dealers and licensed collectors may dispose of all records of firearms transactions that occurred prior to December 16, 1968.

(b) **Firearms transaction record.** Licensees shall retain each Form 4473 or Form 4478(LV) for a period of not less than 20 years after the date of sale or disposition.

(c) **Records of importation and manufacture.** Licensed importers and licensed manufacturers shall maintain permanent records of the importation, manufacture or other acquisition of firearms. Licensed importers' records and licensed manufacturers' records of the sale or other disposition of firearms after December 15, 1968, shall be retained through December 15, 1988, after which records of transactions over 20 years of age may be discarded.

(d) **Records of dealers and collectors under the Act.** The records prepared by licensed dealers and licensed collectors under the Act of the sale or other disposition of

firearms and the corresponding record of receipt of such firearms shall be retained through December 15, 1988, after which records of transactions over 20 years of age may be discarded.

(Approved by the Office of Management and Budget under control number 1512-0129)

[T.D. ATF-208, 50 FR 26704, June 28, 1985 and correctly designated at 50 FR 35081, Aug. 29, 1985]

### Subpart I—Exemptions, Seizures, and Forfeitures

#### § 178.141 General.

The provisions of this part shall not apply with respect to:

(a) The transportation, shipment, receipt, or importation of any firearms or ammunition imported for, sold or shipped to, or issued for the use of, the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof. [§925(a)(1).]

(b) The shipment or receipt of firearms or ammunition when sold or issued by the Secretary of the Army pursuant to section 4308 of Title 10, U.S.C., and the transportation of any such firearm or ammunition carried out to enable a person, who lawfully received such firearm or ammunition from the Secretary of the Army, to engage in military training or in competitions. [§925(a)(2)]

(c) The shipment, unless otherwise prohibited by the Act or any other Federal law, by a licensed importer, licensed manufacturer, or licensed dealer to a member of the U.S. Armed Forces on active duty outside the United States or to clubs, recognized by the Department of Defense, whose entire membership is composed of such members of the U.S. Armed Forces, and such members or clubs may receive a firearm or ammunition determined by the Director to be generally recognized as particularly suitable for sporting purposes and intended for the personal use of such member or club. Before making a shipment of firearms or ammunition under the provisions of this paragraph, a licensed importer, licensed manufacturer, or licensed dealer may submit a written request, in duplicate, to the Director for a determination by the Director whether such shipment would constitute a violation of the Act or any other Federal law, or whether the firearm or ammunition is considered by the Director to be generally recognized as particularly suitable for sporting purposes. [§ 925(a)(3)]

#### EDITOR'S NOTE:

The U.S. State Department has set out, in greater detail, the requirements and allowances regarding shipment of firearms to certain personnel overseas. This is included here for your information. "Nonautomatic firearms in Category I(a)" are nonautomatic or semi-automatic firearms to caliber .50 inclusive, and all components and parts for such firearms.

#### Title 22, Code of Federal Regulations

§ 123.18 Firearms for personal use of members of the U.S. Armed Forces and civilian employees of the U.S. Government.

The following exemptions apply to members of the U.S. Armed Forces and civilian employees of the U.S. Government who are U.S. persons (both referred to herein as "Personnel"). The exemptions apply only to such personnel if they are assigned abroad for extended duty. These exemptions do not apply to dependents.

(a) **Firearms.** District directors of customs may permit nonautomatic firearms in Category I(a) and parts thereof to leave (but not be mailed from) the United States without a license if:

(1) They are consigned to servicemen's clubs abroad for uniformed members of the U.S. Armed Forces; or,

(2) In the case of a uniformed member of the U.S. Armed Forces or a civilian employee of the Department of Defense, they are consigned to the personnel for personal use and not for resale or other transfer of ownership, and if the firearms are accompanied by a written authorization from the commanding officer concerned; or,

(3) In the case of other U.S. Government employees, they are consigned to such personnel for personal use and not for resale or other transfer of ownership, and the Chief of the U.S. Diplomatic Mission or his designee in the country of destination has approved in writing to Department of State the bringing of the specific types and quantities of firearms into that country.

(b) **Ammunition.** District directors of customs may permit not more than 1,000 cartridges (or rounds) of ammunition for the firearms referred to in paragraph (a) of this section to be exported (but not mailed) from the United States without a license when the firearms are on the person of the owner or with his baggage or effects, whether accompanied or unaccompanied (but not mailed).

(d) The transportation, shipment, receipt, possession, or importation of any antique firearm. [§§921(a)(3),(16)]

[T.D. ATF-241, 51 FR 39628, Oct. 29, 1986]

#### § 178.142 Effect of pardons and expunctions of convictions.

(a) A pardon granted by the President of the United States regarding a Federal conviction for a crime punishable by imprisonment for a term exceeding 1 year shall remove any disability which otherwise would be imposed by the provisions of this part with respect to that conviction.

(b) A pardon granted by the Governor of a State or other State pardoning authority or by the pardoning authority of a foreign jurisdiction with respect to a conviction, or any expunction, reversal, setting aside of a conviction, or other proceeding rendering a conviction nugatory, or a restoration of civil rights shall remove any disability which otherwise would be imposed by the provisions of this part with respect to the conviction, unless:

(1) The pardon, expunction, setting aside, or other proceeding rendering a conviction nugatory, or restoration of civil rights expressly provides that the person may not ship, transport, possess or receive firearms; or

(2) The pardon, expunction, setting aside, or other proceeding rendering a conviction nugatory, or restoration of civil rights did not fully restore the rights of the person to possess or receive firearms under the law of

the jurisdiction where the conviction occurred.

[T.D. ATF-241, 51 FR 39628, Oct. 29, 1986; T.D. ATF-247, 52 FR 2052, Jan. 16, 1987]

#### § 178.143 Relief from disabilities incurred by indictment.

A licensed importer, licensed manufacturer, licensed dealer, or licensed collector who is indicted for a crime punishable by imprisonment for a term exceeding 1 year may, notwithstanding any other provision of the Act, continue operations pursuant to his existing license during the term of such indictment and until any conviction pursuant to the indictment becomes final:

**Provided,** That if the term of the license expires during the period between the date of the indictment and the date the conviction thereunder becomes final, such importer, manufacturer, dealer, or collector must file a timely application for the renewal of his license in order to continue operations. Such application shall show that the applicant is under indictment for a crime punishable by imprisonment for a term exceeding 1 year.

#### § 178.144 Relief from disabilities under the Act.

(a) Any person may make application for relief from the disabilities under section 922(g) and (n) of the Act (see § 178.32).

(b) An application for such relief shall be filed, in triplicate, with the Director. It shall include the information required by this section and such other supporting data as the Director and the applicant deem appropriate.

(c) Any record or document of a court or other government entity or official required by this paragraph to be furnished by an applicant in support of an application for relief shall be certified by the court or other government entity or official as a true copy. An application shall include:

(1) In the case of an applicant who is an individual, a written statement from each of 3 references, who are not related to the applicant by blood or marriage and have known the applicant for at least 3 years, recommending the granting of relief;

(2) Written consent to examine and obtain copies of records and to receive statements and information regarding the applicant's background, including records, statements and other information concerning employment, medical history, military service, and criminal record;

(3) In the case of an applicant under indictment, a copy of the indictment or information;

(4) In the case of an applicant having been convicted of a crime punishable by imprisonment for a term exceeding 1 year, a copy of the indictment or information on which the applicant was convicted, the judgment of conviction or record of any plea of nolo contendere or plea of guilty or finding of guilt by the court, and any pardon, expunction, setting aside or other record purporting to show that the conviction was rendered nugatory or that civil rights were restored;

(5) In the case of an applicant who has been adjudicated a mental defective or com-

mitted to a mental institution, a copy of the order of a court, board, commission, or other lawful authority that made the adjudication or ordered the commitment, any petition that sought to have the applicant so adjudicated or committed, any medical records reflecting the reasons for commitment and diagnoses of the applicant, and any court order or finding of a court, board, commission, or other lawful authority showing the applicant's discharge from commitment, restoration of mental competency and the restoration of rights;

(6) In the case of an applicant who has been discharged from the Armed Forces under dishonorable conditions, a copy of the applicant's summary of service record (Department of Defense Form 214), charge sheet (Department of Defense Form 458), and final court martial order; and

(7) In the case of an applicant who, having been a citizen of the United States, has renounced his or her citizenship, a copy of the formal renunciation of nationality before a diplomatic or consular officer of the United States in a foreign State or before an officer designated by the Attorney General when the United States was in a state of war (see 8 U.S.C. 1481(a)(5) and (6)).

(d) The Director may grant relief to an applicant if it is established to the satisfaction of the Director that the circumstances regarding the disability, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

The Director will not ordinarily grant relief if the applicant has not been discharged from parole or probation for a period of at least 2 years. Relief will not be granted to an applicant who is prohibited from possessing all types of firearms by the law of the State where such applicant resides.

(e) In addition to meeting the requirements of paragraph (d) of this section, an applicant who has been adjudicated a mental defective or committed to a mental institution will not be granted relief unless the applicant was subsequently determined by a court, board, commission, or other lawful authority to have been restored to mental competency, to be no longer suffering from a mental disorder, and to have had all rights restored.

(f) Upon receipt of an incomplete or improperly executed application for relief, the applicant shall be notified of the deficiency in the application. If the application is not corrected and returned within 30 days following the date of notification, the application shall be considered as having been abandoned.

(g) Whenever the Director grants relief to any person pursuant to this section, a notice of such action shall be promptly published in the FEDERAL REGISTER, together with the reasons therefor.

(h) A person who has been granted relief under this section shall be relieved of any disabilities imposed by the Act with respect to the acquisition, receipt, transfer, shipment, transportation, or possession of firearms or

ammunition and incurred by reason of such disability.

(1)(1) A licensee who is convicted of a crime punishable by imprisonment for a term exceeding 1 year during the term of a current license or while the licensee has pending a license renewal application, and who files an application for removal of disabilities resulting from such conviction, shall not be barred from licensed operations for 30 days after the date upon which the conviction becomes final, and if the licensee files the application for relief as provided by this section within such 30-day period, the licensee may further continue licensed operations during the pendency of the application. A licensee who does not file such application within 30 days from the date the conviction becomes final shall not continue licensed operations beyond 30 days from the date the conviction becomes final.

(2) In the event the term of a license of a person expires during the 30-day period following the date upon which the conviction becomes final or during the pendency of the application for relief, a timely application for renewal of the license must be filed in order to continue licensed operations. Such license application shall show that the applicant has been convicted of a crime punishable by imprisonment for a term exceeding 1 year.

(3) A licensee shall not continue licensed operations beyond 30 days following the date the Director issues notification that the licensee's application for removal of disabilities resulting from a conviction has been denied.

(4) When as provided in this section a licensee may no longer continue licensed operations, any application for renewal of license filed by the licensee during the term of the indictment or the pendency of the application for removal of disabilities resulting from such conviction, shall be denied by the regional director (compliance).

[T.D. ATF-241, 51 FR 39629, Oct. 29, 1986]

#### § 178.145 Research organizations.

The provisions of § 178.98 with respect to the sale or delivery of destructive devices, machineguns, short-barreled shotguns, and short-barreled rifles shall not apply to the sale or delivery of such devices and weapons to any research organization designated by the Director to receive same.

A research organization desiring such designation shall submit a letter application, in duplicate, to the Director. Such application shall contain the name and address of the research organization, the names and addresses of the persons directing or controlling, directly or indirectly, the policies and management of such organization, the nature and purpose of the research being conducted, a description of the devices and weapons to be received, and the identity of the person or persons from whom such devices and weapons are to be received.

[T.D. ATF-241, 51 FR 39629, Oct. 29, 1986]

#### § 178.146 Deliveries by mail to certain persons.

The provisions of this part shall not be construed as prohibiting a licensed importer, licensed manufacturer, or licensed dealer from depositing a firearm for conveyance in

the mails to any officer, employee, agent, or watchman who, pursuant to the provisions of section 1715 of title 18, U.S.C., is eligible to receive through the mails pistols, revolvers, and other firearms capable of being concealed on the person, for use in connection with his official duties.

#### § 178.147 Return of firearm.

A person not otherwise prohibited by Federal, State or local law may ship a firearm to a licensed importer, licensed manufacturer, or licensed dealer for any lawful purpose, and, notwithstanding any other provision of this part, the licensed manufacturer, licensed importer, or licensed dealer may return in interstate or foreign commerce to that person the firearm or a replacement firearm of the same kind and type. See § 178.124(a) for requirements of a Form 4473 prior to return.

A person not otherwise prohibited by Federal, State or local law may ship a firearm curio or relic to a licensed collector for any lawful purpose, and, notwithstanding any other provision of this part, the licensed collector may return in interstate or foreign commerce to that person the firearm curio or relic.

[T.D. ATF-241, 51 FR 39629, Oct. 29, 1986]

#### § 178.148 Armor piercing ammunition intended for sporting or industrial purposes.

The Director may exempt certain armor piercing ammunition from the recordkeeping requirements of this part. A person who desires to obtain an exemption under this section for any such ammunition which is primarily intended for sporting purposes or intended for industrial purposes, including charges used in oil and gas well perforating devices, shall submit a written request to the Director. [§921(a)(17)(B)]

Each request shall be executed under the penalties of perjury and contain a complete and accurate description of the ammunition, the name and address of the manufacturer or importer, the purpose of and use for which it is designed and intended, and any photographs, diagrams, or drawings as may be necessary to enable the Director to make a determination. The Director may require that a sample of the ammunition be submitted for examination and evaluation.

[T.D. ATF-241, 51 FR 39629, Oct. 29, 1986; T.D. ATF-247, 52 FR 2052, Jan. 16, 1987]

#### § 178.149 Armor piercing ammunition manufactured or imported for the purpose of testing or experimentation.

The provisions of §§ 178.37 and 178.99(d) with respect to the manufacture or importation of armor piercing ammunition and the sale or delivery of armor piercing ammunition by manufacturers and importers shall not apply to the manufacture, importation, sale or delivery of armor piercing ammunition for the purpose of testing or experimentation as authorized by the Director.

A person desiring such authorization to receive armor piercing ammunition shall submit a letter of application, in duplicate, to the Director. Such application shall contain the names and addresses of the persons directing or controlling, directly or indirectly, the policies and management of the applicant,

the nature or purpose of the testing or experimentation, a description of the armor piercing ammunition to be received, and the identity of the manufacturer or importer from whom such ammunition is to be received. The approved application shall be submitted to the manufacturer or importer who shall retain a copy as part of the records required by Subpart H of this part.

[T.D. ATF-247, 52 FR 2052, Jan. 16, 1987]

#### § 178.150 Seizure and forfeiture.

(a) Any firearm or ammunition involved in or used in any knowing violation of subsections (a)(4), (a)(6), (f), (g), (h), (i), (j), or (k) of section 922 of the Act, or knowing importation or bringing into the United States or any possession thereof any firearm or ammunition in violation of section 922(l) of the Act, or knowing violation of section 924 of the Act, or willful violation of any other provision of the Act or of this part, or any violation of any other criminal law of the United States, or any firearm or ammunition intended to be used in any offense referred to in paragraph (c) of this section, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1986 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5854(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of the Act:

Provided, That upon acquittal of the owner or possessor, or dismissal of the charges against such person other than upon motion of the Government prior to trial, the seized firearms or ammunition shall be re-

turned forthwith to the owner or possessor or to a person delegated by the owner or possessor unless the return of the firearms or ammunition would place the owner or possessor or the delegate of the owner or possessor in violation of law. Any action or proceeding for the forfeiture of firearms or ammunition shall be commenced within 120 days of such seizure.

(b) Only those firearms or quantities of ammunition particularly named and individually identified as involved in or used in any violation of the provisions of the Act or this part, or any other criminal law of the United States or as intended to be used in any offense referred to in paragraph (c) of this section, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure, forfeiture and disposition.

(c) The offenses referred to in paragraphs (a) and (b) of this section for which firearms and ammunition intended to be used in such offenses are subject to seizure and forfeiture are:

(1) Any crime of violence, as that term is defined in section 924(c)(3) of the Act;

(2) Any offense punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.);

(3) Any offense described in section 922(a)(1), 922(a)(3), 922(a)(5), or 922(b)(3) of the Act, where the firearm or ammunition intended to be used in such offense is involved in a pattern of activities which includes a violation of any offense described in section 922(a)(1), 922(a)(3), 922(a)(5), or 922(b)(3) of the Act;

(4) Any offense described in section 922(d) of the Act where the firearm or ammunition is intended to be used in such offense by the transferor of such firearm or ammunition;

(5) Any offense described in section 922(i), 922(j), 922(l), 922(n), or 924(b) of the Act; and

(6) Any offense which may be prosecuted in a court of the United States which involves the exportation of firearms or ammunition.

[T.D. ATF-241, 51 FR 39629, Oct. 29, 1986; T.D. ATF-247, 52 FR 2052, Jan. 16, 1987]

#### Subpart J—[Reserved]

#### Subpart K—Exportation

#### § 178.171 Exportation.

Firearms and ammunition shall be exported in accordance with the applicable provisions of section 38 of the Arms Export Control Act (22 U.S.C. 2778) and regulations thereunder. However, licensed manufacturers, licensed importers, and licensed dealers exporting firearms shall maintain records showing the manufacture or acquisition of the firearms as required by this part and records showing the name and address of the foreign consignee of the firearms and the date the firearms were exported.

Licensed manufacturers and licensed importers exporting armor piercing ammunition shall maintain records showing the name and address of the foreign consignee and the date the armor piercing ammunition was exported.

[T.D. ATF-241, 51 FR 39630, Oct. 29, 1986]

# TITLE 27, CODE OF FEDERAL REGULATIONS, PART 179: MACHINEGUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER FIREARMS

— SUBJECT INDEX TO PART 179 —

[NOTE: This listing is not necessarily all-inclusive]

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- Official has no information that possession by maker would violate State or local law .63
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- Two completed FBI Forms FD-258, 'Fingerprint Card', attached to application .63

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AUTHORITY: 18 U.S.C. 926; 22 U.S.C. 2778; 26 U.S.C. Chapter 53, 6091, 6511, 6676, 6805, 7805.

SOURCE: The provisions of this part appeared at 36 FR 14256, Aug. 3, 1971, unless otherwise noted, and was redesignated "27 CFR Part 179" from "26 CFR Part 179" at 40 FR 16835, Apr. 15, 1975.

## Subpart A—Scope of Regulations

### § 179.1 General.

This part contains the procedural and substantive requirements relative to the importation, manufacture, making, exportation, identification and registration of, and the dealing in, machineguns, destructive devices and certain other firearms under the provisions of the National Firearms Act (26 U.S.C. Chapter 53).

[T.D. ATF-48, 44 FR 55842, Sept 28, 1979]

## Subpart B—Definitions

### § 179.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude other things not enumerated which are in the same general class or are otherwise within the scope thereof.

**Antique firearm.** Any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

**Any other weapon.** Any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such term shall not include a pistol or a revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.

**ATF officer.** An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

**Customs officer.** Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

**Dealer.** Any person, not a manufacturer or importer, engaged in the business of sell-

ing, renting, leasing, or loaning firearms and shall include pawnbrokers who accept firearms as collateral for loans.

#### Destructive device.

(a) Any explosive, incendiary, or poison gas:

(1) Bomb;

(2) Grenade;

(3) Rocket having a propellant charge of more than 4 ounces;

(4) Missile having an explosive or incendiary charge of more than one-quarter [ $\frac{1}{4}$ ] ounce;

(5) Mine; or

(6) Similar device;

(b) Any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half [ $\frac{1}{2}$ ] inch in diameter, except a shotgun or shotgun shell which the Director finds is generally recognized as particularly suitable for sporting purposes; and

(c) Any combination of parts either designed or intended for use in converting any device into a destructive device as described in paragraphs (a) and (b) of this definition and from which a destructive device may be readily assembled.

The term shall not include any device which is neither designed or redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army under 10 U.S.C. 4684(2), 4685, or 4686, or any device which the Director finds is not likely to be used as a weapon, or is an antique or is a rifle which the owner intends to use solely for sporting purposes.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C. [20226]

**Director of the Service Center.** A director of an Internal Revenue Service Center in an internal revenue region.

**District director.** A district director of the Internal Revenue Service in an internal revenue district.

**Executed under penalties of perjury.** Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return, form, or other document or, where no form of declaration is prescribed, with the declaration:

"I declare under the penalties of perjury that this—(insert type of document, such as, statement, application, request, certificate), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete."

**Exportation.** The severance of goods from the mass of things belonging to this country with the intention of uniting them to the mass of things belonging to some foreign country.

**Exporter.** Any person who exports firearms from the United States.

#### Firearm.

(a) A shotgun having a barrel or barrels of less than 18 inches in length;

(b) A weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length;

(c) A rifle having a barrel or barrels of less than 16 inches in length;

(d) A weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length;

(e) Any other weapon, as defined in this subpart;

(f) A machinegun;

(g) A muffler or a silencer for any firearm whether or not such firearm is included within this definition; and

(h) A destructive device.

The term shall not include an antique firearm or any device (other than a machinegun or destructive device) which, although designed as a weapon, the Director finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon.

For purpose of this definition, the length of the barrel on a shotgun or rifle shall be determined by measuring the distance between the muzzle and the face of the bolt, breech, or breechlock when closed and when the shotgun or rifle is cocked.

The overall length of a weapon made from a shotgun or rifle is the distance between the extreme ends of the weapon measured along a line parallel to the center line of the bore.

**Fixed ammunition.** That self-contained unit consisting of the case, primer, propellant charge, and projectile or projectiles.

**Frame or receiver.** That part of a firearm which provides housing for the hammer, bolt or breechblock and firing mechanism, and which is usually threaded at its forward portion to receive the barrel.

**Importation.** The bringing of a firearm within the limits of the United States or any territory under its control or jurisdiction, from a place outside thereof (whether such place be a foreign country or territory subject to the jurisdiction of the United States), with intent to unlade.

Except that, bringing a firearm from a foreign country or a territory subject to the jurisdiction of the United States into a foreign trade zone for storage pending shipment to a foreign country or subsequent importation into this country, under Title 26 of the United States Code, and this part, shall not be deemed importation.

**Importer.** Any person who is engaged in the business of importing or bringing firearms into the United States.

**Machinegun.** Any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also

include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.

**Make.** This term and the various derivatives thereof shall include manufacturing (other than by one qualified to engage in such business under this part), putting together, altering, any combination of these, or otherwise producing a firearm.

**Manual reloading.** The inserting of a cartridge or shell into the chamber of a firearm either with the hands or by means of a mechanical device controlled and energized by the hands.

**Manufacturer.** Any person who is engaged in the business of manufacturing firearms.

**Muffler or silencer.** Any device for silencing, muffling, or diminishing the report of any portable firearm, including any combination of parts, designed or redesigned, and intended for the use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.

**Person.** A partnership, company, association, trust, estate, or corporation, as well as a natural person.

**Pistol.** A weapon originally designed, made, and intended to fire a projectile (bullet) from one or more barrels when held in one hand, and having:

(a) A chamber(s) as an integral part(s) of, or permanently aligned with, the bore(s); and

(b) A short stock designed to be gripped by one hand and at an angle to and extending below the line of the bore(s).

The term shall not include any gadget device, any gun altered or converted to resemble a pistol, any gun that fires more than one shot, without manual reloading, by a single function of the trigger, or any small portable gun such as: Nazi belt buckle pistol, glove pistol, or a one-hand stock gun designed to fire fixed shotgun ammunition.

**Regional director (compliance).** The principal ATF regional official responsible for administering regulations in this part.

**Revolver.** A projectile weapon, of the pistol type, having a breechloading chambered cylinder so arranged that the cocking of the hammer or movement of the trigger rotates it and brings the next cartridge in line with the barrel for firing.

**Rifle.** A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed cartridge.

**Shotgun.** A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or

redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed shotgun shell.

**Transfer.** This term and the various derivatives thereof shall include selling, assigning, pledging, leasing, loaning, giving away, or otherwise disposing of.

**United States.** The States and the District of Columbia.

**U.S.C.** The United States Code.

**Unserviceable firearm.** A firearm which is incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition.

#### Subpart C—Administrative and Miscellaneous Provisions

##### § 179.21 Forms prescribed.

(a) The Director is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part. Each form requiring that it be executed under penalties of perjury shall be executed under penalties of perjury.

(b) "Public Use Forms" (ATF Publication 1322.1) is a numerical listing of forms issued or used by the Bureau of Alcohol, Tobacco and Firearms. This publication is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(c) Requests for forms should be mailed to the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153.

(5 U.S.C. 552(a), 80 Stat.383, as amended)

[T.D. ATF-92, 46 FR 46915, Sept. 23, 1981; T.D. ATF-241, 51 FR 29630, Oct. 29, 1986]

##### § 179.22 Right of entry and examination.

Any ATF officer or employee of the Bureau of Alcohol, Tobacco and Firearms duly authorized to perform any function relating to the administration or enforcement of this part may enter during business hours the premises (including places of storage) of any importer or manufacturer of or dealer in firearms, to examine any books, papers, or records required to be kept pursuant to this part, and any firearms kept by such importer, manufacturer or dealer on such premises, and may require the production of any books, papers, or records necessary to determine any liability for tax under 26 U.S.C. Chapter 53, or the observance of 26 U.S.C. Chapter 53, and this part.

[36 FR 14256, Aug. 3, 1971; T.D. ATF-48, 44 FR 55842, Sept. 28, 1979]

##### § 179.23 Restrictive use of required information.

No information or evidence obtained from an application, registration, or record required to be submitted or retained by a natural person in order to comply with any provision of 26 U.S.C. Chapter 53, or this part or

section 207 of the Gun Control Act of 1968 shall be used, directly or indirectly, as evidence against that person in a criminal proceeding with respect to a violation of law occurring prior to or concurrently with the filing of the application or registration, or the compiling of the record containing the information or evidence:

**Provided, however,** That the provisions of this section shall not preclude the use of any such information or evidence in a prosecution or other action under any applicable provision of law with respect to the furnishing of false information.

[36 FR 14256, Aug. 3, 1971; T.D. ATF-48, 44 FR 55842, Sept. 28, 1979]

##### § 179.24 Destructive device determination.

The Director shall determine in accordance with 26 U.S.C. 5845(f), whether a device is excluded from the definition of a destructive device. A person who desires to obtain a determination under that provision of law for any device which is not likely to be used as a weapon shall submit a written request, in triplicate, for a ruling thereon to the Director.

Each such request shall be executed under the penalties of perjury and contain a complete and accurate description of the device, the name and address of the manufacturer or importer thereof, the purpose of and use for which it is intended, and such photographs, diagrams, or drawings as may be necessary to enable the Director to make his determination. The Director may require the submission to him, of a sample of such device for examination and evaluation. If the submission of such device is impracticable, the person requesting the ruling shall so advise the Director and designate the place where the device will be available for examination and evaluation.

[36 FR 14256, Aug. 3, 1971; T.D. ATF-48, 44 FR 55842, Sept. 28, 1979]

##### § 179.25 Collector's items.

The Director shall determine in accordance with 26 U.S.C. 5845(a), whether a firearm or device, which although originally designed as a weapon, is by reason of the date of its manufacture, value, design, and other characteristics primarily a collector's item and is not likely to be used as a weapon. A person who desires to obtain a determination under that provision of law shall follow the procedures prescribed in § 179.24 relating to destructive device determinations, and shall include information as to date of manufacture, value, design and other characteristics which would sustain a finding that the firearm or device is primarily a collector's item and is not likely to be used as a weapon.

[36 FR 14256, Aug. 3, 1971; T.D. ATF-48, 44 FR 55842, Sept. 28, 1979]

##### § 179.26 Alternate methods or procedures; emergency variations from requirements.

(a) **Alternate methods or procedures.** Any person subject to the provisions of this part, on specific approval by the Director as provided in this paragraph, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in this part. The Director may approve an alternate

method or procedure, subject to stated conditions, when it is found that:

(1) Good cause is shown for the use of the alternate method or procedure;

(2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure and that the alternate method or procedure is substantially equivalent to that specifically prescribed method or procedure; and

(3) The alternate method or procedure will not be contrary to any provision of law and will not result in an increase in cost to the Government or hinder the effective administration of this part.

Where such person desires to employ an alternate method or procedure, a written application shall be submitted to the appropriate regional director (compliance), for transmittal to the Director.

The application shall specifically describe the proposed alternate method or procedure and shall set forth the reasons for it. Alternate methods or procedures may not be employed until the application is approved by the Director. Such person shall, during the period of authorization of an alternate method or procedure, comply with the terms of the approved application.

Authorization of any alternate method or procedure may be withdrawn whenever, in the judgment of the Director, the effective administration of this part is hindered by the continuation of the authorization.

(b) **Emergency variations from requirements.** The Director may approve a method of operation other than as specified in this part, where it is found that an emergency exists and the proposed variation from the specified requirements are necessary and the proposed variations:

(1) Will not hinder the effective administration of this part; and

(2) Will not be contrary to any provisions of law.

Variations from requirements granted under this paragraph are conditioned on compliance with the procedures, conditions, and limitations set forth in the approval of the application. Failure to comply in good faith with the procedures, conditions, and limitations shall automatically terminate the authority for the variations, and the person granted the variance shall fully comply with the prescribed requirements of regulations from which the variations were authorized.

Authority for any variation may be withdrawn whenever, in the judgment of the Director, the effective administration of this part is hindered by the continuation of the variation.

Where a person desires to employ an emergency variation, a written application shall be submitted to the appropriate regional director (compliance) for transmittal to the Director. The application shall describe the proposed variation and set forth the reasons for it. Variations may not be employed until the application is approved.

(c) **Retention of approved variations.** The person granted the variance shall retain and make available for examination by ATF officers any application approved by the Director under this section.

(T.D. ATF-241, 51 FR 39630, Oct. 29, 1986)

**Subpart D—Special (Occupational) Taxes**

**EDITOR'S NOTES:**

**1. IMPORTANT MESSAGE FOR SPECIAL TAXPAYERS AND FORMER SPECIAL TAXPAYERS**

**A. Special taxpayers who acquire certain firearms that could not otherwise be acquired were it not for their special tax status should be aware of the possible consequences of their continued possession of these firearms when they are no longer special taxpayers. For example, some State laws and local ordinances prohibit the possession of machineguns, but provide an exemption for special taxpayers. Thus, a person could be in violation of State law or local ordinances if he allows his special tax status to lapse while still possessing these weapons.**

**B. The same situation may exist in regard to a special taxpayer possessing, as sales samples, machineguns manufactured on or after May 19, 1986. However, a violation of Federal law would be involved.**

**2. SECTION CITES: References to Title 26, Code of Federal Regulations [“26 CFR”] relate to the Internal Revenue Service regulations.**

**§ 179.31 Liability for tax.**

(a) **General.** Every person who engages in the business of importing, manufacturing, or dealing in (including pawnbrokers) firearms in the United States shall pay a special (occupational) tax at a rate specified by § 179.32. The tax shall be paid on or before the date of commencing the taxable business, and thereafter every year on or before July 1. Special (occupational) tax shall not be prorated. The tax shall be computed for the entire tax year (July 1 through June 30), regardless of the portion of the year during which the taxpayer engages in business. Persons commencing business at any time after July 1 in any year are liable for the special (occupational) tax for the entire tax year.

(b) **Each place of business taxable.** An importer, manufacturer, or dealer in firearms incurs special tax liability at each place of business where an occupation subject to special tax is conducted. A place of business means the entire office, plant or area of the business in any one location under the same proprietorship. Passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises are not sufficient separation to require additional special tax, if the divisions of the premises are otherwise contiguous. See also §§ 179.38–179.39.

(26 U.S.C. 5143, 5801, 5846)

**§ 179.32 Special (occupational) tax rates.**

(a) Prior to January 1, 1988, the special (occupational) tax rates were as follows:

	Per year or fraction thereof
Class 1—Importer of firearms .....	\$500
Class 2—Manufacturer of firearms .....	500
Class 3—Dealer in firearms .....	200
Class 4—Importer only of weapons classified as "any other weapon" .....	25
Class 5—Manufacturer only of weapons classified as "any other weapon" .....	25
Class 6—Dealer only in weapons classified as "any other weapon" .....	10

(b) Except as provided in § 179.32a, the special (occupational) tax rates effective January 1, 1988, are as follows:

	Per year or fraction thereof
Class 1—Importer of firearms (including an importer only of weapons classified as "any other weapon") .....	\$1,000
Class 2—Manufacturer of firearms (including a manufacturer only of weapons classified as "any other weapon") .....	1,000
Class 3—Dealer in firearms (including a dealer only of weapons classified as "any other weapon") .....	500

(c) A taxpayer who was engaged in a business on January 1, 1988, for which a special (occupational) tax was paid for a taxable period which began before January 1, 1988, and included that date, shall pay an increased special tax for the period January 1, 1988, through June 30, 1988. The increased tax shall not exceed one-half the excess (if any) of:

(1) The rate of special tax in effect on January 1, 1988, over

(2) The rate of such tax in effect on December 31, 1987.

The increased special tax shall be paid on or before April 1, 1988.

**§ 179.32a Reduced rate of tax for small importers and manufacturers.**

(a) **General.** Effective January 1, 1988, 26 U.S.C. 5801(b) provides for a reduced rate of special tax with respect to any importer or manufacturer whose gross receipts (for the most recent taxable year ending before the first day of the taxable period to which the special tax imposed by § 179.32 relates) are less than \$500,000. The rate of tax for such an importer or manufacturer is \$500 per year or fraction thereof. The "taxable year" to be used for determining gross receipts is the taxpayer's income tax year. All gross receipts of the taxpayer shall be included, not just the gross receipts of the business subject to special tax. Proprietors of new businesses that have not yet begun a taxable year, as well as proprietors of existing businesses that have not yet ended a taxable year, who commence a new activity subject to special tax, qualify for the reduced special (occupational) tax rate, unless the business is a member of a "controlled group"; in that case, the rules of paragraph (b) of this section shall apply.

(b) **Controlled group.** All persons treated as one taxpayer under 26 U.S.C. 5061(e)(3) shall be treated as one taxpayer for the purpose of determining gross receipts under paragraph (a) of this section. "**Controlled group**" means a controlled group of corporations, as defined in 26 U.S.C. 1563 and implementing regulations in 26 CFR 1.1563-1 through 1.1563-4, except that the words "at least 80 percent" shall be replaced by the words "more than 50 percent" in each place they appear in subsection (a) of 26 U.S.C. 1563, as well as in the implementing regulations. Also, the rules for a "controlled group of corporations" apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group are one taxpayer for the purpose of this section.

(c) **Short taxable year.** Gross receipts for any taxable year of less than 12 months shall be annualized by multiplying the gross receipts for the short period by 12 and dividing the result by the number of months in the short period, as required by 26 U.S.C. 448(c)(3).

(d) **Returns and allowances.** Gross receipts for any taxable year shall be reduced by returns and allowances made during that year under 26 U.S.C. 448(c)(3).

(26 U.S.C. 448, 5061, 5801)

#### § 179.33 Special exemption.

(a) Any person required to pay special (occupational) tax under this part shall be relieved from payment of that tax if he establishes to the satisfaction of the Director that his business is conducted exclusively with, or on behalf of, the United States or any department, independent establishment, or agency thereof. The Director may relieve any person manufacturing firearms for or on behalf of the United States from compliance with any provision of this part in the conduct of the business with respect to such firearms.

(b) The exemption in this section may be obtained by filing with the Director an application, in letter form, setting out the manner in which the applicant conducts his business, the type of firearm to be manufactured, and proof satisfactory to the Director of the existence of the contract with the United States, department, independent establishment, or agency thereof, under which the applicant intends to operate.

#### § 179.34 Special tax registration and return.

(a) **General.** Special tax shall be paid by return. The prescribed return is ATF Form 5630.5, Special Tax Registration and Return. Special tax returns, with payment of tax, shall be filed with ATF in accordance with instructions on the form. Properly completing, signing, and timely filing of a return (Form 5630.5) constitutes compliance with 26 U.S.C. 5802.

(b) **Preparation of ATF Form 5630.5** All of the information called for on Form 5630.5 shall be provided, including:

(1) The true name of the taxpayer.

(2) The trade name(s) (if any) of the business(es) subject to special tax.

(3) The employer identification number (see § 179.35).

(4) The exact location of the place of business, by name and number of building or street, or if these do not exist, by some description in addition to the post office address. In the case of one return for two or more locations, the address to be shown shall be the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer).

(5) The class(es) of special tax to which the taxpayer is subject.

(6) **Ownership and control information:** That is, the name, position, and residence address of every owner of the business and of every person having power to control its management and policies with respect to the activity subject to special tax. "**Owner of the business**" shall include every partner, if the taxpayer is a partnership, and every person owning 10% or more of its stock, if the taxpayer is a corporation. However, the ownership and control information required by this paragraph need not be stated if the same information has been previously provided to ATF in connection with a license application under Part 178 of this chapter, and if the information previously provided is still current.

(c) **Multiple locations and/or classes of tax.** A taxpayer subject to special tax for the same period at more than one location or for more than one class of tax shall—

(1) File one special tax return, ATF Form 5630.5, with payment of tax, to cover all such locations and classes of tax; and

(2) Prepare, in duplicate, a list identified with the taxpayer's name, address (as shown on ATF Form 5630.5), employer identification number, and period covered by the return. The list shall show, by States, the name, address, and tax class of each location for which special tax is being paid. The original of the list shall be filed with ATF in accordance with instructions on the return, and the copy shall be retained at the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer) for not less than 3 years.

#### (d) Signing of ATF Forms 5630.5—

(1) **Ordinary returns.** The return of an individual proprietor shall be signed by the individual. The return of a partnership shall be signed by a general partner. The return of a corporation shall be signed by any officer. In each case, the person signing the return shall designate his or her capacity as "individual owner," "member of firm," or, in the case of a corporation, the title of the officer.

(2) **Fiduciaries.** Receivers, trustees, assignees, executors, administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased person, etc., shall indicate the fiduciary capacity in which they act.

(3) **Agent or attorney in fact.** If a return is signed by an agent or attorney in fact, the signature shall be preceded by the name of the principal and followed by the title of the

agent or attorney in fact. A return signed by a person as agent will not be accepted unless there is filed, with the ATF office with which the return is required to be filed, a power of attorney authorizing the agent to perform the act.

(4) **Perjury statement.** ATF Forms 5630.5 shall contain or be verified by a written declaration that the return has been executed under the penalties of perjury.

(26 U.S.C. 5142, 5802, 5846, 6061, 6065, 6151)

#### § 179.35 Employer identification number.

(a) **Requirement.** The employer identification number (defined in 26 CFR 301.7701-12) of the taxpayer who has been assigned such a number shall be shown on each special tax return, including amended returns, filed under this subpart. Failure of the taxpayer to include the employer identification number may result in the imposition of the penalty specified in § 70.105 of this chapter.

(b) **Application for employer identification number.** Each taxpayer who files a special tax return, who has not already been assigned an employer identification number, shall file IRS Form SS-4 to apply for one. The taxpayer shall apply for and be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file a special tax return. The employer identification number shall be applied for no later than 7 days after the filing of the taxpayer's first special tax return. IRS Form SS-4 may be obtained from the director of an IRS service center or from any IRS district director.

(c) **Preparation and filing of IRS Form SS-4.** The taxpayer shall prepare and file IRS Form SS-4, together with any supplementary statement, in accordance with the instructions on the form or issued in respect to it. (26 U.S.C. 6109)

#### § 179.36 The special tax stamp, receipt for special (occupational) taxes.

Upon filing a properly completed and executed return (Form 5630.5) accompanied by remittance of the full amount due, the taxpayer will be issued a special tax stamp as evidence of payment of the special (occupational) tax.

[T.D. ATF-270, 53 FR 10480, Mar. 31, 1988]

#### § 179.37 Certificates in lieu of stamps lost or destroyed.

When a special tax stamp has been lost or destroyed, such fact should be reported immediately to the regional director (compliance) who issued the stamp. A certificate in lieu of the lost or destroyed stamp will be issued to the taxpayer upon the submission of an affidavit showing to the satisfaction of the regional director (compliance) serving the region that the stamp was lost or destroyed.

[T.D. ATF-270, 53 FR 10480, Mar. 31, 1988]

#### § 179.38 Engaging in business at more than one location.

A person shall pay the special (occupational) tax for each location where he engages in any business taxable under 26 U.S.C. 5801. However, a person paying a special (occupational) tax covering his princi-

pal place of business may utilize other locations solely for storage of firearms without incurring special (occupational) tax liability at such locations.

A manufacturer, upon the single payment of the appropriate special (occupational) tax, may sell firearms, if such firearms are of his own manufacture, at this place of manufacture and at his principal office or place of business if no such firearms, except samples, are kept at such office or place of business. When a person changes the location of a business for which he has paid the special (occupational) tax, he will be liable for another such tax unless the change is properly registered with the regional director (compliance) serving the region in which the special tax stamp was issued, as provided in § 179.46.

[T.D. ATF-270, 53 FR 10480, Mar. 31, 1988]

#### § 179.39 Engaging in more than one business at the same location.

If more than one business taxable under 26 U.S.C. 5801, is carried on at the same location during a taxable year, the special (occupational) tax imposed on each such business must be paid. This section does not require a qualified manufacturer or importer to qualify as a dealer if such manufacturer or importer also engages in business on his qualified premises as a dealer. However, a qualified manufacturer who engages in business as an importer must also qualify as an importer. Further, a qualified dealer is not entitled to engage in business as a manufacturer or importer.

#### § 179.40 Partnership liability.

Any number of persons doing business in partnership at any one location shall be required to pay but one special (occupational) tax.

#### § 179.41 Single sale.

A single sale, unattended by circumstances showing the one making the sale to be engaged in business, does not create special (occupational) tax liability.

### CHANGE OF OWNERSHIP

#### § 179.42 Changes through death of owner.

Whenever any person who has paid special (occupational) tax dies, the surviving spouse or child, or executors or administrators, or other legal representatives, may carry on this business for the remainder of the term for which tax has been paid and at the place (or places) for which the tax was paid, without any additional payment, subject to the following conditions:

If the surviving spouse or child, or executor or administrator, or other legal representative of the deceased taxpayer continues the business, such person shall, within 30 days after the date on which the successor begins to carry on the business, file a new return, Form 5630.5, with ATF in accordance with the instructions on the form.

The return thus executed shall show the name of the original taxpayer, together with the basis of the succession. (As to liability in case of failure to register, see § 179.49.)

[T.D. ATF-270, 53 FR 10480, Mar. 31, 1988]

#### § 179.43 Changes through bankruptcy of owner.

A receiver or referee in bankruptcy may continue the business under the stamp issued to the taxpayer at the place and for the period for which the tax was paid. An assignee for the benefit of creditors may continue business under his assignor's special tax stamp without incurring additional special (occupational) tax liability. In such cases, the change shall be registered with ATF in a manner similar to that required by § 179.42.

[T.D. ATF-270, 53 FR 10480, Mar. 31, 1988]

#### § 179.44 Change in partnership or unincorporated association.

When one or more members withdraw from a partnership or an unincorporated association, the remaining member, or members, may without incurring additional special (occupational) tax liability, carry on the same business at the same location for the balance of the taxable period for which special (occupational) tax was paid, provided any such change shall be registered in the same manner as required by § 179.42. Where new member(s) are taken into a partnership or an unincorporated association, the new firm so constituted may not carry on business under the special tax stamp of the old firm. The new firm must file a return, pay the special (occupational) tax and register in the same manner as a person who first engages in business is required to do under § 179.34 even though the name of the new firm may be the same as that of the old. Where the members of a partnership or an unincorporated association, which has paid special (occupational) tax, form a corporation to continue the business, a new special tax stamp must be taken out in the name of the corporation.

#### § 179.45 Changes in corporation.

Additional special (occupational) tax is not required by reason of a mere change of name or increase in the capital stock of a corporation if the laws of the State of incorporation provide for such change or increase without the formation of a new corporation. A stockholder in a corporation who after its dissolution continues the business, incurs new special (occupational) tax liability.

### CHANGE OF BUSINESS LOCATION

#### § 179.46 Notice by taxpayer.

Whenever during the taxable year a taxpayer intends to remove his business to a location other than specified in his last special (occupational) tax return (see § 179.34), he shall file with ATF:

(a) A return, Form 5630.5, bearing the notation "Removal Registry," and showing the new address intended to be used;

(b) His current special tax stamp; and

(c) A letter application requesting the amendment of his registration.

The regional director (compliance), upon approval of the application, shall return the special tax stamp, amended to show the new business location. Firearms operations shall not be commenced at the new business location by the taxpayer prior to the required

approval of his application to so change his business location.

[T.D. ATF-270, 53 FR 10480, Mar. 31, 1988]

### CHANGE OF TRADE NAME

#### § 179.47 Notice by taxpayer.

Whenever during the taxable year a taxpayer intends to change the name of his business, he shall file with ATF:

(a) A return, Form 5630.5, bearing the notation "Amended," and showing the trade name intended to be used;

(b) His current special tax stamp; and

(c) A letter application requesting the amendment of his registration.

The regional director (compliance), upon approval of the application, shall return the special tax stamp, amended to show the new trade name. Firearms operations shall not be commenced under the new trade name by the taxpayer prior to the required approval of his application to so change the trade name.

[T.D. ATF-270, 53 FR 10480, Mar. 31, 1988]

### PENALTIES AND INTEREST

#### § 179.48 Failure to pay special (occupational) tax.

Any person who engages in a business taxable under 26 U.S.C. 5801, without timely payment of the tax imposed with respect to such business (see § 179.34) shall be liable for such tax, plus the interest and penalties thereon (see 26 U.S.C. 6601 and 6651). In addition, such person may be liable for criminal penalties under 26 U.S.C. 5871.

[36 FR 14256, Aug. 3, 1971; T.D. ATF-48, 44 FR 55842, Sept. 28, 1979]

#### § 179.49 Failure to register change or removal.

Any person succeeding to and carrying on a business for which special (occupational) tax has been paid without registering such change within 30 days thereafter, and any taxpayer removing his business with respect to which special (occupational) tax has been paid to a place other than that for which tax was paid without obtaining approval therefor (see § 179.46), will incur liability to an additional payment of the tax, addition to tax and interest, as provided in sections 5801, 6651, and 6601, respectively, I.R.C., for failure to make return (see § 179.50) or pay tax, as well as criminal penalties for carrying on business without payment of special (occupational) tax (see section 5871 I.R.C.).

#### § 179.50 Delinquency.

Any person liable for special (occupational) tax under section 5801, I.R.C., who fails to file a return (Form 5630.5), as prescribed, will be liable for a delinquency penalty computed on the amount of tax due unless a return (Form 5630.5) is later filed and failure to file the return timely is shown to the satisfaction of the regional director (compliance) to be due to reasonable cause.

The delinquency penalty to be added to the tax is 5 percent if the failure is not more than 1 month, with an additional 5 percent for each additional month or fraction thereof during which failure continues, not to exceed 25 percent in the aggregate (section 6651,



I.R.C.). However, no delinquency penalty is assessed where the 50 percent addition to tax is assessed for fraud (see § 179.51).

[T.D. ATF-270, 53 FR 10480, Mar. 31, 1988]

#### § 179.51 Fraudulent return.

If any part of any underpayment of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 50 percent of the underpayment, but no delinquency penalty shall be assessed with respect to the same underpayment (section 6653, I.R.C.).

### APPLICATION OF STATE LAWS

#### § 179.52 State regulations.

Special tax stamps are merely receipts for the tax. Payment of tax under Federal law confers no privilege to act contrary to State law. One to whom a special tax stamp has been issued may still be punishable under a State law prohibiting or controlling the manufacture, possession or transfer of firearms. On the other hand, compliance with State law confers no immunity under Federal law. Persons who engage in the business of importing, manufacturing or dealing in firearms, in violation of law of a State, are nevertheless required to pay special (occupational) tax as imposed under the internal revenue laws of the United States. For provisions relating to restrictive use of information furnished to comply with the provisions of this part see § 179.23.

### Subpart E — Tax on Making Firearms

#### § 179.61 Rate of tax.

Except as provided in this subpart, there shall be levied, collected, and paid upon the making of a firearm a tax at the rate of \$200 for each firearm made. This tax shall be paid by the person making the firearm. Payment of the tax on the making of a firearm shall be represented by a \$200 adhesive stamp bearing the words "National Firearms Act." The stamps are maintained by the Director.

[T.D. ATF-241, 51 FR 39631, Oct. 29, 1986]

### APPLICATION TO MAKE A FIREARM

#### § 179.62 Application to make.

No person shall make a firearm unless he has filed with the Director a written application on Form 1 (Firearms), **Application to Make and Register a Firearm**, in duplicate, executed under the penalties of perjury, to make and register the firearm and has received the approval of the Director to make the firearm which approval shall effectuate registration of the weapon to the applicant.

The application shall identify the firearm to be made by serial number, type, model, caliber or gauge, length of barrel, other marks of identification, and the name and address of original manufacturer (if the applicant is not the original manufacturer).

The applicant must be identified on the Form 1 (Firearms) by name and address and, if other than a natural person, the name and address of the principal officer or authorized representative and the employer identification number and, if an individual, the identification

must include the date and place of birth and the information prescribed in § 179.63.

Each applicant shall identify the Federal firearms license and special (occupational) tax stamp issued to the applicant, if any. The applicant shall also show required information evidencing that his making or possession of the firearm would not be in violation of law.

If the making is taxable, a remittance in the amount of \$200 shall be submitted with the application in accordance with the instructions on the form. If the making is taxable and the application is approved, the Director will affix a National Firearms Act stamp to the original application in the space provided therefor and properly cancel the stamp (see § 179.67). The approved application will be returned to the applicant.

If the making of the firearm is tax exempt under this part, an explanation of the basis of the exemption shall be attached to the Form 1 (Firearms).

[T.D. ATF-241, 51 FR 39631, Oct. 29, 1986]

#### § 179.63 Identification of applicant.

If the applicant is an individual, the applicant shall securely attach to each copy of the Form 1 (Firearms), in the space provided on the form, a photograph of the applicant 2 × 2 inches in size, clearly showing a full front view of the features of the applicant with head bare, with the distance from the top of the head to the point of the chin approximately 1¼ inches, and which shall have been taken within 1 year prior to the date of the application.

The applicant shall attach two properly completed FBI Forms FD-258 (Fingerprint Card) to the application. The fingerprints must be clear for accurate classification and should be taken by someone properly equipped to take them.

A certificate of the local chief of police, sheriff of the county, head of the State police, State or local district attorney or prosecutor, or such other person whose certificate may in a particular case be acceptable to the Director, shall be completed on each copy of the Form 1 (Firearms).

The certificate shall state that the certifying official is satisfied that the fingerprints and photograph accompanying the application are those of the applicant and that the certifying official has no information indicating that possession of the firearm by the maker would be in violation of State or local law or that the maker will use the firearm for other than lawful purposes.

[T.D. ATF-241, 51 FR 39631, Oct. 29, 1986]

#### § 179.64 Procedure for approval of application.

The application to make a firearm, Form 1 (Firearms), must be forwarded directly, in duplicate, by the maker of the firearm to the Director in accordance with the instructions on the form. The Director will consider the application for approval or disapproval. If the application is approved, the Director will return the original thereof to the maker of the firearm and retain the duplicate. Upon receipt of the approved application, the maker is

authorized to make the firearm described therein.

The maker of the firearm shall not, under any circumstances, make the firearm until the application, satisfactorily executed, has been forwarded to the Director and has been approved and returned by the Director with the National Firearms Act stamp affixed. If the application is disapproved, the original Form 1 (Firearms) and the remittance submitted by the applicant for the purchase of the stamp will be returned to the applicant with the reason for disapproval stated on the form.

[T.D. ATF-241, 51 FR 39631, Oct. 29, 1986]

#### § 179.65 Denial of application.

An application to make a firearm shall not be approved by the Director if the making or possession of the firearm would place the person making the firearm in violation of law.

#### § 179.66 Subsequent transfer of firearms.

Where a firearm which has been made in compliance with 26 U.S.C. 5821, and the regulations contained in this part, is to be transferred subsequently, the transfer provisions of the firearms laws and regulations must be complied with. (See Subpart F of this part).

[36 FR 14256, Aug. 3, 1971; T.D. ATF-48, 44 FR 55842, Sept. 28, 1979]

#### § 179.67 Cancellation of stamp.

The person affixing to a Form 1 (Firearms) a "National Firearms Act" stamp shall cancel it by writing or stamping thereon, in ink, his initials, and the day, month and year, in such manner as to render it unfit for reuse. The cancellation shall not so deface the stamp as to prevent its denomination and genuineness from being readily determined.

### EXCEPTIONS TO TAX ON MAKING FIREARMS

#### § 179.68 Qualified manufacturer.

A manufacturer qualified under this part to engage in such business may make firearms without payment of the making tax. However, such manufacturer shall report and register each firearm made in the manner prescribed by this part.

#### § 179.69 Making a firearm for the United States.

A firearm may be made by, or on behalf of, the United States or any department, independent establishment, or agency thereof without payment of the making tax. However, if a firearm is to be made on behalf of the United States, the maker must file an application, in duplicate, on Form 1 (Firearms) and obtain the approval of the Director in the manner prescribed in § 179.62.

#### § 179.70 Certain government entities.

A firearm may be made without payment of the making tax by, or on behalf of, any State, or possession of the United States, any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations. Any person making a firearm under this exemption shall first file an application, in duplicate, on Form 1 (Firearms) and obtain the approval of the Director as prescribed in § 179.62.

## REGISTRATION

### § 179.71 Proof of registration.

The approval by the Director of an application, Form 1 (Firearms), to make a firearm under this subpart shall effectuate registration of the firearm described in the Form 1 (Firearms) to the person making the firearm. The original Form 1 (Firearms) showing approval by the Director shall be retained by the maker to establish proof of his registration of the firearm described therein, and shall be made available to any ATF officer on request.

## Subpart F—Transfer Tax

### § 179.81 Scope of tax.

Except as otherwise provided in this part, each transfer of a firearm in the United States is subject to a tax to be represented by an adhesive stamp of the proper denomination bearing the words "National Firearms Act" to be affixed to the Form 4 (Firearms), **Application For Transfer and Registration of Firearm**, as provided in this subpart.

### § 179.82 Rate of tax.

The transfer tax imposed with respect to firearms transferred within the United States is at the rate of \$200 for each firearm transferred, except that the transfer tax on any firearm classified as "any other weapon" shall be at the rate of \$5 for each such firearm transferred. The tax imposed on the transfer of the firearm shall be paid by the transferor.

### § 179.83 Transfer tax in addition to import duty.

The transfer tax imposed by section 5811, I.R.C., is in addition to any import duty.

## APPLICATION AND ORDER FOR TRANSFER OF FIREARM

### § 179.84 Application to transfer.

Except as otherwise provided in this subpart, no firearm may be transferred in the United States unless an application, Form 4 (Firearms), **Application For Transfer and Registration of Firearm**, in duplicate, executed under the penalties of perjury to transfer the firearm and register it to the transferee has been filed with, and approved by, the Director.

The application, Form 4 (Firearms), shall be filed by the transferor and shall identify the firearm to be transferred by:

- Type;
- Serial number;
- Name and address of the manufacturer (and importer, if known);
- Model;
- Caliber, gauge or size;

In the case of a short-barreled shotgun or a short-barreled rifle, the length of the barrel;

Overall length of the weapon and the length of the barrel (in the case of a weapon made from a rifle or shotgun); and

Any other identifying marks on the firearm.

In the event the firearm does not bear a serial number—The applicant shall obtain a serial number from the regional director

(compliance) and shall stamp (impress) or otherwise conspicuously place such serial number on the firearm in a manner not susceptible of being readily obliterated, altered or removed.

### The application, Form 4 (Firearms), shall:

Identify the transferor by name and address;

Identify the transferor's Federal firearms license and special (occupational) tax stamp, if any; and

Show the title or status of the person executing the application if the transferor is other than a natural person.

The application shall also identify the transferee by name and address and in the manner prescribed in § 179.85 if a natural person but not qualified as a manufacturer, importer or dealer under this part.

The application shall also identify the special (occupational) tax stamp and Federal firearms license of the transferee, if any.

Any tax payable on the transfer must be represented by an adhesive stamp of proper denomination being affixed to the application, Form 4 (Firearms), properly cancelled.

### § 179.85 Identification of transferee.

If the transferee is an individual, such person shall securely attach to each copy of the application, Form 4 (Firearms), in the space provided on the form, a photograph of the applicant 2 × 2 inches in size, clearly showing a full front view of the features of the applicant with head bare, with the distance from the top of the head to the point of the chin approximately 1¼ inches, and which shall have been taken within 1 year prior to the date of the application.

The transferee shall attach two properly completed FBI Forms FD-258 (Fingerprint Card) to the application. The fingerprints must be clear for accurate classification and should be taken by someone properly equipped to take them.

A certificate of the local chief of police, sheriff of the county, head of the State police, State or local district attorney or prosecutor, or such other person whose certificate may in a particular case be acceptable to the Director, shall be completed on each copy of the Form 4 (Firearms).

The certificate shall state that the certifying official is satisfied that the fingerprints and photograph accompanying the application are those of the applicant and that the certifying official has no information indicating that the receipt or possession of the firearm would place the transferee in violation of State or local law or that the transferee will use the firearm for other than lawful purposes.

[T.D. ATF-241, 51 FR 39632, Oct. 29, 1986]

### § 179.86 Action on application.

The Director will consider a completed and properly executed application, Form 4 (Firearms), to transfer a firearm. If the application is approved, the Director will affix the appropriate National Firearms Act stamp, cancel it, and return the original application

showing approval to the transferor who may then transfer the firearm to the transferee along with the approved application.

The approval of an application, Form 4 (Firearms), by the Director will effectuate registration of the firearm to the transferee. The transferee shall not take possession of a firearm until the application, Form 4 (Firearms), for the transfer filed by the transferor has been approved by the Director and registration of the firearm is effectuated to the transferee. The transferee shall retain the approved application as proof that the firearm described therein is registered to the transferee, and shall make the approved Form 4 (Firearms) available to any ATF officer on request.

If the application, Form 4 (Firearms), to transfer a firearm is disapproved by the Director, the original application and the remittance for purchase of the stamp will be returned to the transferor with reasons for the disapproval stated on the application.

An application, Form 4 (Firearms), to transfer a firearm shall be denied if the transfer, receipt, or possession of a firearm would place the transferee in violation of law.

[T.D. ATF-241, 51 FR 39632, Oct. 29, 1986]

### § 179.87 Cancellation of stamp.

The method of cancellation of the stamp required by this subpart as prescribed in § 179.67 shall be used.

## EXEMPTIONS RELATING TO TRANSFERS OF FIREARMS

### § 179.88 Special (occupational) taxpayers.

(a) A firearm registered to a person qualified under this part to engage in business as an importer, manufacturer, or dealer may be transferred by that person without payment of the transfer tax to any other person qualified under this part to manufacture, import or deal in firearms.

(b) The exemption provided in paragraph (a) of this section shall be obtained by the transferor of the firearm filing with the Director an application, Form 3 (Firearms), **Application For Tax-exempt Transfer of Firearm and Registration to Special (Occupational) Taxpayer**, in duplicate, executed under the penalties of perjury.

The application, Form 3 (Firearms), shall:

(1) Show the name and address of the transferor and of the transferee;

(2) Identify the Federal firearms license and special (occupational) tax stamp of the transferor and of the transferee;

(3) Show the name and address of the manufacturer and the importer of the firearm, if known;

(4) Show the type, model, overall length (if applicable), length of barrel, caliber, gauge or size, serial number, and other marks of identification of the firearm; and

(5) Contain a statement by the transferor that he is entitled to the exemption because the transferee is a person qualified under this part to manufacture, import or deal in firearms.

If the Director disapproves the application, Form 3 (Firearms), he shall return the original Form 3 (Firearms) to the transferor with the reasons for the disapproval stated thereon.

(c) The transferor shall be responsible for establishing the exempt status of the transferee before making a transfer under the provisions of this section. Therefore, before engaging in transfer negotiations with the transferee, the transferor should satisfy himself as to the claimed exempt status of the transferee and the bona fides of the transaction. If not fully satisfied, the transferor should communicate with the Director, report all circumstances regarding the proposed transfer, and await the Director's advice before making application for the transfer. An unapproved transfer or a transfer to an unauthorized person may subject the transferor to civil and criminal liabilities. (See 26 U.S.C. 5852, 5861, and 5871.)

[36 FR 14256, Aug. 3, 1971; T.D. ATF-48, 44 FR 55842, Sept. 28, 1979]

#### § 179.89 Transfers to the United States.

A firearm may be transferred to the United States or any department, independent establishment or agency thereof without payment of the transfer tax. However, the procedures for the transfer of a firearm as provided in § 179.90 shall be followed in a tax-exempt transfer of a firearm under this section, unless the transferor is relieved of such requirement under other provisions of this part.

#### § 179.90 Certain government entities.

(a) A firearm may be transferred without payment of the transfer tax to or from any State, possession of the United States, any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations.

(b) The exemption provided in paragraph (a) of this section shall be obtained by the transferor of the firearm filing with the Director an application, Form 5 (Firearms), **Application for Tax-exempt Transfer and Registration of Firearm**, in duplicate, executed under the penalties of perjury.

The application shall:

(1) Show the name and address of the transferor and of the transferee;

(2) Identify the Federal firearms license and special (occupational) tax stamp, if any, of the transferor and of the transferee;

(3) Show the name and address of the manufacturer and the importer of the firearm, if known;

(4) Show the type, model, overall length (if applicable), length of barrel, caliber, gauge or size, serial number, and other marks of identification of the firearm; and

(5) Contain a statement by the transferor that the transferor is entitled to the exemption because either the transferor or the transferee is a governmental entity coming within the purview of paragraph (a) of this section.

In the case of a transfer of a firearm by a governmental entity to a transferee who is a natural person not qualified as a manufacturer, importer, or dealer under this part, the

transferee shall be further identified in the manner prescribed in § 179.85.

If the Director approves an application, Form 5 (Firearms), the original Form 5 (Firearms) shall be returned to the transferor with the approval noted thereon. Approval of an application, Form 5 (Firearms), by the Director shall effectuate the registration of that firearm to the transferee. Upon receipt of the approved Form 5 (Firearms), the transferor shall deliver same with the firearm to the transferee.

The transferor shall not transfer the firearm to the transferee until the application, Form 5 (Firearms), has been approved by the Director and the original thereof has been returned to the transferor. If the Director disapproves the application, Form 5 (Firearms), the original Form 5 (Firearms) shall be returned to the transferor with the reasons for the disapproval stated thereon.

An application by a governmental entity to transfer a firearm shall be denied if the transfer, receipt, or possession of a firearm would place the transferee in violation of law.

(c) The transferor shall be responsible for establishing the exempt status of the transferee before making a transfer under the provisions of this section. Therefore, before engaging in transfer negotiations with the transferee, the transferor should satisfy himself of the claimed exempt status of the transferee and the bona fides of the transaction. If not fully satisfied, the transferor should communicate with the Director, report all circumstances regarding the proposed transfer, and await the Director's advice before making application for transfer. An unapproved transfer or a transfer to an unauthorized person may subject the transferor to civil and criminal liabilities. (See 26 U.S.C. 5852, 5861, and 5871.)

[36 FR 14256, Aug. 3, 1971; T.D. ATF-48, 44 FR 55842, Sept. 28, 1979; T.D. ATF-241, 51 FR 39632, Oct. 29, 1986]

#### § 179.91 Unserviceable firearms.

An unserviceable firearm may be transferred as a curio or ornament without payment of the transfer tax. However, the procedures for the transfer of a firearm as provided in § 179.90 shall be followed in a tax-exempt transfer of a firearm under this section, except a statement shall be entered on the transfer application, Form 5 (Firearms), by the transferor that he is entitled to the exemption because the firearm to be transferred is unserviceable and is being transferred as a curio or ornament. An unapproved transfer, the transfer of a firearm under the provisions of this section which is in fact not an unserviceable firearm, or the transfer of an unserviceable firearm as something other than a curio or ornament, may subject the transferor to civil and criminal liabilities. (See 26 U.S.C. 5811, 5852, 5861, and 5871.)

[36 FR 14256, Aug. 3, 1971; T.D. ATF-48, 44 FR 55843, Sept. 28, 1979]

#### § 179.92 Transportation of firearms to effect transfer.

Notwithstanding any provision of § 178.28 of this chapter, it shall not be required that authorization be obtained from the Director for the transportation in interstate or foreign commerce of a firearm in order to

effect the transfer of a firearm authorized under the provisions of this subpart.

[T.D. ATF-241, 51 FR 39632, Oct. 29, 1986]

### OTHER PROVISIONS

#### § 179.93 Transfers of firearms to certain persons.

Where the transfer of a destructive device, machine gun, short-barreled shotgun, or short-barreled rifle is to be made by a person licensed under the provisions of Title I of the Gun Control Act of 1968 (82 Stat. 1213) to a person not so licensed, the sworn statement required by § 178.98 of this chapter shall be attached to and accompany the transfer application required by this subpart.

### Subpart G—Registration and Identification of Firearms

#### § 179.101 Registration of firearms.

(a) The Director shall maintain a central registry of all firearms in the United States which are not in the possession of or under the control of the United States. This registry shall be known as the National Firearms Registration and Transfer Record and shall include:

(1) Identification of the firearm as required by this part;

(2) Date of registration; and

(3) Identification and address of person entitled to possession of the firearm as required by this part.

(b) Each manufacturer, importer, and maker shall register each firearm he manufactures, imports, or makes in the manner prescribed by this part. Each firearm transferred shall be registered to the transferee by the transferor in the manner prescribed by this part. No firearm may be registered by a person unlawfully in possession of the firearm except during an amnesty period established under section 207 of the Gun Control Act of 1968 (82 Stat. 1235).

(c) A person shown as possessing firearms by the records maintained by the Director pursuant to the National Firearms Act (26 U.S.C. Chapter 53) in force on October 31, 1968, shall be considered to have registered the firearms in his possession which are disclosed by that record as being in his possession on October 31, 1968.

(d) The National Firearms Registration and Transfer Record shall include firearms registered to the possessors thereof under the provisions of section 207 of the Gun Control Act of 1968.

(e) A person possessing a firearm registered to him shall retain proof of registration which shall be made available to any ATF officer upon request.

(f) A firearm not identified as required by this part shall not be registered.

#### § 179.102 Identification of firearms.

Each manufacturer, importer, or maker of a firearm shall legibly identify it by engraving, casting, stamping (impressing), or otherwise conspicuously placing or causing to be engraved, cast, stamped (impressed) or placed on the frame or receiver thereof in a manner

not susceptible of being readily obliterated, altered, or removed, an individual serial number not duplicating any serial number placed by the manufacturer, importer, or maker on any other firearm, and by engraving, casting, stamping (impressing), or otherwise conspicuously placing or causing to be engraved, cast, stamped (impressed) or placed on the frame, receiver, or barrel thereof in a manner not susceptible of being readily obliterated, altered or removed, the model, if such designation has been made; the caliber or gauge; the name (or recognized abbreviation of same) of the manufacturer, or maker, and also, when applicable, of the importer; in the case of a domestically made firearm, the city and State (or recognized abbreviation thereof) wherein the manufacturer or importer maintains his place of business, or the maker made the firearm; and in the case of an imported firearm, the name of the country in which manufactured and the city and State (or recognized abbreviation thereof) of the importer:

**Provided,** That the Director may authorize other means of identification of the manufacturer, importer, or maker upon receipt of letter application, in duplicate, from same showing that such other identification is reasonable and will not hinder the effective administration of this part;

**Provided, further,** That in the case of a destructive device, the Director may authorize other means of identifying that weapon upon receipt of letter application, in duplicate, from the manufacturer, importer, or maker showing that engraving, casting, or stamping (impressing) such a weapon would be dangerous or impracticable. A firearm frame or receiver or any other part defined as a machinegun or a muffler or silencer for the purposes of this part which is not a component part of a complete weapon at the time it is sold, shipped, or otherwise disposed of by a manufacturer, importer, or maker shall be identified as required by this section.

The Director may authorize other means of identification of parts defined as machineguns other than frames or receivers and parts defined as mufflers or silencers upon receipt of a letter application, in duplicate, showing that such other identification is reasonable and will not hinder the effective administration of this part.

#### **§ 179.103 Registration of firearms manufactured.**

Each manufacturer qualified under this part shall file with the Director an accurate notice on Form 2 (Firearms), **Notice of Firearms Manufactured or Imported**, executed under the penalties of perjury, to show his manufacture of firearms. The notice shall set forth the name and address of the manufacturer, identify his special (occupational) tax stamp and Federal firearms license, and show the date of manufacture, the type, model, length of barrel, overall length, caliber, gauge or size, serial numbers, and other marks of identification of the firearms he manufactures, and the place where the manufactured firearms will be kept. All firearms manufactured by him during a single day shall

be included on one notice, Form 2 (Firearms), filed by the manufacturer no later than the close of the next business day. The manufacturer shall prepare the notice, Form 2 (Firearms), in duplicate, file the original notice as prescribed herein and keep the copy with the records required by Subpart I of this part at the premises covered by his special (occupational) tax stamp. Receipt of the notice, Form 2 (Firearms), by the Director shall effectuate the registration of the firearms listed on that notice. The requirements of this part relating to the transfer of a firearm are applicable to transfers by qualified manufacturers.

#### **§ 179.104 Registration of firearms by certain governmental entities.**

Any State, any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations, which acquires for official use a firearm not registered to it, such as by abandonment or by forfeiture, will register such firearm with the Director by filing Form 10 (Firearms), **Registration of Firearms Acquired by Certain Governmental Entities**, and such registration shall become a part of the National Firearms Registration and Transfer Record. The application shall identify the applicant, describe each firearm covered by the application, show the location where each firearm usually will be kept, and, if the firearm is unserviceable, the application shall show how the firearm was made unserviceable. This section shall not apply to a firearm merely being held for use as evidence in a criminal proceeding. The Form 10 (Firearms) shall be executed in duplicate in accordance with the instructions thereon. Upon registering the firearm, the Director shall return the original Form 10 (Firearms) to the registrant with notification thereon that registration of the firearm has been made. The registration of any firearm under this section is for official use only and a subsequent transfer will be approved only to other governmental entities for official use.

### **MACHINEGUNS**

#### **§ 179.105 Transfer and possession of machineguns.**

(a) **General.** As provided by 26 U.S.C. 5812 and 26 U.S.C. 5822, an application to make or transfer a firearm shall be denied if the making, transfer, receipt, or possession of the firearm would place the maker or transferee in violation of law. Section 922(o), Title 18, U.S.C., makes it unlawful for any person to transfer or possess a machinegun, except a transfer to or by, or possession by or under the authority of, the United States or any department or agency thereof or a State, or a department, agency, or political subdivision thereof; or any lawful transfer or lawful possession of a machinegun that was lawfully possessed before May 19, 1986.

Therefore, notwithstanding any other provision of this part, no application to make, transfer, or import a machinegun will be approved except as provided by this section.

(b) **Machineguns lawfully possessed prior to May 19, 1986.** A machinegun possessed in compliance with the provisions of

this part prior to May 19, 1986, may continue to be lawfully possessed by the person to whom the machinegun is registered and may, upon compliance with the provisions of this part, be lawfully transferred to and possessed by the transferee.

(c) **Importation and manufacture.** Subject to compliance with the provisions of this part, importers and manufacturers qualified under this part may import and manufacture machineguns on or after May 19, 1986, for sale or distribution to any department or agency of the United States or any State or political subdivision thereof, or for use by dealers qualified under this part as sales samples as provided in paragraph (d) of this section.

The registration of such machineguns under this part and their subsequent transfer shall be conditioned upon and restricted to the sale or distribution of such weapons for the official use of Federal, State or local governmental entities.

Subject to compliance with the provisions of this part, manufacturers qualified under this part may manufacture machineguns on or after May 19, 1986, for exportation in compliance with the Arms Export Control Act (22 U.S.C. 2778) and regulations prescribed thereunder by the Department of State.

(d) **Dealer sales samples.** Subject to compliance with the provisions of this part, applications to transfer and register a machinegun manufactured or imported on or after May 19, 1986, to dealers qualified under this part will be approved if it is established by:

Specific information regarding the expected governmental customers who would require a demonstration of the weapon;

Information as to the availability of the machinegun to fill subsequent orders; and

Letters from governmental entities expressing a need for a particular model or interest in seeing a demonstration of a particular weapon.

Applications to transfer more than one machinegun of a particular model to a dealer must also establish the dealer's need for the quantity of samples sought to be transferred. [Also see ATFR 85-2, **Importation Procedure**]

(e) **The making of machineguns on or after May 19, 1986.** Subject to compliance with the provisions of this part, applications to make and register machineguns on or after May 19, 1986, for the benefit of a Federal, State or local governmental entity (e.g., an invention for possible future use of a governmental entity or the making of a weapon in connection with research and development on behalf of such an entity) will be approved if it is established by specific information that the machinegun is particularly suitable for use by Federal, State or local governmental entities and that the making of the weapon is at the request and on behalf of such an entity.

(f) **Discontinuance of business.** Since section 922(o), Title 18, U.S.C., makes it unlawful to transfer or possess a machinegun except as provided in the law, any qualified

manufacturer, importer, or dealer intending to discontinue business shall, prior to going out of business, transfer in compliance with the provisions of this part any machinegun manufactured or imported after May 19, 1986, to a Federal, State or local governmental entity, qualified manufacturer, qualified importer, or, subject to the provisions of paragraph (d) of this section, dealer qualified to possess such machinegun.

[T.D. ATF-241, 51 FR 39633, Oct. 29, 1986]

## Subpart H—Importation and Exportation

### IMPORTATION

#### § 179.111 Procedure.

(a) No firearm shall be imported or brought into the United States or any territory under its control or jurisdiction unless the person importing or bringing in the firearm establishes to the satisfaction of the Director that the firearm to be imported or brought in is being imported or brought in for:

(1) The use of the United States or any department, independent establishment, or agency thereof or any State or possession or any political subdivision thereof; or

(2) Scientific or research purposes; or

(3) Testing or use as a model by a registered manufacturer or solely for use as a sample by a registered importer or registered dealer.

The burden of proof is affirmatively on any person importing or bringing the firearm into the United States or any territory under its control or jurisdiction to show that the firearm is being imported or brought in under one of the above paragraphs.

Any person desiring to import or bring a firearm into the United States under this paragraph shall file with the Director an application on Form 6 (Firearms), **Application and Permit for Importation of Firearms, Ammunition and Implements of War**, in triplicate, executed under the penalties of perjury. The application shall show the information required by Subpart G of Part 178 of this chapter. A detailed explanation of why the importation of the firearm falls within the standards set out in this paragraph shall be attached to the application.

The person seeking to import or bring in the firearm will be notified of the approval or disapproval of his application. If the application is approved, the original Form 6 (Firearms) will be returned to the applicant showing such approval and he will present the approved application, Form 6 (Firearms), to the Customs officer at the port of importation.

The approval of an application to import a firearm shall be automatically terminated at the expiration of six (6) months from the date of approval unless, upon request, it is further extended by the Director. If the firearm described in the approved application is not imported prior to the expiration of the approval, the Director shall be so notified. Customs officers will not permit release of a firearm from Customs custody, except for exportation, unless covered by an application which

has been approved by the Director and which is currently effective.

The importation or bringing in of a firearm not covered by an approved application may subject the person responsible to civil and criminal liabilities. (26 U.S.C. 5861, 5871, and 5872.)

(b) Part 178 of this chapter also contains requirements and procedures for the importation of firearms into the United States. A firearm may not be imported into the United States under this part unless those requirements and procedures are also complied with by the person importing the firearm.

(c) The provisions of this subpart shall not be construed as prohibiting the return to the United States or any territory under its control or jurisdiction of a firearm by a person who can establish to the satisfaction of Customs that:

(1) The firearm was taken out of the United States or any territory under its control or jurisdiction by such person;

(2) The firearm is registered to that person; and

(3) If appropriate, the authorization required by Part 178 of this chapter for the transportation of such a firearm in interstate or foreign commerce has been obtained by such person.

[36 FR 14256, Aug. 3, 1971; T.D. ATF-48, 44 FR 55842, Sep. 28, 1979]

#### § 179.112 Registration of imported firearms.

(a) Each importer shall file with the Director an accurate notice on Form 2 (Firearms), **Notice of Firearms Manufactured or Imported**, executed under the penalties of perjury, showing the importation of a firearm.

The notice shall set forth the name and address of the importer, identify the importer's special (occupational) tax stamp and Federal firearms license, and show the import permit number, the date of release from Customs custody, the type, model, length of barrel, overall length, caliber, gauge or size, serial number, and other marks of identification of the firearm imported, and the place where the imported firearm will be kept.

The Form 2 (Firearms) covering an imported firearm shall be filed by the importer no later than fifteen (15) days from the date the firearm was released from Customs custody. The importer shall prepare the notice, Form 2 (Firearms), in duplicate, file the original return as prescribed herein, and keep the copy with the records required by Subpart I of this part at the premises covered by the special (occupational) tax stamp.

The timely receipt by the Director of the notice, Form 2 (Firearms), and the timely receipt by the Director of the copy of Form 6A (Firearms), **Release and Receipt of Imported Firearms, Ammunition and Implements of War**, required by § 178.112 of this chapter, covering the weapon reported on the Form 2 (Firearms) by the qualified importer, shall effectuate the registration of the firearm to the importer.

(b) The requirements of this part relating to the transfer of a firearm are applicable to

the transfer of imported firearms by a qualified importer or any other person.

(c) Subject to compliance with the provisions of this part, an application, Form 6 (Firearms), to import a firearm by an importer or dealer qualified under this part, for use as a sample in connection with sales of such firearms to Federal, State or local governmental entities, will be approved if it is established by specific information attached to the application that the firearm is suitable or potentially suitable for use by such entities.

Such information must show why a sales sample of a particular firearm is suitable for such use and the expected governmental customers who would require a demonstration of the firearm. Information as to the availability of the firearm to fill subsequent orders and letters from governmental entities expressing a need for a particular model or interest in seeing a demonstration of a particular firearm would establish suitability for governmental use.

Applications to import more than one firearm of a particular model for use as a sample by an importer or dealer must also establish the importer's or dealer's need for the quantity of samples sought to be imported.

[36 FR 14256, Aug. 3, 1971; T.D. ATF-241, 51 FR 39633, Oct. 29, 1986; T.D. ATF-270, 53 FR 10480, Mar. 31, 1988]

#### § 179.113 Conditional importation.

The Director shall permit the conditional importation or bringing into the United States of any firearm for the purpose of examining and testing the firearm in connection with making a determination as to whether the importation or bringing in of such firearm will be authorized under this subpart. An application under this section shall be filed on Form 6 (Firearms), in triplicate, with the Director.

The Director may impose conditions upon any importation under this section including a requirement that the firearm be shipped directly from Customs custody to the Director and that the person importing or bringing in the firearm must agree to either export the weapon or destroy it if a final determination is made that it may not be imported or brought in under this subpart.

A firearm so imported or brought into the United States may be released from Customs custody in the manner prescribed by the conditional authorization of the Director.

[T.D. ATF-241, 51 FR 39634, Oct. 29, 1986]

### EXPORTATION

#### § 179.114 Application and permit for exportation of firearms.

Any person desiring to export a firearm without payment of the transfer tax must file with the Director an application on Form 9 (Firearms), **Application and Permit for Exportation of Firearms**, in quadruplicate, for a permit providing for deferment of tax liability. Part 1 of the application shall show the name and address of the foreign consignee, number of firearms covered by the application, the intended port of exportation, a complete description of each firearm to be exported, the name, address, State Department license number (or date of application if not issued), and identification of the special (occupational-



a) tax stamp of the transferor. Part 1 of the application shall be executed under the penalties of perjury by the transferor and shall be supported by a certified copy of a written order or contract of sale or other evidence showing that the firearm is to be shipped to a foreign designation.

Where it is desired to make a transfer free of tax to another person who in turn will export the firearm, the transferor shall likewise file an application supported by evidence that the transfer will start the firearm in course of exportation, except, however, that where such transferor and exporter are registered special taxpayers the transferor will not be required to file an application on Form 9 (Firearms).

#### § 179.115 Action by Director.

If the application is acceptable, the Director will execute the permit, Part 2 of Form 9 (Firearms), to export the firearm described on the form and return three copies thereof to the applicant. Issuance of the permit by the Director will suspend assertion of tax liability for a period of six (6) months from the date of issuance. If the application is disapproved, the Director will indicate thereon the reason for such action and return the forms to the applicant.

#### § 179.116 Procedure by exporter.

Shipment may not be made until the permit, Form 9 (Firearms), is received from the Director. If exportation is to be made by means other than by parcel post, two copies of the form must be addressed to the District Director of Customs at the port of exportation, and must precede or accompany the shipment in order to permit appropriate inspection prior to lading. If exportation is to be made by parcel post, one copy of the form must be presented to the postmaster at the office receiving the parcel who will execute Part 4 of such form and return the form to the exporter for transmittal to the Director. In the event exportation is not effected, all copies of the form must be immediately returned to the Director for cancellation.

#### § 179.117 Action by Customs.

Upon receipt of a permit, Form 9 (Firearms), in duplicate, authorizing the exportation of firearms, the District Director of Customs may order such inspection as deemed necessary prior to lading of the merchandise. If satisfied that the shipment is proper and the information contained in the permit to export is in agreement with information shown in the shipper's export declaration, the District Director of Customs will, after the merchandise has been duly exported, execute the certificate of exportation (Part 3 of Form 9 (Firearms)). One copy of the form will be retained with the shipper's export declaration and the remaining copy thereof will be transmitted to the Director.

#### § 179.118 Proof of exportation.

Within a six month's period from date of issuance of the permit to export firearms, the exporter shall furnish or cause to be furnished to the Director:

(a) The certificate of exportation (Part 3 of Form 9 (Firearms)) executed by the District

Director of Customs as provided in § 179.117; or

(b) The certificate of mailing by parcel post (Part 4 of Form 9 (Firearms)) executed by the postmaster of the post office receiving the parcel containing the firearm; or

(c) A certificate of landing executed by a Customs officer of the foreign country to which the firearm is exported; or

(d) A sworn statement of the foreign consignee covering the receipt of the firearm; or

(e) The return receipt, or a reproduced copy thereof, signed by the addressee or his agent, where the shipment of a firearm was made by insured or registered parcel post.

Issuance of a permit to export a firearm and furnishing of evidence establishing such exportation under this section will relieve the actual exporter and the person selling to the exporter for exportation from transfer tax liability. Where satisfactory evidence of exportation of a firearm is not furnished within the stated period, the transfer tax will be assessed.

#### § 179.119 Transportation of firearms to effect exportation.

Notwithstanding any provision of § 178.28 of this chapter, it shall not be required that authorization be obtained from the Director for the transportation in interstate or foreign commerce of a firearm in order to effect the exportation of a firearm authorized under the provisions of this subpart.

[T.D. ATF-241, 51 FR 39634, Oct. 29, 1986]

#### § 179.120 Refunds.

Where, after payment of tax by the manufacturer, a firearm is exported, and satisfactory proof of exportation (see § 179.118) is furnished, a claim for refund may be submitted on Form 843 (see § 179.172). If the manufacturer waives all claim for the amount to be refunded, the refund shall be made to the exporter. A claim for refund by an exporter of tax paid by a manufacturer should be accompanied by waiver of the manufacturer and proof of tax payment by the latter.

#### § 179.121 Insular possessions.

Transfers of firearms to persons in the insular possessions of the United States are exempt from transfer tax, provided title in cases involving change of title (and custody or control, in cases not involving change of title), does not pass to the transferee or his agent in the United States. However, such exempt transactions must be covered by approved permits and supporting documents corresponding to those required in the case of firearms exported to foreign countries (see §§ 179.114 and 179.115), except that the Director may vary the requirements herein set forth in accordance with the requirements of the governing authority of the insular possession. Shipments to the insular possessions will not be authorized without compliance with the requirements of the governing authorities thereof. In the case of a nontaxable transfer to a person in such insular possession, the exemption extends only to such transfer and not to prior transfers.

## ARMS EXPORT CONTROL ACT

### § 179.122 Requirements.

(a) Persons engaged in the business of importing firearms are required by the Arms Export Control Act (22 U.S.C. 2778) to register with the Director. (See Part 47 of this chapter.)

(b) Persons engaged in the business of exporting firearms caliber .22 or larger are subject to the requirements of a license issued by the Secretary of State. Application for such license should be made to the Office of Munitions Control, Department of State, Washington, D.C. 20502, prior to exporting firearms.

[36 FR 14256, Aug. 3, 1971; T.D. ATF-241, 51 FR 39634, Oct. 29, 1986]

### Subpart I—Records and Returns

#### § 179.131 Records.

For the purposes of this part, each manufacturer, importer, and dealer in firearms shall keep and maintain such records regarding the manufacture, importation, acquisition (whether by making, transfer, or otherwise), receipt, and disposition of firearms as are prescribed, and in the manner and place required, by Part 178 of this chapter. In addition, each manufacturer, importer, and dealer shall maintain, in chronological order, at his place of business a separate record consisting of the documents required by this part showing the registration of any firearm to him. If firearms owned or possessed by a manufacturer, importer, or dealer are stored or kept on premises other than the place of business shown on his special (occupational) tax stamp, the record establishing registration shall show where such firearms are stored or kept. The records required by this part shall be readily accessible for inspection at all reasonable times by ATF officers.

(Approved by the Office of Management and Budget under control number 1512-0387)

[36 FR 14256, Aug. 3, 1971; T.D. ATF-172, 49 FR 14942, Apr. 16, 1984]

### Subpart J—Stolen or Lost Firearms or Documents

#### § 179.141 Stolen or lost firearms.

Whenever any registered firearm is stolen or lost, the person losing possession thereof will, immediately upon discovery of such theft or loss, make a report to the Director showing the following:

- (a) Name and address of the person in whose name the firearm is registered;
- (b) Kind of firearm;
- (c) Serial number;
- (d) Model;
- (e) Caliber;
- (f) Manufacturer of the firearm;
- (g) Date and place of theft or loss; and
- (h) Complete statement of facts and circumstances surrounding such theft or loss.

#### § 179.142 Stolen or lost documents.

When any Form 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.

#### **Subpart K—Examination of Books and Records**

##### **§ 179.151 Failure to make returns: Substitute returns.**

If any person required by this part to make returns shall fail or refuse to make any such return within the time prescribed by this part or designated by the Director, then the return shall be made by an ATF officer upon inspection of the books, but the making of such return by an ATF officer shall not relieve the person from any default or penalty incurred by reason of failure to make such return.

(53 STAT. 437; 26 U.S.C. 6020)

##### **§ 179.152 Penalties (records and returns).**

Any person failing to keep records or make returns, or making, or causing the making of, a false entry on any application, return or record, knowing such entry to be false, is liable to fine and imprisonment as provided in section 5871, I.R.C.

#### **Subpart L—Distribution and Sale of Stamps**

##### **§ 179.161 National Firearms Act stamps.**

"National Firearms Act" stamps evidencing payment of the transfer tax or tax on the making of a firearm are maintained by the Director. The remittance of purchase of the appropriate tax stamp shall be submitted with the application. Upon approval of the application, the Director will cause the appropriate tax to be paid by affixing the appropriate stamp to the application.

[T.D. ATF-241, 51 FR 39634, Oct. 29, 1986]

##### **§ 179.162 Stamps authorized.**

Adhesive stamps of the \$5 and \$200 denomination, bearing the words "National Firearms Act," have been prepared and only such stamps shall be used for the payment of the transfer tax and for the tax on the making of a firearm.

[T.D. ATF-241, 51 FR 39634, Oct. 29, 1986]

##### **§ 179.163 Reuse of stamps prohibited.**

A stamp once affixed to one document cannot lawfully be removed and affixed to

another. Any person willfully reusing such a stamp shall be subject to the penalty prescribed by 26 U.S.C. 7208.

[36 FR 14256, Aug. 3, 1971; T.D. ATF-48, 44 FR 55843, Sept. 28, 1979]

#### **Subpart M—Redemption of or Allowance For Stamps or Refunds**

##### **§ 179.171 Redemption of or allowance for stamps.**

Where a National Firearms Act stamp is destroyed, mutilated or rendered useless after purchase, and before liability has been incurred, such stamp may be redeemed by giving another stamp in lieu thereof. Claim for redemption of the stamp should be filed on ATF Form 2635 (5620.8) [formerly IRS Form 843] with the Director. Such claim shall be accompanied by the stamp or by a satisfactory explanation of the reasons why the stamp cannot be returned, and shall be filed within 3 years after the purchase of the stamp.

(68A STAT. 830; 26 U.S.C. 6805)

[T.D. ATF-241, 51 FR 39634, Oct. 29, 1986]

##### **§ 179.172 Refunds.**

As indicated in this part, the transfer tax or tax on the making of a firearm is ordinarily paid by the purchase and affixing of stamps, while special tax stamps are issued in payment of special (occupational) taxes. However, in exceptional cases, transfer tax, tax on the making of firearms, and/or special (occupational) tax may be paid pursuant to assessment.

Claims for refunds of such taxes, paid pursuant to assessment, shall be filed on ATF Form 2635 (5620.8) [formerly IRS Form 843] within 3 years next after payment of the taxes. Such claims shall be filed with the regional director (compliance) serving the region in which the tax was paid. (For provisions relating to hand-carried documents and manner of filing, see 26 CFR, §§ 301.6091-1(b) and 301.6402-2(a), respectively.)

When an applicant to make or transfer a firearm wishes a refund of the tax paid on an approved application where the firearm was not made pursuant to an approved Form 1 (Firearms) or transfer of the firearm did not take place pursuant to an approved Form 4 (Firearms), the applicant shall file a claim for refund of the tax on ATF Form 2635 (5620.8) [formerly IRS form 843] with the Director. The claim shall be accompanied by the approved application bearing the stamp and an explanation why the tax liability was not incurred. Such claim shall be filed within 3 years next after payment of the tax.

(68A STAT. 808, 830; 26 U.S.C. 6511, 6805)

[T.D. ATF-241, 51 FR 39634, Oct. 29, 1986]

#### **Subpart N—Penalties and Forfeitures**

##### **§ 179.181 Penalties.**

Any person who violates or fails to comply with the requirements of 26 U.S.C. Chapter 53 shall, upon conviction, be subject to the penalties imposed under 26 U.S.C. 5871.

[T.D. ATF-48, 44 FR 55843, Sept. 28, 1979]

##### **§ 179.182 Forfeitures.**

Any firearm involved in any violation of the provisions of 26 U.S.C. Chapter 53, shall be subject to seizure, and forfeiture under the internal revenue laws:

**Provided, however,** That the disposition of forfeited firearms shall be in conformance with the requirements of 26 U.S.C. 5872.

In addition, any vessel, vehicle or aircraft used to transport, carry, convey or conceal or possess any firearm with respect to which there has been committed any violation of any provision of 26 U.S.C. Chapter 53, or the regulations in this part issued pursuant thereto, shall be subject to seizure and forfeiture under the Customs laws, as provided by the act of August 9, 1939 (49 U.S.C. Appendix, §§ 781-788).

[T.D. ATF-241, 51 FR 39634, Oct. 29, 1986]

#### **Subpart O—Other Laws Applicable**

##### **§ 179.191 Applicability of other provisions of internal revenue laws.**

All of the provisions of the internal revenue laws not inconsistent with the provisions of 26 U.S.C. Chapter 53 shall be applicable with respect to the taxes imposed by 26 U.S.C. 5801, 5811, and 5821 (see 26 U.S.C. 5846).

[T.D. ATF-48, 44 FR 55843, Sept. 28, 1979]

##### **§ 179.192 Commerce in firearms and ammunition.**

For provisions relating to commerce in firearms and ammunition, including the movement of destructive devices, machine guns, short-barreled shotguns, or short-barreled rifles, see 18 U.S.C. Chapter 44, and Part 178 of this chapter issued pursuant thereto.

[36 FR 14256, Aug. 3, 1971 T.D. ATF-48, 44 FR 55843, Sept. 28, 1979]

##### **§ 179.193 Arms Export Control Act.**

For provisions relating to the registration and licensing of persons engaged in the business of manufacturing, importing or exporting arms, ammunition, or implements of war, see the Arms Export Control Act (22 U.S.C. 2778), and the regulations issued pursuant thereto. (See also Part 47 of this chapter.)

[T.D. ATF-241, 51 FR 39634, Oct. 29, 1986]

# TITLE 27, CODE OF FEDERAL REGULATIONS

## PART 47: IMPORTATION OF ARMS, AMMUNITION AND IMPLEMENTS OF WAR

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[NOTE: This listing is not necessarily all-inclusive]

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AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 926; 22 U.S.C. 2778; 44 U.S.C. 3504(h).

SOURCE: T.D. ATF-8, 39 FR 3251, Jan. 25, 1974, unless otherwise noted.

**Subpart A—Scope**

**§ 47.1 General.**

The regulations in this part relate to that portion of Section 38, Arms Export Control Act of 1976, as amended, which is concerned with the importation of arms, ammunition and implements of war. This part contains the U.S. Munitions Import List and includes procedural and administrative requirements and provisions relating to registration of importers, permits, articles in transit, import certification, delivery verification, import restrictions applicable to certain countries, exemptions, U.S. military firearms or ammunition, penalties, seizures, and forfeitures. All designations and changes in designation of articles subject to import control under Section 414 of the Mutual Security Act of 1954, as amended, have the concurrence of the Secretary of State and the Secretary of Defense.

[T.D. ATF-215, 50 FR 42158, Oct. 18, 1985]

**§ 47.2 Relation to other laws and regulations.**

(a) All of those items on the U.S. Munitions Import List (see § 47.21) which are "firearms" or "ammunition" as defined in 18 U.S.C. 921(a) are subject to the interstate and foreign commerce controls contained in Chapter 44 of Title 18 U.S.C. and 27 CFR Part 178 and if they are "firearms" within the definition set out in 26 U.S.C. 5845(a) are also subject to the provisions of 27 CFR Part 179. Any person engaged in the business of importing firearms or ammunition as defined in 18 U.S.C. 921(a) must obtain a license under the provisions of 27 CFR Part 178, and if he imports firearms which fall within the definition of 26 U.S.C. 5845(a) must also register and pay special tax pursuant to the provisions of 27 CFR Part 179. Such licensing, registration and special tax requirements are in addition to registration under Subpart D of this part.

(b) The permit procedures of Subpart E of this part are applicable to all importations of articles on the U.S. Munitions Import List not subject to controls under 27 CFR Part 178 or 179. U.S. Munitions Import List articles subject to controls under 27 CFR Part 178 or 27 CFR Part 179 are subject to the import permit procedures of those regulations if imported into the United States (within the meaning of 27 CFR Parts 178 and 179).

(c) Articles on the U.S. Munitions Import List imported for the United States or any State or political subdivision thereof are exempt from the import controls of 27 CFR Part 178 but are not exempt from control under Section 38, Arms Export Control Act of 1976, unless imported by the United States or any agency thereof. All such importations not imported by the United States or any agency thereof shall be subject to the import permit procedures of Subpart E of this part.

[T.D. ATF-215, 50 FR 42158, Oct. 18, 1985]

**Subpart B—Definitions**

**§ 47.11 Meaning of terms.**

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words imparting the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude other things not enumerated which are in the same general class or are otherwise within the scope thereof.

**ATF officer.** An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any functions relating to the administration or enforcement of this part.

**Article.** Any of the arms, ammunition, and implements of war enumerated in the U.S. Munitions Import List.

**Bureau.** Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury.

**Carbine.** A short-barrelled rifle whose barrel is generally not longer than 22 inches and is characterized by light weight.

**CFR.** The Code of Federal Regulations.

**Chemical agent.** A substance useful in war which, by its ordinary and direct chemical action, produces a powerful physiological effect.

**Defense articles.** Any item designated in § 47.21 or § 47.22. This term includes models, mockups, and other such items which reveal technical data directly relating to § 47.21 or § 47.22. For purposes of Category XXII, any item enumerated on the U.S. Munitions List (22 CFR Part 121).

**Defense services.**

(a) The furnishing of assistance, including training, to foreign persons in the design, engineering, development, production, processing, manufacture, use, operation, overhaul, repair, maintenance, modification, or reconstruction of defense articles, whether in the United States or abroad; or

(b) The furnishing to foreign persons of any technical data, whether in the United States or abroad.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C. 20226.

**Executed under the penalties of perjury.** Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the application, form, or other documents or, where no form of declaration is prescribed, with the declaration:

"I declare under the penalties of perjury that this— (insert type of document, such as, statement, application, request, certificate), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete."

**Firearms.** A weapon, and all components and parts therefor, not over .50 caliber which will or is designed to or may be readily converted to expel a projectile by the action

of an explosive, but shall not include BB and pellet guns, and muzzle loading (black powder) firearms (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) or firearms covered by Category I(a) established to have been manufactured in or before 1898.

**Import or importation.** Bringing into the United States from a foreign country any of the articles on the Import List, but shall not include intransit, temporary import or temporary export transactions subject to Department of State controls under Title 22, Code of Federal Regulations.

**Import List.** The list of articles contained in § 47.21 and identified therein as "The U.S. Munitions Import List".

**Machinegun.** A "machinegun", "machine pistol", "submachinegun", or "automatic rifle" is a firearm originally designed to fire, or capable of being fired fully automatically by a single pull of the trigger.

**Permit.** The same as "license" for purposes of 22 U.S.C. 1934(c) [Now, 22 U.S.C. § 2778(b)].

**Person.** A partnership, company, association, or corporation, as well as a natural person.

**Pistol.** A hand-operated firearm having a chamber integral with, or permanently aligned with, the bore.

**Regional director (compliance).** The principal ATF regional official responsible for administering regulations in this part.

**Revolver.** A hand-operated firearm with a revolving cylinder containing chambers for individual cartridges.

**Rifle.** A shoulder firearm discharging bullets through a rifled barrel at least 16 inches in length, including combination and drilling guns.

**Sporting type sight including optical.** A telescopic sight suitable for daylight use on a rifle, shotgun, pistol, or revolver for hunting or target shooting.

**This chapter.** Title 27, Code of Federal Regulations, Chapter I (27 CFR Chapter I).

**United States.** When used in the geographical sense, includes the several States, the Commonwealth of Puerto Rico, the insular possessions of the United States, the District of Columbia, and any territory over which the United States exercises any powers of administration, legislation, and jurisdiction.

(26 U.S.C. 7805 (68A Stat. 917), 27 U.S.C. 205 (49 Stat. 981 as amended), 18 U.S.C. 926 (82 Stat. 959), and sec. 38, Arms Export Control Act (22 U.S.C. 2778, 90 Stat. 744))

(T.D. ATF-48, 43 FR 13535, Mar. 31, 1978; 44 FR 55840, Sept. 28, 1979, as amended by T.D. ATF-202, 50 FR 14382, Apr. 12, 1985; T.D. ATF-215, 50 FR 42158, Oct. 18, 1985)

### Subpart C—The U.S. Munitions Import List

#### § 47.21 The U.S. Munitions Import List.

The U.S. Munitions List compiled by the Department of State, Office of Munitions Control, and published at 22 CFR 121.1, with the deletions indicated, has been adopted as an enumeration of the defense articles subject to controls under this part. The expurgat-

ed list, set out below, shall, for the purposes of this part, be known as the U.S. Munitions Import List:

### THE U.S. MUNITIONS IMPORT LIST

#### CATEGORY I—FIREARMS

(a) Nonautomatic and semiautomatic firearms, to caliber .50 inclusive, combat shotguns, and shotguns with barrels less than 18 inches in length, and all components and parts for such firearms.

(b) Automatic firearms and all components and parts for such firearms to caliber .50 inclusive.

(c) Insurgency-counterinsurgency type firearms of other weapons having a special military application (e.g. close assault weapons systems) regardless of caliber and all components and parts for such firearms.

(d) Firearms silencers and suppressors, including flash suppressors.

(e) Riflescopes manufactured to military specifications and specifically designed or modified components therefor.

**NOTE:** Rifles, carbines, revolvers, and pistols, to caliber .50 inclusive, combat shotguns, and shotguns with barrels less than 18 inches in length are included under Category I(a). Machineguns, submachineguns, machine pistols and fully automatic rifles to caliber .50 inclusive are included under Category I(b).

#### CATEGORY II—ARTILLERY PROJECTORS

(a) Guns over caliber .50, howitzers, mortars, and recoilless rifles.

(b) Military flamethrowers and projectors.

(c) Components, parts, accessories, and attachments for the articles in paragraphs (a) and (b) of this category, including but not limited to mounts and carriages for these articles.

#### CATEGORY III—AMMUNITION

(a) Ammunition for the arms in Categories I and II of this section.

(b) Components, parts, accessories, and attachments for articles in paragraph (a) of this category, including but not limited to cartridge cases, powder bags, bullets, jackets, cores, shells (excluding shotgun shells), projectiles, boosters, fuzes and components therefor, primers, and other detonating devices for such ammunition.

(c) Ammunition belting and linking machines.

(d) Ammunition manufacturing machines and ammunition loading machines (except handloading ones).

**NOTE:** Cartridge and shell casings are included under Category III unless, prior to their importation, they have been rendered useless beyond the possibility of restoration for use as a cartridge or shell casing by means of heating, flame treatment, mangling, crushing, cutting, or popping.

#### CATEGORY IV—LAUNCH VEHICLES, GUIDED MISSILES, BALLISTIC MISSILES, ROCKETS, TORPEDOES, BOMBS AND MINES

(a) Rockets (including but not limited to meteorological and other sounding rockets),

bombs, grenades, torpedoes, depth charges, land and naval mines, as well as launchers for such defense articles, and demolition blocks and blasting caps.

(b) Launch vehicles and missile and anti-missile systems including but not limited to guided, tactical and strategic missiles, launchers, and systems.

(c) Apparatus, devices, and materials for the handling, control, activation, monitoring, detection, protection, discharge, or detonation of the articles in paragraphs (a) and (b) of this category. Articles in this category include, but are not limited to, the following: Fuses and components for the items in this category, bomb racks and shackles, bomb shackle release units, bomb ejectors, torpedo tubes, torpedo and guided missile boosters, guidance system equipment and parts, launching racks and projectors, pistols (exploders), igniters, fuze arming devices, intervalometers, guided missile launchers and specialized handling equipment, and hardened missile launching facilities.

(d) Missile and space vehicle powerplants.

(e) Military explosive excavating devices.

(f) Ablative materials fabricated or semi-fabricated from advanced composites (e.g., silica, graphite, carbon, carbon/carbon, and boron filaments) for the articles in this category that are derived directly from or specifically developed or modified for defense articles.

(g) Non/nuclear warheads for rockets and guided missiles.

(h) All specifically designed components or modified components, parts, accessories, attachments, and associated equipment for the articles in this category.

**NOTE:** Military demolition blocks and blasting caps referred to in Category IV(a) do not include the following articles:

(a) Electric squibs.

(b) No. 6 and No. 8 blasting caps, including electric ones.

(c) Delay electric blasting caps (including No. 6 and No. 8 millisecond ones).

(d) Seismograph electric blasting caps (including SSS, Static-Master, Vibrocap SR, and SEISMO SR).

(e) Oil well perforating devices.

**NOTE:** Category V of "Munitions List" deleted as inapplicable to imports.

#### CATEGORY VI—VESSELS OF WAR AND SPECIAL NAVAL EQUIPMENT

(a) Warships, amphibious warfare vessels, landing craft, mine warfare vessels, patrol vessels, auxiliary vessels and service craft, experimental types of naval ships and any vessels specifically designed or modified for military purposes.

(b) Turrets and gun mounts, arresting gear, special weapons systems, protective systems, submarine storage batteries, catapults and other components, parts, attachments, and accessories specifically designed or modified for combatant vessels.

(c) Mine sweeping equipment, components, parts, attachments and accessories specifically designed or modified therefor.

(d) Harbor entrance detection devices (magnetic, pressure, and acoustic ones) and controls and components therefor.

(e) Naval nuclear propulsion plants, their land prototypes and special facilities for their construction, support and maintenance. This includes any machinery, device, component, or equipment specifically developed or designed or modified for use in such plants or facilities.

**NOTE:** The term "vessels of war" includes, but is not limited to the following:

(a) Combatant vessels:

(1) Warships (including nuclear-powered versions):

(I) Aircraft carriers (CV, CVN)

(II) Battleships (BB)

(III) Cruisers (CA, CG, CGN)

(IV) Destroyers (DD, DDG)

(V) Frigates (FF, FFG)

(VI) Submarines (SS, SSN, SSBN, SSG, SSAG).

(2) Other Combatant Classifications:

(I) Patrol Combatants (PC, PHM)

(II) Amphibious Helicopter/Landing Craft Carriers (LHA, LPD, LPH)

(III) Amphibious Landing Craft Carriers (LKA, LPA, LSD, LST)

(IV) Amphibious Command Ships (LCC)

(V) Mine Warfare Ships (MSO).

(b) Auxiliaries:

(1) Mobile Logistics Support:

(I) Under way Replenishment (AD, AF, AFS, AO, AOE, AOR)

(II) Material Support (AD, AR, AS).

(2) Support Ships:

(I) Fleet Support Ships (ARS, ASR, ATA, ATF, ATS)

(II) Other Auxiliaries (AG, AGDS, AGF, AGM, AGOR, AGOS, AGS, AH, AK, AKR, AOG, AOT, AP, APB, ARC, ARL, AVM, AVT).

(c) Combatant Craft:

(1) Patrol Craft:

(I) Coastal Patrol Combatants (PB, PCF, PCH, PTF)

(II) River, Roadstead Craft (ATC, PBR).

(2) Amphibious Warfare Craft:

(I) Landing Craft (ALC, LCAC, LCM, LCPL, LCPR, LCU, LWT, SLWT)

(II) Special Warfare Craft (LSSC, MSSC, SDV, SWCL, SWCM).

(3) Mine Warfare Craft:

(I) Mine Countermeasures Craft (MSB, MSD, MSI, MSM, MSR).

(d) Support and Service Craft:

(1) Tugs (YTB, YTL, YTM)

(2) Tankers (YO, YOG, YW)

(3) Lighters (YC, YCF, YCV, YF, YFN, YFNB, YFNX, YFR, YFRN, YFU, YG, YGN, YOGN, YON, YOS, YSR, YWN)

(4) Floating Dry Docks (AFDB, AFDL, AFDM, ARD, ARDM, YFD)

(5) Miscellaneous (APL, DSRV, DSV, IX, NR, YAG, YD, YDT, YFB, YFND, YEP, YFRT, YHLC, YM, YNG, YP, YPD, YR, YRB, YRBN, YRDH, YRDM, YRR, YRST, YSD).

(e) Coast Guard Patrol and Service Vessels and Craft:

(1) Coast Guard Cutters (CGC, WHEC, WMEC)

(2) Patrol Craft (WPB)

(3) Icebreakers (WAGB)

(4) Oceanography Vessels (WAGO)

(5) Special Vessels (WIX)

(6) Buoy Tenders (WLB, WLM, WLI, WLR, WLIC)

(7) Tugs (WYTM, WYTL)

(8) Light Ships (WLW).

### CATEGORY VII—TANKS AND MILITARY VEHICLES

(a) Military type armed or armored vehicles, military railway trains, and vehicles specifically designed or modified to accommodate mountings for arms or other specialized military equipment or fitted with such items.

(b) Military tanks, combat engineer vehicles, bridge launching vehicles, halftracks and gun carriers.

(c) Self-propelled guns and howitzers.

**NOTE:** Category VII (d) and (e) of "Munitions List" deleted as inapplicable to imports.

(f) Amphibious vehicles.

(g) Engines specifically designed or modified for the vehicles in paragraphs (a), (b), (c), and (f) of this category.

(h) All specifically designed or modified components and parts, accessories, attachments, and associated equipment for the articles in this category, including but not limited to military bridging and deep water fording kits.

**NOTE:** An "amphibious vehicle" in Category VII(f) is an automotive vehicle or chassis which embodies all-wheel drive, which is equipped to meet special military requirements, and which has sealed electrical systems and adaptation features for deep water fording.

### CATEGORY VIII—AIRCRAFT, SPACECRAFT, AND ASSOCIATED EQUIPMENT

(a) Aircraft, including but not limited to helicopters, non-expansive balloons, drones and lighter-than-air aircraft, which are specifically designed, modified, or equipped for military purposes. This includes but is not limited to the following military purposes: gunnery, bombing, rocket or missile launching, electronic and other surveillance, reconnaissance, refueling, aerial mapping, military liaison, cargo carrying or dropping, personnel dropping, airborne warning and control, and military training.

**NOTE:** Category VIII (b) through (j) and Categories IX, X, XI, XII and XIII of "Munitions List" deleted as inapplicable to imports.

**NOTE:** In Category VIII, "aircraft" means aircraft designed, modified, or equipped for a military purpose, including aircraft described as "demilitarized." All aircraft bearing an original military designation are included in Category VIII. However, the following aircraft are not so included so long as they have not been specifically equipped, reequipped, or modified for military operations:

(a) Cargo aircraft bearing "C" designations and numbered C-45 through C-118 inclusive, and C-121 through C-125 inclusive, and C-131, using reciprocating engines only.

(b) Trainer aircraft bearing "T" designations and using reciprocating engines or turboprop engines with less than 600 horsepower (s.h.p.).

(c) Utility aircraft bearing "U" designations and using reciprocating engines only.

(d) All liaison aircraft bearing an "L" designation.

(e) All observation aircraft bearing "O" designations and using reciprocating engines.

### CATEGORY XIV—TOXICOLOGICAL AGENTS AND EQUIPMENT AND RADIOLOGICAL EQUIPMENT

(a) Chemical agents, including but not limited to lung irritants, vesicants, lachrymators, and tear gases (except tear gas formulations containing 1% or less CN or CS), stermutators and irritant smoke, and nerve gases and incapacitating agents.

(b) Biological agents.

(c) Equipment for dissemination, detection, and identification of, and defense against, the articles in paragraphs (a) and (b) of this category.

(d) Nuclear radiation detection and measuring devices manufactured to military specification.

(e) Components, parts, accessories, attachments, and associated equipment specif-

ically designed or modified for the articles in paragraphs (c) and (d) of this category.

**NOTE:** A chemical agent in Category XIV(a) is a substance having military application which by its ordinary and direct chemical action produces a powerful physiological effect. The term "chemical agent" includes, but is not limited to, the following compounds.

(a) Lung irritants:

(1) Diphenylcyanoarsine (DC).

(2) Fluorine (but not fluorene).

(3) Trichloronitro methane (chloropicrin PS).

(b) Vesicants:

(1) B-Chlorovinylidichloroarsine (Lewisite, L).

(2) Bis(dichlorethyl) sulphide (Mustard Gas, HD or H).

(3) Ethyldichloroarsine (ED).

(4) Methylidichloroarsine (MD).

(c) Lachrymators and tear gases:

(1) A-Brombenzyl cyanide (BBC).

(2) Chloroacetophenone (CN).

(3) Dibromodimethyl ether.

(4) Dichlorodimethyl ether (CIC).

(5) Ethyldibromoarsine.

(6) Phenylcarbylamine chloride.

(7) Tear gas solutions (CNB or CNS).

(8) Tear gas orthochlorobenzalmononitrile (CS).

(d) Stermutators and irritant smokes:

(1) Diphenylamine chloroarsine (Adamsite, DM).

(2) Diphenylchloroarsine (BA).

(3) Liquid pepper.

(e) Nerve agents, gases, and aerosols. There are toxic compounds which affect the nervous system, such as:

(1) Dimethylaminoethoxyphosphine oxide (GA).

(2) Methylisopropoxyfluorophosphine oxide (GB).

(3) Methylpinacolyloxyfluorophosphine oxide (GD).

(f) Antiplant chemicals, such as: Butyl 2-chloro-4-fluorophenoxyacetate (LNF).

### CATEGORY XV—(RESERVED)

### CATEGORY XVI—NUCLEAR WEAPONS DESIGN AND TEST EQUIPMENT

(a) Any article, material, equipment, or device, which is specifically designed or modified for use in the design, development, or fabrication of nuclear weapons or nuclear explosive devices.

(b) Any article, material, equipment, or device, which is specifically designed or modified for use in the devising, carrying out, or evaluating of nuclear weapons tests or any other nuclear explosions, except such items as are in normal commercial use for other purposes.

**NOTE:** Categories XVII, XVIII, and XIX of "Munitions List" deleted as inapplicable to imports.

### CATEGORY XX—SUBMERSIBLE VESSELS, OCEANOGRAPHIC AND ASSOCIATED EQUIPMENT

(a) Submersible vessels, manned and unmanned, designed or modified for military purposes or having independent capability to maneuver vertically or horizontally at depths below 1,000 feet, or powered by nuclear propulsion plants.

(b) Submersible vessels, manned or unmanned, designed or modified in whole or in part from technology developed by or for the U.S. Armed Forces.

(c) Any of the articles in Category VI and elsewhere in this part specifically designed or modified for use with submersible vessels,

and oceanographic or associated equipment assigned a military designation.

(d) Equipment, components, parts, accessories, and attachments specifically designed for any of the articles in paragraphs (a) and (b) of this category.

#### CATEGORY XXI—MISCELLANEOUS ARTICLES

Any article not specifically enumerated in the other categories of the U.S. Munitions List which has substantial military applicability and which has been specifically designed or modified for military purposes. The decision on whether any article may be included in this category shall be made by the Director, Office of Munitions Control, Department of State, with the concurrence of the Department of Defense.

#### CATEGORY XXII—SOUTH AFRICA

(a) Defense articles enumerated on the U.S. Munitions List (22 CFR Part 121).

(b) Technical data relating to defense articles enumerated on the U.S. Munitions List.

NOTE: This category is applicable only to South Africa.

NOTE: "Technical data" means, for purposes of this category:

- (1) Classified information relating to defense articles and defense services;
- (2) Information covered by an invention secrecy order.
- (3) Information which is directly related to the design, engineering, development, production, processing, manufacture, use, operation, overhaul, repair, maintenance, modification, or reconstruction of defense articles. This includes, for example, information in the form of blueprints, drawings, photographs, plans, instructions, computer software and documentation. This also includes information which advances the state of the art of articles on the U.S. Munitions List. This does not include information concerning general scientific, mathematical or engineering principles.

[T.D. ATF-215, 50 FR 42158, Oct. 18, 1985; 50 FR 46647, Nov. 12, 1985]

#### § 47.22 Forgings, castings, and machined bodies.

Articles on the U.S. Munitions Import List include articles in a partially completed state (such as forgings, castings, extrusions, and machined bodies) which have reached a stage in manufacture where they are clearly identifiable as defense articles. If the end-item is an article on the U.S. Munitions Import List, (including components, accessories, attachments and parts) then the particular forging, casting, extrusion, machined body, etc., is considered a defense article subject to the controls of this part, except for such items as are in normal commercial use.

[T.D. ATF-215, 50 FR 42160, Oct. 18, 1985]

#### Subpart D—Registration

##### § 47.31 Registration requirement.

Persons engaged in the business, in the United States, of importing articles enumerated on the U.S. Munitions Import List must register with the Director.

[T.D. ATF-215, 50 FR 42158, Oct. 18, 1985]

##### § 47.32 Application for registration and refund of fee.

(a) Application for registration shall be filed on Form 4587, in duplicate, with the

Director, and shall be accompanied by the registration fee at the rate prescribed in this section. On approval of the application by the Director, he will return the original to the applicant.

(b) Registration may be effected for periods of from 1 to 5 years at the option of the registrant by identifying on Form 4587 the period of registration desired. The registration fees are as follows:

1 year .....	\$250
2 years .....	\$500
3 years .....	\$700
4 years .....	\$850
5 years .....	\$1,000

(c) Fees paid in advance for whole future years of a multiple year registration will be refunded upon request if the registrant ceases to engage in importing articles on the U.S. Munitions Import List. A request for a refund must be submitted to the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, Attention: Firearms and Explosives Imports Branch, prior to the beginning of any year for which a refund is claimed.

(Approved by the Office of Management and Budget under control number 1512-0021)

[T.D. ATF-215, 50 FR 42158, Oct. 18, 1985]

##### § 47.33 Notification of changes in information furnished by registrants.

Registered persons shall notify the Director in writing, in duplicate, of significant changes in the information set forth in their registration.

(Approved by the Office of Management and Budget under control number 1512-0021)

[T.D. ATF-215, 50 FR 42158, Oct. 18, 1985]

##### § 47.34 Maintenance of records by persons required to register as importers of Import List articles.

(a) Registrants under this part engaged in the business of importing articles subject to controls under 27 CFR Parts 178 and 179 shall maintain records in accordance with the applicable provisions of those parts.

(b) Registrants under this part engaged in importing articles on the U.S. Munitions Import List subject to the permit procedures of Subpart E of this part shall maintain for a period of 6 years, subject to inspection by any ATF officer, records bearing on such articles imported, including records concerning their acquisition and disposition by the registrant. The Director may prescribe a longer or shorter period in individual cases as he deems necessary.

(Approved by the Office of Management and Budget under control number 1512-0387)

[T.D. ATF-172, 49 FR 14941, Apr. 16, 1984; T.D. ATF-215, 50 FR 42158, Oct. 18, 1985]

##### § 47.35 Forms prescribed.

(a) The Director is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part.

(b) "Public Use Forms" (ATF Publication 1322.1) is a numerical listing of forms

issued or used by the Bureau of Alcohol, Tobacco and Firearms. This publication is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(c) Requests for forms should be mailed to the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153.

[T.D. ATF-92, 46 FR 46914, Sept. 23, 1981; T.D. ATF-249, 52 FR 5961, Feb. 27, 1987]

#### Subpart E—Permits

##### § 47.41 Permit requirement.

(a) Articles on the U.S. Munitions Import List not subject to import control under 27 CFR Parts 178 and 179 shall not be imported into the United States except pursuant to a permit under this subpart issued by the Director.

(b) Articles on the U.S. Munitions Import List intended for the United States or any State or political subdivision thereof, or the District of Columbia, which are exempt from import controls of 27 CFR 178.115 shall not be imported into the United States, except by the United States or agency thereof, without first obtaining a permit issued by the Director under this subpart.

(c) A permit is not required for the importation of:

(1) The U.S. Munitions Import List articles from Canada not subject to the import controls of 27 CFR Part 178 or 179, except articles enumerated in Categories I, II, III, IV, VI(e), VIII(a), XVI, and XX; and nuclear weapons strategic delivery systems and all specially designed components, parts, accessories, attachments, and associated equipment thereof (see Category XXI); or

(2) Minor components and parts for Category I(a) firearms, except barrels, cylinders, receivers (frames) or complete breech mechanisms, when the total value does not exceed \$500 wholesale in any single transaction.

[T.D. ATF-215, 50 FR 42161, Oct. 18, 1985]

##### § 47.42 Application for permit.

Persons required to obtain a permit as provided in § 47.41 shall file a Form 6 Part I, in triplicate, with the Director. On approval of the application by the Director, he will return the original to the applicant. Such approved application will serve as the permit.

(Approved by the Office of Management and Budget under control number 1512-0017)

[T.D. ATF-215, 50 FR 42161, Oct. 18, 1985]

##### § 47.43 Terms of permit.

(a) Import permits issued under this subpart are valid for 6 months from their issuance date unless a different period of validity is stated thereon. They are not transferable.

(b) If shipment cannot be completed during the period of validity of the permit, another application must be submitted for permit to cover the unshipped balance. Such an application shall make reference to the previous permit and may include materials in addition to the unshipped balance.

(c) No amendments or alteration to a permit may be made, except by the Director. No photographic or other copy of an original



permit, unless certified by the Director, may be used to effect Customs release.

#### § 47.44 Permit denial, revocation or suspension.

(a) Import permits under this subpart may be denied, revoked, suspended or revised without prior notice whenever the Director finds the proposed importation to be inconsistent with the purpose or in violation of section 38, Arms Export Control Act of 1976 or the regulations in this part.

(b) Whenever, after appropriate consideration, a permit application is denied or an outstanding permit is revoked, suspended, or revised, the applicant or permittee shall be promptly advised in writing of the Director's decision and the reasons therefor.

(c) Upon written request made within 30 days after receipt of an adverse decision, the applicant or permittee shall be accorded an opportunity to present additional information and to have a full review of his case by the Director.

(d) Unused, expired, suspended, or revoked permits must be returned immediately to the Director.

[T.D. ATF-215, 50 FR 42161, Oct. 18, 1985]

#### § 47.45 Importation.

(a) Articles subject to the import permit procedures of this subpart imported into the United States may be released from Customs custody to the person authorized to import same upon his showing that he has a permit from the Director for the importation of the article or articles to be released. In obtaining the release from Customs custody of an article imported pursuant to permit, the permit holder shall prepare Form 6A, in duplicate, and furnish the original and copy to the Customs officer releasing the article. The Customs officer shall, after certification, forward the original Form 6A to the address specified on the form.

(b) Within 15 days of the date of their release from Customs custody, the importer of the articles released shall forward to the address specified on the form a copy of Form 6A on which shall be reported any error or discrepancy appearing on the Form 6A certified by Customs.

(Approved by the Office of Management and Budget under control number 1512-0019)

[T.D. ATF-215, 50 FR 42161, Oct. 18, 1985]

#### § 47.46 Articles in transit.

Articles subject to the import permit procedures of this subpart which enter the United States for temporary deposit pending removal therefrom and such articles which are temporarily taken out of the United States for return thereto shall be regarded as in transit and will be considered neither imported nor exported under this part. Such transactions are subject to the Intransit or Temporary Export License procedures of the Department of State (see 22 CFR Part 123).

[T.D. ATF-215, 50 FR 42161, Oct. 18, 1985]

### Subpart F—Miscellaneous Provisions

#### § 47.51 Import certification and delivery verification.

Pursuant to agreement with the United States, certain foreign countries are entitled to request certification of legality of importation of articles on the U.S. Munitions Import List. Upon request of a foreign government, the Director will certify the importation, on Form ITA-645P/ATF-4522/DSP53, for the U.S. importer. Normally, the U.S. importer will submit this form to the Director at the time he applies for an import permit. This document will serve as evidence to the government of the exporting company that the U.S. importer has complied with import regulations of the U.S. Government and is prohibited from diverting, transshipping, or reexporting the material described therein without the approval of the U.S. Government. Foreign governments may also require documentation attesting to the delivery of the material into the United States. When such delivery certification is requested by a foreign government, the U.S. importer may obtain directly from the U.S. District Director of Customs the authenticated Delivery Verification Certificate (U.S. Department of Commerce Form ITA-647P) for this purpose.

(Approved by the Office of Management and Budget under control number 0625-0064)

[T.D. ATF-215, 50 FR 42162, Oct. 18, 1985]

#### § 47.52 Import restrictions applicable to certain countries.

(a) It is the policy of the United States to deny licenses and other approvals with respect to defense articles and defense services originating in certain countries or areas. This policy also applies to imports from these countries or areas. This policy applies to Albania, Bulgaria, Cuba, Czechoslovakia, East Germany, Estonia, Hungary, Kampuchea, Latvia, Lithuania, North Korea, Outer Mongolia, Poland, Rumania, the Soviet Union and Vietnam. This policy applies to countries or areas with respect to which the United States maintains an arms embargo. It also applies when an import would not be in furtherance of world peace and the security and foreign policy of the United States.

(b) A defense article authorized for importation under this part may not be shipped on a vessel, aircraft or other means or conveyance which is owned or operated by, or leased to or from, any of the countries or areas covered by paragraph (a) of this section.

(c) In accordance with United Nations Security Council Resolution 558 of December 13, 1984, and Executive Order 12532 of September 9, 1985, it is the policy of the United States to deny licenses and other approvals with respect to defense articles, and technical data relating to defense articles, from South Africa.

(d) Applications for permits to import articles that were manufactured in, or have been in, a country or areas proscribed under this section may be approved where the articles are covered by Category I(a) of the Import List (other than those subject to the provisions of 27 CFR Part 179), are importable as

curios or relics under the provisions of 27 CFR 178.118, and meet the following criteria:

(1) The articles were manufactured in a proscribed country or area prior to the date, as established by the Department of State, the country or area became proscribed, or, were manufactured in a non-proscribed country or area; and

(2) The articles have been stored for the five year period immediately prior to importation in a non-proscribed country or area.

(e) Applicants desiring to import articles claimed to meet the criteria specified in paragraph (d) of this section shall explain, and certify to, how the firearms meet the criteria.

The certification statement will be prepared in letter form, executed under the penalties of perjury, and submitted to the Director at the time application is made for the import permit.

The certification statement must be accompanied by documentary information on the country or area of original manufacture and on the country or area of storage for the five year period immediately prior to importation.

Such information may, for example, include a verifiable statement in the English language of a government official or any other person having knowledge of the date and place of manufacture and/or the place of storage; a warehouse receipt or other document which provides the required history of storage; and any other document that the applicant believes substantiates the place and date of manufacture and the place of storage.

The Director, however, reserves the right to determine whether the documentation is acceptable. Applicants shall, when required by the Director, furnish additional documentation as may be necessary to determine whether an import permit application should be approved.

[T.D. ATF-202, 50 FR 14382, Apr. 12, 1985; T.D. ATF-215, 50 FR 42162, Oct. 18, 1985]

#### § 47.53 Exemptions.

(a) The provisions of this part are not applicable to:

(1) Importations by the United States or any agency thereof;

(2) Importation of components for items being manufactured under contract for the Department of Defense; or

(3) Importation of articles (other than those which would be "firearms" as defined in 18 U.S.C. 921(a)(3) manufactured in foreign countries for persons in the United States pursuant to Department of State approval.

(b) Any person seeking to import articles on the U.S. Munitions Import List as exempt under paragraph (a)(2) or (3) of this section may obtain release of such articles from Customs custody by submitting, to the Customs officer with authority to release, a statement claiming the exemption accompanied by satisfactory proof of eligibility. Such proof may be in the form of a letter from the Department of Defense or State, as the case may be, confirming that the conditions of the exemption are met.

[T.D. ATF-215, 50 FR 42162, Oct. 18, 1985]

**§ 47.54 Administrative procedures inapplicable.**

The functions conferred under section 38, Arms Export Control Act of 1976, as amended, are excluded from the operation of Chapter 5, Title 5, United States Code, with respect to Rule Making and Adjudication, 5 U.S.C. 553 and 554.

[T.D. ATF-215, 50 FR 42162, Oct. 18, 1985]

**§ 47.55 Departments of State and Defense consulted.**

The administration of the provisions of this part will be subject to the guidance of the Secretaries of State and Defense on matters affecting world peace and the external security and foreign policy of the United States.

**§ 47.56 Authority of Customs officers.**

(a) Officers of the U.S. Customs Service are authorized to take appropriate action to assure compliance with this part and with 27 CFR Parts 178 and 179 as to the importation or attempted importation of articles on the U.S. Munitions Import List, whether or not authorized by permit.

(b) Upon the presentation to him of a permit or written approval authorizing importation of articles on the U.S. Munitions Import List, the Customs officer who has authority to release same may require, in addition to such documents as may be required by Customs regulations, the production of other relevant documents relating to the proposed importation, including, but not limited to, invoices, orders, packing lists, shipping documents, correspondence, and instructions.

[T.D. ATF-215, 50 FR 42162, Oct. 18, 1985]

**§ 47.57 U.S. military firearms or ammunition.**

(a) Notwithstanding any other provision of this part or of 27 CFR Part 178, no military firearms or ammunition of U.S. manufacture may be imported for sale in the United States (other than for the Armed Forces of the United States and its allies or for any State or local law enforcement agency) if such articles were furnished to foreign governments under a foreign assistance or sales program of the United States.

(b) The above restriction covers firearms which are advanced in value or improved in condition in a foreign country, but it does not include those which have been so substantially transformed as to become, in effect, articles of foreign manufacture.

(c) A person desiring to import military firearms and ammunition which were manufactured in the United States must certify that the importation of such firearms or ammunition is not prohibited by the provisions of paragraph (a) of this section. The certification statement must be accompanied by documentary information on the original foreign source of the firearms or ammunition.

(Approved by the Office of Management and Budget under control number 1512-0017)

[T.D. ATF-257, 52 FR 34381, Sept. 11, 1987]

**Subpart G—Penalties, Seizures and Forfeitures**

**§ 47.61 Unlawful importation.**

Any person who willfully:

(a) Imports articles on the U.S. Munitions Import List without a permit;

(b) Engages in the business of importing articles on the U.S. Munitions Import List without registering under this part; or

(c) Otherwise violates any provisions of this part;

Shall upon conviction be fined not more than \$100,000 or imprisoned not more than 2 years, or both.

[T.D. ATF-215, 50 FR 42162, Oct. 18, 1985]

**§ 47.62 False statements or concealment of facts.**

Any person who willfully, in a registration or permit application, makes any untrue statement of a material fact or fails to state a material fact required to be stated therein or necessary to make the statements therein not misleading, shall upon conviction be fined not more than \$100,000, or imprisoned not more than 2 years, or both.

[T.D. ATF-215, 50 FR 42162, Oct. 18, 1985]

**§ 47.63 Seizure and forfeiture.**

Whoever knowingly imports into the United States contrary to law any article on the U.S. Munitions Import List; or receives, conceals, buys, sells, or in any manner facilitates its transportation, concealment, or sale after importation, knowing the same to have been imported contrary to law, shall be fined not more than \$10,000 or imprisoned not more than 5 years, or both; and the merchandise so imported, or the value thereof shall be forfeited to the United States. (18 U.S.C. 545)

[T.D. ATF-215, 50 FR 42162, Oct. 18, 1985]

# GENERAL INFORMATION

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- AR-15 auto sear (ATFR 81-4)
- Armor piercing ammunition, license for (IC 86-15)
- Drop shipments (ATFP 75-3)
- KG-9 pistol (ATFR 82-2)
- Marking armor piercing projectiles and packages thereof (IC 86-15)
- Penguins (ATFR 75-7)
- SM10 and SM11A1 pistols and SAC carbines (ATFR 82-8)
- Taser Model TF1 (ATFR 76-6)
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#### EDITOR'S NOTE:

The rulings, procedures, and industry circulars set out herein cannot address a subject under all possible circumstances. Where or when there is doubt, please contact your nearest ATF office.

These items are often extracts from the original material. Where sections of law have been altered or amended but the purpose or intent of the ruling, procedure, or industry circular remains in effect, a text modification has been made, and the word "amended" appears in brackets at the end in the following manner: [Amended].

"Rev. Rul." or "RR" is a revenue ruling published by the Alcohol, Tobacco and Firearms Division of the Internal Revenue Service, the immediate predecessor of the Bureau of Alcohol, Tobacco and Firearms.

"ATFR" means ATF Ruling;  
 "ATFP" means ATF Procedure;  
 and  
 "IC" means Industry Circular.

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## RULINGS

### 27 CFR 178.99: CERTAIN PROHIBITED SALES OR DELIVERIES

A licensed importer, manufacturer or dealer may, without transferring title, ship firearms interstate in care of his nonlicensed employees, agents and representatives for the use and benefit of the licensee's business.

#### Rev. Rul. 69-248

Under 18 U.S.C. 922(a)(2), it is unlawful (with certain exceptions not here pertinent) for any licensed importer, manufacturer, or dealer to ship, transport or deliver in interstate commerce any firearm to any person other than another licensee. However, there is no provision in 18 U.S.C. Chapter 44 which would prohibit licensees from shipping, transporting or delivering firearms in interstate commerce to themselves for business purposes (exclusive of sale or disposition) in care of their employees, agents or representatives.

Licensees engaged in the firearms or ammunition business typically are corporations which can only conduct their operations through employees, agents and representatives. In the course of such operations, it is frequently necessary to ship, transport or deliver firearms in interstate commerce for bona fide business purposes such as display, advertising, research, testing, comparative evaluations and marketing promotions. In

such cases, title to, and ultimate control of, the firearms remain in the licensee even though the firearms or ammunition are placed in the temporary custody of an employee, agent or representative for limited lengths of time.

Therefore, under the circumstances described herein, licensed manufacturers, importers and dealers may ship, transport or deliver firearms in interstate commerce to themselves in care of employees, agents and representatives without being in violation of 18 U.S.C. 922(a)(2).

However, such shipment, transportation or delivery should not be made in care of persons who are ineligible "to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce" under 922(g).

This ruling is specifically limited to shipments made by a licensed importer, manufacturer or dealer in care of his nonlicensed employees, agents or representatives for bona fide business purposes (exclusive of sale or disposition), where the actual custody of the firearms is transferred for a limited period of time and where title and ultimate control of the firearms remain in such licens-

ee. When no longer needed by the employee, agent or representative for the business purpose for which received, disposition of all such firearms must be by return to the licensee or in a manner consistent with the provisions of 18 U.S.C. Chapter 44. (See, also, I.C. 72-23.)

[This Revenue Ruling does not apply to firearms and ammunition within the purview of the National Firearms Act (26 U.S.C. Chapter 53), per I.C. 72-23]

[c.b. 1969-1, 360] [Amended]

### 27 CFR 178.114: IMPORTATION BY MEMBERS OF THE U.S. ARMED FORCES

Members of U.S. Armed Forces may, under specified conditions, import up to 3 rifles or shotguns and up to 1,000 rounds of ammunition without obtaining the permit required by 27 CFR 178.114.

#### Rev. Rul. 69-309

Under the authority contained in 27 CFR 178.22, the requirement of a permit (Form 6 (Firearms)) is hereby waived as to any member of the U.S. Armed Forces desiring to transport, ship, receive or import firearms or ammunition into the United States under the following circumstances:

(1) The member of the U.S. Armed Forces is on active duty outside the United States or has been on active duty outside the United States within the 60-day period immediately preceding the transportation, shipment, receipt or importation;

(2) The importation consists of rifles or shotguns or any combination thereof (excluding any firearm coming within the purview of the National Firearms Act and any firearms of military surplus origin) not to exceed a total of three, and not more than 1,000 rounds of ammunition for rifles and shotguns (excluding tracer or incendiary ammunition) when those firearms or ammunition are on the person of a returning member of the U.S. Armed Forces or with his baggage or effects, whether accompanied or unaccompanied (but not mailed unless they are included in unaccompanied baggage or effects which are officially shipped through the mails by a Transportation Officer of the U.S. Armed Forces incident to a permanent change of duty station);

(3) The rifles and shotguns and ammunition are being transported, shipped, received and imported into the United States to the place of residence, and are intended for the personal use of the member of the U.S. Armed Forces importing them;

(4) The importation is incident to the return of the importer to a permanent duty station in the United States from a permanent duty station abroad, or his release from active duty;

(5) The importer of the firearms and ammunition completes, and he or his authorized agent furnishes to the Customs officer releasing the firearms and ammunition, a Form 6A (Firearms) pursuant to 27 CFR 178.114(b) and a certification that the importation of and the transportation to and the receipt and possession by the importer at his place of residence would not constitute any violation of Title I of the Gun Control Act (Title 18, U.S.C., Chapter 44), or Section 38 of the Arms Export Control Act of 1976 (Title 22, U.S.C., Sec. 2778), or any applicable State law or published ordinance.

[c.s. 1969-1, 361] [Amended]

#### 27 CFR 178.41: GENERAL

(Also 178.42, 178.45, 178.49)

Licensed firearms dealers operating at multiple locations may establish a common expiration date for all licenses.

#### ATF Rul. 73-9

Licensed firearms dealers operating more than one location for which a license is required may establish a common expiration date for all licenses issued to their several locations. Dealers wishing to establish such a date for all licenses issued to them may make application in writing to the Regional Director (Compliance) of the region in which the businesses or activities are operated. The application should set out the requested common expiration date and should list all licensed premises in the region covered by the application. The Regional Director (Compliance) will advise the dealer whether the request may be approved and, if approved, will pro-

vide the necessary instructions and renewal application. It is pointed out that approval of a request will entail a one time loss associated with the existing license, as it will be cancelled on and after the date of issuance of the license bearing the requested common expiration date, and the regulations do not provide for prorated refunds.

[73 CB 102] [Amended]

#### EDITOR'S NOTE:

See State Laws and Published Ordinances—Firearms (ATF Pub. 5300.5) for the current address and telephone number of the ATF Office that issued your license.

#### 27 CFR 178.11: MEANING OF TERMS (Also 178.23, 178.44)

Because of the nature of operations conducted by a gunsmith, he shall not be required to have business premises open to the general public or to have regular business hours.

#### ATF Rul. 73-13

Because of the nature of operations conducted by a gunsmith, any applicant for a license who intends to engage solely in this type of business and so specifies on his application will not be required to maintain regular business hours. Further, if the business is conducted from a private dwelling, a separate portion should be designated as the business premises, which need not be open to all segments of the public but only accessible to the clientele that the business is set up to serve. However, the licensed premises of the gunsmith are subject to the inspection requirements of 18 U.S.C. 923(g) and 27 CFR 178.23, and the gunsmith must maintain the required records as specified in 27 CFR 178.121 et seq.

Further, since a gunsmith is a licensed firearms dealer, if he engages in the business of buying and selling firearms, he must record his transactions on Form 4473 (Firearms Transaction Record) for each sale, and maintain the firearms acquisition and disposition records required of all licensed dealers. However, if a gunsmith engages in the business of buying and selling firearms during the term of his current license, he may be required to submit a new Form 7 (Firearms) at the time of renewal in accordance with 27 CFR 178.45 and meet the requirements of an applicant engaging in the business of buying and selling firearms, such as having business premises open to the general public and having regular business hours.

(Amplified by ATF 77-1)

[73 CB 92]

#### 27 CFR 178.11: MEANING OF TERMS (Also 178.23, 178.44, 178.99, 178.124)

Because of the nature of operations conducted by a consultant or expert, he shall not be required to have business premises open to the general public or to have regular business hours.

Revenue Ruling 69-248, C.B. 1969-1, 360 (Internal Revenue) permits firearms licensees to ship, transport, or deliver firearms in interstate commerce to their nonlicensed employees, agents, or representatives for business purposes. As was clarified in Industry Circular 72-23 the ruling also permits firearms licensees to similarly transfer firearms to nonlicensed professional writers, consultants, and evaluators for research or evaluation.

Title 18 U.S.C., Section 922(a)(2)(A), permits an individual to ship (and have returned him) in interstate commerce a firearm to a firearms licensee for repair or customizing. Furthermore, the definition of a firearms dealer in 18 U.S.C. 921 and 27 CFR 178.11 is sufficiently broad that it can be interpreted to include a qualified firearms consultant or expert who is engaged in the business of testing or examining firearms. In view of these provisions, the Bureau has determined that firearms consultants or experts may be licensed as firearms dealers in order that they may receive firearms from nonlicensed individuals for testing and examination.

Because of the nature of operations conducted by a firearms consultant or expert, any licensed dealer who engages solely in this type of business will not be required to maintain regular business hours. If the business is conducted from a private residence, a separate portion of the dwelling should be designated as "business premises." Such premises need not be open to all segments of the public but only accessible to the clientele that the business is set up to serve. However, the licensed premises of the firearms consultant-expert shall be subject to inspection under the authority of 18 U.S.C. 923(g) and 27 CFR 178.23.

A licensed firearms consultant or expert shall maintain records of receipt and delivery of firearms, as is required by 27 CFR 178, Subpart H, except that the licensee need not prepare Forms 4473, Firearms Transaction Record, reflecting the firearms examined.

However, shipments and deliveries of firearms shall not be made in care of persons who are ineligible "to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce" under 922(g).

A firearms consultant or expert who desires to obtain a license as a dealer in firearms shall file Form 7 (Firearms), Application for License Under 18 U.S.C. Chapter 44, Firearms, in the manner prescribed by 27 CFR 178.44. The application shall include a statement that the applicant is engaged in business as a bona fide firearms consultant or expert and, where the applicant intends to perform testing or examination services for one or more persons on a continuing basis, the statement shall include the name, address, and nature of business of such persons. A license as a dealer in firearms will be issued only after the Regional Director (Compliance) is satisfied that the applicant is a

bona fide consultant or expert and is otherwise qualified under the law.

Since a licensed firearms consultant or expert is a firearms dealer, if he engages in the business of buying and selling firearms, he must record his transactions on Form 4473, Firearms Transaction Record, for each sale, and maintain the firearms acquisition and disposition records required of all licensed dealers. If a firearms consultant or expert engages in the business of buying and selling firearms during the term of his current license, he may be required to submit a new Form 7 (Firearms) at the time of renewal in accordance with 27 CFR 178.45 and meet the requirements of an applicant engaging in the business of buying and selling firearms, such as having business premises open to the general public and having regular business hours.

[This ATF Ruling does not discuss, and therefore does not apply to, firearms and ammunition within the purview of the National Firearms Act (26 U.S.C. Chapter 53)]

[73 cb 93] [Amended]

#### **27 CFR 179.104: REGISTRATION OF FIREARMS BY CERTAIN GOVERNMENTAL ENTITIES**

When NFA firearms are registered on Form 10 by governmental entities, subsequent transfers of such firearms shall be made only to other governmental entities.

#### **ATF Rul. 74-8**

Advice has been requested whether the Bureau will approve transfer of National Firearms Act weapons by a State or political subdivision (police department) to a special occupational taxpayer where such firearms were registered in the National Firearms Registration and Transfer Record pursuant to 27 CFR 179.104.

27 CFR 179.104 provides that any State, any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations, which acquires for official use a firearm not registered to it, such as by abandonment or by forfeiture, will register such firearm with the Director by filing Form 10 (Firearms), Application for Registration of Firearms Acquired by Certain Governmental Entities, and that such registration shall become a part of the National Firearms Registration and Transfer Record.

The purpose of the above regulation was to permit the limited registration of firearms by certain governmental entities for official use only. 27 CFR 179.104 may not be used as a vehicle to register otherwise unregistrable firearms for the purpose of introducing such firearms into ordinary commercial channels. Accordingly, when registration of firearms by governmental entities are approved on Form 10, the form will be marked "official use only." The Bureau will approve subsequent transfers of such firearms only to other governmental entities for official use. Otherwise, such firearms must be destroyed or abandoned to the Bureau.

[74 cb 67]

#### **27 CFR 178.114: IMPORTATION BY MEMBERS OF THE U.S. ARMED FORCES**

A member of the U.S. Armed Forces who is a resident of any State or territory which requires that a permit or other authorization be issued prior to possessing or owning a handgun shall submit evidence of compliance with State law before an application to import a handgun may be approved.

#### **ATF Rul. 74-13**

Handguns have been transported, shipped, received, or imported into the United States by members of the United States Armed Forces to their place of residence without such members having obtained the required permit or other authorization required by their State of residence which would permit them to possess or own (as opposed to a license to purchase) handguns in that State.

18 U.S.C. 925(a)(4) provides that when established to the satisfaction of the Secretary to be consistent with the provisions of 18 U.S.C. Chapter 44 and other applicable Federal and State laws and published ordinances, the Secretary may authorize the transportation, shipment, receipt, or importation into the United States to the place of residence of any member of the United States Armed Forces who is on active duty outside the United States (or has been on active duty outside the United States within the 60-day period immediately preceding the transportation, shipment, receipt, or importation), of any firearm or ammunition which is (a) determined by the Secretary to be generally recognized as particularly suitable for sporting purposes, or determined by the Department of Defense to be a type of firearm normally classified as a war souvenir, and (b) intended for the personal use of such member.

27 CFR 178.114(a) provides that an application for a permit to import a firearm or ammunition into the United States to the place of residence of any military member of the United States Armed Forces on active duty outside the United States shall include a certification by the applicant that the transportation, receipt, or possession of the firearm or ammunition to be imported, would not constitute a violation of any State law or local ordinance at the place of the applicant's residence.

In order to assure that the transportation, shipment, receipt, or importation of handguns under 27 CFR 178.114 is not in violation of applicable State laws, it is held that, any member of the United States Armed Forces who is a resident of any State or territory which requires that a permit or authorization be obtained prior to possessing or owning a handgun shall, in addition to making the required certification in the application, submit with his application to the Director a copy of the license, permit, certificate of registration, or firearm identification card, as applicable and as required by his State, in order to obtain a permit to import a handgun into the United States.

[74 cb 60]

#### **27 CFR 178.124: FIREARMS TRANSACTION RECORDS (Also 178.123, 178.125, 178.147)**

Form 4473 shall not be required to record disposition of a like replacement firearm when such firearm is delivered by a licensee to the person from whom the malfunctioning or damaged firearm was received, provided such disposition is recorded in the licensee's permanent records.

#### **ATF Rul. 74-20**

It is held that a firearms transaction record, Form 4473, shall not be required to record the disposition of a replacement firearm of the same kind and type where such a firearm is delivered by a licensee to the person from whom the malfunctioning or damaged firearm was received.

It should be noted, however, that the licensee is required by 27 CFR 178.125 to maintain in his permanent records the disposition of such a replacement firearm. (See, also ATFR 76-25)

[74 cb 61]

#### **27 CFR 178.11: MEANING OF TERMS (Also 179.11)**

A small caliber weapon ostensibly designed to expel only tear gas, similar substances, or pyrotechnic signals, which may readily be converted to expel a projectile by means of an explosive, classified as a firearm.

#### **ATF Rul. 75-7**

The term "firearm" as used in 18 U.S.C. 921(a)(3) includes "any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive."

A small caliber weapon ostensibly designed to expel only tear gas, similar substances or pyrotechnic signals by the action of an explosive, which may readily be converted to expel a projectile by means of an explosive, constitutes, a "firearm" within the purview of 18 U.S.C. 921(a)(3)(A).

Tests performed on these weapons have established that they may readily be converted to expel a projectile by the action of an explosive, normally by means of a minor alteration of the expended Helix cartridge and/or the simple attachment of a barrel/chamber to the firing mechanism.

Such weapons manufactured within the United States on or after June 1, 1975, will be subject to all of the provisions of Chapter 44 and 27 CFR Part 178. Such weapons manufactured before June 1, 1975, will not be treated as subject to the provisions of Chapter 44 and 27 CFR Part 178 in order to allow persons manufacturing and dealing in such weapons to comply with the provisions of Chapter 44 and 27 CFR Part 178.

Since such weapons are not generally recognized as particularly suitable for or readily adaptable to sporting purposes (18 U.S.C. 925(d)(3)), the importation of such weapons is prohibited unless such importation comes within one of the statutory exceptions provided in 18 U.S.C. 925.

[75 cb 55]



**27 CFR 178.94: SALES OR DELIVERIES  
BETWEEN LICENSEES**

A firearms licensee may continue operations until his renewal application for a license is finally acted upon.

**ATF Rul. 75-27**

Under 5 U.S.C. 558, when a licensee has made timely and sufficient application for a renewal in accordance with agency rules, a license with reference to an activity of a continuing nature does not expire until the application has been finally determined by the agency. In accordance with section 558, a firearms licensee who timely applies for renewal of his license is authorized to continue his firearms operations as authorized by his license until his renewal application is finally acted upon. As provided by 27 CFR 178.94, a transferor licensee is authorized to continue to make shipments to a licensee for not more than 45 days following the expiration date of the transferee's license.

**Held**, a transferor licensee may continue to make firearms and ammunition shipments to a licensee who has timely applied for renewal of his license but has not had his application acted upon within 45 days after the expiration of his license. The transferor licensee shall, however, in cases where the 45-day period has passed, obtain appropriate evidence that the transferee's license renewal application is still pending in the office of the Regional Director (Compliance), Bureau of Alcohol, Tobacco and Firearms. Such evidence should consist of a letter from the Regional Director (Compliance), to the transferee licensee stating that his renewal application has been timely received and that action thereon is currently pending.

[75 CB 60]

**27 CFR 178.92: IDENTIFICATION OF  
FIREARMS**

Importers may adopt serial numbers placed on certain firearms by foreign manufacturers.

**ATF Rul. 75-28**

The Bureau has determined that in some cases the serial number placed on a firearm by a foreign manufacturer is adequate to provide the identification number required by section 178.92. See, also, section 178.22(a).

**Held**, where a serial number has been placed on the frame or receiver of a firearm by a foreign manufacturer in the manner contemplated by 27 CFR 178.92, and such serial number does not duplicate a number previously adopted or assigned by the importer to any other firearm, the importer may adopt the serial number of the foreign manufacturer.

Provided, The importer shall in all cases place his name and address (city and State, or recognized abbreviation thereof), and any other marks necessary to comply with the identification requirements of 27 CFR 178.92, on such imported firearms.

[75 CB 59] [Amended]

**27 CFR 178.11: MEANING OF TERMS  
(Also 179.11)**

A hand-held device designed to expel by means of an explosive two electrical contacts (barbs) connected by two wires attached to a high voltage source in the device classified as a firearm.

**ATF Rul. 76-6**

Taser Model TF-1, a hand-held device designed to expel by means of an explosive two electrical contacts (barbs) connected by two wires attached to a high voltage source in the device, is a "firearm" within the purview of 18 U.S.C. 921(a)(3)(A). It is also an "any other weapon" under the National Firearms Act (26 U.S.C. 5845(e)).

In order to allow persons manufacturing and dealing in such weapons to comply with the provisions of Chapter 44 and 27 CFR Part 178, this ruling will be applicable to such weapons manufactured within the United States on or after May 1, 1976. Such weapons manufactured before May 1, 1976, will not be treated as subject to the provisions of Chapter 44 and 27 CFR Part 178. With respect to the "any other weapon" classification under the National Firearms Act, pursuant to the 26 U.S.C. 7805(b), this ruling will not be applied to such weapons manufactured before May 1, 1976. Accordingly, such weapons manufactured on or after May 1, 1976, will be subject to all the provisions of the National Firearms Act and 27 CFR Part 179.

(Amplified by ATFR 80-20)

[76 CB 96]

**27 CFR 178.124: FIREARMS  
TRANSACTION RECORD  
(Also 178.125, 178.126a)**

Certain reporting and recordkeeping requirements of pawnbrokers are explained.

**ATF Rul. 76-15**

The regulations do not require that a pawnbroker execute Form 4473 when a firearm is pledged for a loan. However, he must record the receipt thereof in his permanent acquisition and disposition record as required by 27 CFR 178.125(e). At the time a firearm is redeemed by a nonlicensee pledgor, Form 4473 must be executed and the appropriate entry made in the permanent acquisition and disposition record. Although a redemption is not considered a sale, it is a disposition for purposes of 27 CFR 178.124(a), 178.125(e), and 178.126a. See **Huddleston v. United States**, 415 U.S. 814 (1974).

However, no report of multiple sales and other dispositions is required to be filed with ATF when the handguns are returned to the person from whom received.

**Held**, Form 4473, Firearms Transaction Record, need not be executed when a pawnbroker accepts a firearm as a pledge for a loan. However, if a nonlicensee pledgor redeems the firearm or if disposition of the firearm is made to any other nonlicensee, Form 4473 must be executed. **Held further**, pawnbrokers must enter into their permanent

acquisition and disposition record the receipt of a firearm as a pledge for a loan and any disposition, including redemption, of such firearm. **Held further**, pawnbrokers must submit reports of multiple sales and other dispositions of pistols and revolvers as required by 27 CFR 178.126a when the person receiving them is not the person who pawned the firearms.

[76 CB 100] [Amended]

**27 CFR 179.11: MEANING OF TERMS**

Mere possession of a license and a special tax stamp as a dealer in firearms does not qualify a person to receive firearms transfer-tax-free.

**ATF Rul. 76-22**

The mere possession of a license and a special (occupational) tax stamp as a dealer in firearms does not qualify a person to receive firearms transfer-tax-free. Any person holding a license and a special tax stamp as a dealer in firearms and not actually engaged within the United States in the business of selling NFA firearms may not lawfully receive NFA firearms without the transfer tax having been paid by the transferor. Where it is, therefore, determined that the proposed transferee on a Form 3, Application for Tax-Exempt Transfer of Firearm and Registration to Special (Occupational) Taxpayer, is not actually engaged in the business of dealing in NFA firearms, such application will be denied. In addition, if such person receives NFA firearms without the transfer tax having been paid, such firearms may be subject to seizure for forfeiture as having been unlawfully transferred without payment of the transfer tax.

[76 CB 103]

**27 CFR 178.121: GENERAL  
(Also 178.147)**

Recordkeeping requirements for Title I firearms from which parts are salvaged for use in repairing firearms are clarified.

**ATF Rul. 76-25**

Section 921(a)(3) of Title 18, United States Code, and the regulations at 27 CFR 178.11 define the term "firearm" to include any weapon which will, or is designed to, or may readily be converted to, expel a projectile by the action of an explosive, and the frame or receiver of any such weapon.

The regulations in 27 CFR 178.122, 178.123 and 178.125 require each licensed importer, licensed manufacturer, and licensed dealer, respectively, to maintain such records of acquisition (including by manufacture) or disposition, whether temporary or permanent, of firearms as therein prescribed.

**Held**, a licensee who purchases a damaged firearm for the purpose of salvaging parts therefrom shall enter receipt of the firearm in his firearms acquisition and disposition record. If the frame or receiver of the firearm is damaged to the extent that it cannot be repaired, or if the licensee does not desire to repair the frame or receiver, he may destroy it and show the disposition of the firearm in his records as having been de-

stroyed. Before a firearm may be considered destroyed, it must be cut, severed or mangled in such a manner as to render the firearm completely inoperative and such that it cannot be restored to an operative condition.

Where the repair of a customer's firearm results in an exchange of a frame or receiver, an entry shall be made in the licensee's records to show the transfer of such replacement part, as it is a "firearm" as defined in 18 U.S.C. 921(a)(3). Further, as held in ATF Ruling 74-20, 1974 ATF C.B. 61, a Form 4473, Firearms Transaction Record, shall not be required to record the disposition of a replacement firearm of the same kind and type where the firearm is delivered by the licensee to the person from whom the malfunctioning or damaged firearm was received. The frame or receiver received from the customer shall be entered as an acquisition, and if destroyed, it shall be entered in the disposition record as destroyed.

With regard to National Firearms Act firearms as defined in 26 U.S.C. 5845(a), in addition to the above recordkeeping requirements, the registration and transfer procedures of 27 CFR Part 179 must be complied with.

[76 CB 99]

#### 27 CFR 178.121: GENERAL (RECORDS)

The recordkeeping requirements for licensed gunsmiths are clarified. ATF Rul. 73-13 amplified.

#### ATF Rul. 77-1

ATF Ruling 73-13, 1973 ATF C.B. 92, held that a licensed gunsmith must maintain the required records as specified in 27 CFR 178.121 *et seq.*, and if a gunsmith engages in the business of buying and selling firearms, he must record these transactions on a Form 4473 (Firearms Transaction Record) for each sale. However, as provided in Section 178.124(a), a Form 4473 is not required to record the disposition made of a firearm delivered to a gunsmith for repair or customizing when the firearm is returned to the person from whom received.

The Bureau recognizes the necessity for having on-the-spot repairs made to firearms at skeet, trap, target, and similar organized events. It is, therefore, held that licensed gunsmiths may take immediate on-the-spot repairs to firearms at skeet, trap, target, and similar organized shooting events.

Held, further, a licensed gunsmith must enter into his bound acquisition and disposition record, required to be maintained by 27 CFR 178.125(e), each receipt and disposition of firearms, except that a firearm need not be entered in the bound acquisition and disposition record if the firearm is brought in for adjustment or repair and the owner waits while it is being adjusted or repaired or if the gunsmith returns the firearm to the owner during the same business day it is brought in. If the firearm is retained from one business day to another or longer, it must be recorded in the bound acquisition and disposition record.

Held further, a licensed gunsmith is not required to prepare a Form 4473 (Firearms Transaction Record) where a firearm is delivered to him for the sole purpose of customizing, adjustment, or repair and the firearm is returned to the person from whom received. However, if a licensed gunsmith engages in the business of selling firearms, he must record these transactions on a Form 4473 for each sale in addition to maintaining the bound firearms acquisition and disposition record required by 27 CFR 178.125(e).

ATF Rul. 73-13, 1973 ATF C.B. 92, is hereby amplified.

[77 CB 185]

#### 27 CFR 178.124: FIREARMS TRANSACTION RECORD

Means of identification furnished by a nonlicensee purchasing a firearm.

#### ATF Rul. 79-7

The law places upon the licensee the responsibility for establishing the identity, place of residence, and age of an unlicensed person before selling or delivering a firearm to such person.

Under 27 CFR 178.124, a nonlicensee's eligibility to purchase a firearm is established through the use of Form 4473 (Firearms Transaction Record). The regulation provides that before a licensee may sell or deliver a firearm to a nonlicensee, the form must be completed showing the purchaser's name, address, date of birth, and other pertinent information. Further, the regulation and form require the purchaser to identify himself in any manner customarily used in commercial transactions (e.g., a driver's license) and the licensee must indicate the manner in which the purchaser was identified. (See, also, 178.125a, personal firearms collection sale by a licensee.)

Satisfactory identification of a firearms purchaser must identify the purchaser's name, age or date of birth, place of residence, and signature. A driver's license or identification card issued by a State in lieu of a driver's license is particularly appropriate. Social Security cards, alien registration receipt cards, and military identification cards are not, in and of themselves, acceptable to identify potential firearms purchasers. The Social Security card is unsatisfactory because no address or date of birth is shown. While the alien registration card and military identification show name, age or date of birth, as well as other identifying information, the State of residence is not shown. While a particular document may not be sufficient to meet the statutory requirement for identifying the purchaser, any combination of documents which together disclose the required information concerning the purchaser is acceptable.

[ATF 1979-1, 26] [Amended]

#### 27 CFR 178.11: MEANING OF TERMS (Also 27 CFR 179.11)

A hand-held device with a hand grip bent at an angle to the bore and having a rifled bore which is designed to expel, by means of an explosive,

two electrical contacts (barbs) connected by two wires to a high voltage source within the device is classified as a firearm. ATF Rul. 76-6 is amplified.

#### ATF Rul. 80-20

The Bureau has determined in ATF Rul. 76-6 that the Taser Model TF1 was a firearm as that term is defined in Title 18, United States Code (U.S.C.), Section 921(a)(3) and that the Model TF1 also met the "any other weapon" definition found in the National Firearms Act (NFA), Title 26, U.S.C., Section 5845(e). This ruling was limited in its application to Taser Models TF1 produced on or after May 1, 1976. The Taser Models TF76 and TF76A were subsequently developed and differ from the Taser Model TF1 in that these models each have a hand grip bent at an angle to the bore and the bore of each is rifled.

The changes in the design of the Taser Models TF76 and TF76A bring them within the exclusion found in the "any other weapon" definition of the NFA for pistols and revolvers having a rifled bore, or rifled bores.

Held, the Taser Models TF76 and TF76A are not subject to the provisions of the NFA. However, they are firearms as defined in Title 18, U.S.C., Section 921(a)(3) and are subject to the provisions of Title 18, U.S.C., Chapter 44 and Title 27, Code of Federal Regulations, Part 178.

ATF Rul. 76-6, ATF C.B. 1976, 96, is hereby amplified.

[ATF 1980-4, 24]

#### 27 CFR 178.11: MEANING OF TERMS

As out-of-State college student may establish residence in a State by residing and maintaining a home in a college dormitory or in a location off-campus during the school term.

#### ATF Rul. 80-21

"State of residence" is defined by regulation in 27 CFR 178.11 as the State in which an individual regularly resides or maintains a home. The regulation also provides an example of an individual who maintains a home in State X and a home in State Y. The individual regularly resides in State X except for the summer months and in State Y for the summer months of the year. The regulation states that during the time the individual actually resides in State X he is a resident of State X, and during the time he actually resides in State Y he is a resident of State Y.

Applying the above example to out-of-State college students it is held, that during the time the students actually reside in a college dormitory or at an off-campus location they are considered residents of the State where the dormitory or off-campus home is located. During the time out-of-State college students actually reside in their home State they are considered residents of their home State.

[ATF 1980-4, 25]

#### 27 CFR 178.11: GENERAL

Nonresident U.S. citizens returning to the United States and nonresident aliens lawfully immigrat-

ing to the United States may obtain a permit to import firearms acquired outside of the United States, provided such firearms may be lawfully imported.

#### ATF Rul. 81-3

Section 922(a)(3) of Title 18, United States Code, makes it unlawful, with certain exceptions, for a person to bring into his State of residence a firearm which he acquired outside that State. An unlicensed resident of a State must, therefore, arrange for the importation of the firearm through a Federal firearms licensee.

The definition of "State of residence" in 27 CFR 178.11 provides that the State in which an individual regularly resides or maintains a home is the State of residence of that person. U.S. citizens who reside outside of the United States are not residents of a State while so residing. A person lawfully immigrating to the United States is not a resident of a State unless he is residing and has resided in a State for a period of at least 90 days. Therefore, such persons are not precluded by section 922(a)(3) from importing into the United States any firearms acquired outside of the United States that may be lawfully imported. The firearms must accompany such persons since once a person is in the United States and has acquired residence in a State he may import a firearm only by arranging for the importation through a Federal firearms licensee.

As applicable to this ruling, 18 U.S.C. 925(d) provides that firearms are importable if they are generally recognized as particularly suitable for, or readily adaptable to, sporting purposes, excluding National Firearms Act (NFA) firearms and surplus military firearms.

**Held**, a nonresident U.S. citizen returning to the United States after having resided outside of the United States, or a nonresident alien lawfully immigrating to the United States, may apply for a permit from ATF to import for personal use, not for resale, firearms acquired outside of the United States without having to utilize the services of a Federal firearms licensee. The application on ATF Form 6 Part I (7570.3A), Application and Permit for Importation of Firearms, Ammunition and Implements of War, should include a statement, on the application form or on an attached sheet, that:

(1) the applicant is a nonresident U.S. citizen who is returning to the United States from a residence outside of the United States or, in the case of an alien, is lawfully immigrating to the United States from a residence outside of the United States, and

(2) the firearms are being imported for personal use and not for resale.

[ATFB 1981-3, 77]

#### 27 CFR 179.11: MEANING OF TERMS

The AR15 auto sear is a machinegun as defined by 26 U.S.C. 5845(b).

#### ATF Rul. 81-4

The Bureau of Alcohol, Tobacco and Firearms has examined an auto sear known

by various trade names including "AR15 Auto Sear," "Drop In Auto Sear," and "Auto Sear II," which consists of a sear mounting body, sear, return spring, and pivot pin. The Bureau finds that the single addition of this auto sear to certain AR15 type semiautomatic rifles, manufactured with M16 internal components already installed, will convert such rifles into machineguns.

The National Firearms Act, 26 U.S.C. 5845(b) defines "machinegun" to include any combination of parts designed and intended for use in converting a weapon to shoot automatically more than one shot, without manual reloading, by a single function of the trigger.

**Held**: The auto sear known by various trade names including "AR15 Auto Sear," "Drop In Auto Sear," and "Auto Sear II," is a combination of parts designed and intended for use in converting a weapon to shoot automatically more than one shot, without manual reloading, by a single function of the trigger. Consequently, the auto sear is a machinegun as defined by 26 U.S.C. 5845(b).

With respect to the machinegun classification of the auto sear under the National Firearms Act, pursuant to 26 U.S.C. 7805(b), this ruling will not be applied to auto sears manufactured before November 1, 1981. Accordingly, auto sears manufactured on or after November 1, 1981, will be subject to all the provisions of the National Firearms Act and 27 C.F.R. Part 179.

[ATFB 1981-3, 78]

#### 27 C.F.R. 179.11: MEANING OF TERMS

The KG-9 pistol is a machinegun as defined in the National Firearms Act.

#### ATF Rul. 82-3

The Bureau of Alcohol, Tobacco and Firearms has examined a firearm identified as the KG-9 pistol. The KG-9 is a 9 millimeter caliber, semiautomatic firearm which is blowback operated and which fires from the open bolt position with the bolt incorporating a fixed firing pin. In addition, a component part of the weapon is a disconnecter which prevents more than one shot being fired with a single function of the trigger.

The disconnecter is designed in the KG-9 pistol in such a way that a simple modification to it, such as cutting, fitting, or grinding, allows the pistol to operate automatically. Thus, this simple modification to the disconnecter together with the configuration of the above design features (blowback operation, firing from the open bolt position, and fixed firing pin) in the KG-9 permits the firearm to shoot automatically, more than one shot, without manual reloading, by a single function of the trigger. The above combination of design features as employed in the KG-9 is normally not found in the typical sporting firearm.

The National Firearms Act, 26 U.S.C. § 5845(b), defines a machinegun to include any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger.

The "shoots automatically" definition covers weapons that will function automatically. The "readily restorable" definition defines weapons which previously could shoot automatically but will not in their present condition. The "designed" definition includes those weapons which have not previously functioned as machineguns but possess design features which facilitate full automatic fire by simple modification or elimination of existing component parts.

**Held**: The KG-9 pistol is designed to shoot automatically more than one shot, without function of the trigger. Consequently, the KG-9 pistol is a machinegun as defined in section 5845(b) of the Act.

With respect to the machinegun classification of the KG-9 pistol under the National Firearms Act, pursuant to 26 U.S.C. § 7805(b), this ruling will not be applied to KG-9 pistols manufactured before January 19, 1982. Accordingly, KG-9 pistols manufactured on or after January 19, 1982, will be subject to all the provisions of the National Firearms Act and 27 C.F.R. Part 179.

[ATFB 1982-1, 18]

#### 27 C.F.R. 179.11: MEANING OF TERMS

The SM10 and SM11A1 pistols and SAC carbines are machineguns as defined in the National Firearms Act.

#### ATF Rul. 82-8

The Bureau of Alcohol, Tobacco and Firearms has reexamined firearms identified as SM10 pistols, SM11A1 pistols, and SAC carbines. The SM10 is a 9 millimeter or .45ACP caliber, semiautomatic firearm; the SM11A1 is a .380ACP caliber, semiautomatic firearm; and the SAC carbine is a 9 millimeter or .45ACP caliber, semiautomatic firearm. The weapons are blowback operated, fire from the open bolt position with the bolt incorporating a fixed firing pin, and the barrels of the pistols are threaded to accept a silencer. In addition, component parts of the weapons are a disconnecter and a trip which prevent more than one shot being fired with a single function of the trigger.

The disconnecter and trip are designed in the SM10 and SM11A1 pistols and in the SAC carbine (firearms) in such a way that a simple modification to them, such as cutting, filing, or grinding, allows the firearms to operate automatically. Thus, this simple modification to the disconnecter or trip, together with the configuration of the above design features (blowback operating, firing from the open bolt position, and fixed firing pin) in the SM10 and SM11A1 pistols and in the SAC carbine, permits the firearms to shoot automatically, more than one shot, without manual reloading, by a single function of the trigger. The above combination of design features as employed in the SM10 and SM11A1 pistols and the SAC carbine are normally not found in typical sporting firearms.

The National Firearms Act, 26 U.S.C. § 5845(b), defines a machinegun to include any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automati-

cally more than one shot, without manual reloading, by a single function of the trigger.

The "shoots automatically" definition covers weapons that will function automatically. The "readily restorable" definition defines weapons which previously could shoot automatically but will not in their present condition. The "designed" definition includes those weapons which have not previously functioned as machineguns but possess design features which facilitate full automatic fire by a simple modification or elimination of existing component parts.

**Held:** The SM10 and SM11A1 pistols and the SAC carbine are designed to shoot automatically more than one shot, without manual reloading, by a single function of the trigger. Consequently, the SM10 and SM11A1 pistols and SAC carbines are machineguns as defined in Section 5845(b) of the Act.

With respect to the machinegun classification of the SM10 and SM11A1 pistols and SAC carbines, under the National Firearms Act, pursuant to 26 U.S.C. § 7805(b), this ruling will not be applied to SM10 and SM11A1 pistols and SAC carbines manufactured or assembled before June 21, 1982. Accordingly, SM10 and SM11A1 pistols and SAC carbines, manufactured or assembled on or after June 21, 1982, will be subject to all the provisions of the National Firearms Act and 27 C.F.R. Part 179.

[ATFB 1982-2, 49]

#### 27 CFR 179.11: MEANING OF TERMS

The YAC STEN MK II carbine is a machinegun as defined in the National Firearms Act.

#### ATF Rul. 83-5

The Bureau of Alcohol, Tobacco and Firearms has examined a firearm identified as the YAC STEN MK II carbine. The YAC STEN MK II carbine is a 9 millimeter caliber firearm which has identical design characteristics to the original selective fire STEN submachinegun designed by Reginald Vernon Shepherd and Harold John Turpin. The weapon is blowback operated and fires from the open bolt position with the bolt incorporating a fixed firing pin. In addition, a component part of the weapon is a trip lever (disconnecter) which has been modified to prevent more than one shot being fired with a single function of the trigger.

The trip lever (disconnecter) is designed in such a way that a simple modification to it, such as bending, breaking or cutting allows the weapon to operate automatically. Thus, this simple modification to the trip lever (disconnecter), together with STEN submachinegun design features and components in the YAC STEN MK II carbine, permits the firearm to shoot automatically, more than one shot, without manual reloading by a single function of the trigger. The above combination of machinegun design features as employed in the YAC STEN MK II carbine are not normally found in the typical sporting firearm.

The National Firearms Act, 26 U.S.C. 5845(b), defines a machinegun to include any weapon which shoots, is designed to shoot,

or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger.

The "shoots automatically" definition covers weapons that will function automatically. The "readily restorable" definition defines weapons which previously could shoot automatically but will not in their present condition. The "designed" definition includes weapons which have not previously functioned as machineguns but possess specific machinegun design features which facilitate automatic fire by simple alteration or elimination of existing component parts.

**Held:** The YAC STEN MK II carbine is designed to shoot automatically more than one shot, without manual reloading, by a single function of the trigger. Consequently, the STEN MK II semiautomatic carbine is a machinegun as defined in Section 5845(b) of the Act.

[ATFB 1983-3, 35]

#### 27 CFR 179.111: IMPORTATION PROCEDURE

A National Firearms Act (NFA) firearm may not be imported for use as a sample for sales to law enforcement agencies if the firearm is a curio or relic unless it is established that the firearm is particularly suitable for use as a law enforcement weapon.

#### ATF Rul. 85-2

The Bureau of Alcohol, Tobacco and Firearms has approved a number of applications to import National Firearms Act (NFA) firearms for the use of registered importers to generate orders for such firearms from law enforcement agencies.

A review of the characteristics of the NFA firearms approved for importation as sales samples indicates that some of the firearms are not being imported for the purposes contemplated by the statute. Some of the NFA firearms imported are, in fact, curios or relics and are more suitable for use as collector's items than law enforcement weapons.

Importations of NFA firearms are permitted by 26 U.S.C. Section 5844, which provides in pertinent part:

"No firearms shall be imported or brought into the United States or any territory under its control or jurisdiction unless the importer establishes, under regulations as may be prescribed by the Secretary, that the firearm to be imported or brought in is:

(1) being imported or brought in for the use of the United States or any department, independent establishment, or agency thereof or any State or possession or any political subdivision thereof; or

(2) \*\*\*

(3) being imported or brought in solely for...use as a sample by a registered importer or registered dealer;

except that the Secretary may permit the conditional importation or bringing in of a firearm for examination and testing in connection with classifying the firearm."

The sole purpose of the statute permitting the importation of NFA firearms as sales samples is to permit registered importers to generate orders for firearms from government entities, primarily law enforcement agencies, on the basis of the sample.

The implementing regulation, 27 CFR Section 179.111, provides that the person importing or bringing a firearm into the United States or any territory under its control or jurisdiction has the burden of proof to affirmatively establish that the firearm is being imported or brought in for one of the authorized purposes. In addition, a detailed explanation of why the importation falls within one of the authorized purposes must be attached to the application to import. The mere statement that an NFA firearm is being imported as a sales sample for demonstration to law enforcement agencies does not meet the required burden of proof and is not a detailed explanation of why the importation falls within the import standards.

**Held,** an application to import a National Firearms Act firearm as a sample in connection with sales of such firearms to law enforcement agencies will not be approved if the firearm is determined to be a curio or relic unless it is established by specific information that the firearm is particularly suitable for use as a law enforcement weapon. For example, the importer must provide detailed information as to why a sales sample of a particular weapon is suitable for law enforcement purposes and the expected customers who would require a demonstration of the weapon. Information as to the availability of firearms to fill subsequent orders would help meet the burden of establishing use as a sales sample. Also, letters from law enforcement agencies expressing a need for a particular model or interest in seeing a demonstration of a particular firearm would be relevant.

[ATFB 85-2, 62]

#### 27 CFR 178.118: IMPORTATION OF CERTAIN FIREARMS CLASSIFIED AS CURIOS OR RELICS (ALSO 178.11 AND 178.26)

Surplus military firearms frames or receivers alone not specifically classified as curios or relics by ATF will be denied importation.

#### ATF Rul. 85-10

Section 233 of the Trade and Tariff Act of 1984, 98 Stat. 2991, amended Title 18, United States Code, section 925 to allow licensed importers to import firearms listed by the Secretary as curios or relics, excluding handguns not generally recognized as particularly suitable for or readily adaptable to sporting purposes. The amendment had the effect of allowing the importation of surplus military curio or relic firearms that were previously prohibited from importation by 18 U.S.C. section 925(d)(3).

Congressional intent was expressed by Senator Robert Dole in 130 CONG. REC. S2234 (daily ed., Mar. 2, 1984), as follows:

**First. This provision is aimed at allowing collectors to import fine**

works of art and other valuable weapons.

Second. This provision would allow the importation of certain military surplus firearms that are classified as curios and relics by regulations of the Secretary of the Treasury.

Third. In order for an individual or firm to import a curio or relic it must first be put on a list by petitioning the Secretary of the Treasury. The Secretary must find the firearm's primary value is that of being a collector's item.

Fourth. The only reason a person would purchase these firearms is because of their peculiar collector's status. And, in fact, they must be special firearms and classified as such in order to import.

This language clearly shows that Congress intended to permit the importation of surplus military firearms of special interest and value to collectors and recognized by ATF as meeting the curio or relic definition in 27 CFR 178.11. The regulation defines "curios or relics" as firearms of "special interest to collectors by reason of some quality other

than is ordinarily associated with firearms intended for sporting use or as offensive or defensive weapons." The regulation further defines curios or relics to include "firearms which derive a substantial part of their monetary value from the fact that they are novel, rare, bizarre, or because of their association with some historical figure, period or event."

In classifying firearms as curios or relics under this regulation, ATF has recognized only assembled firearms as curios or relics.

Moreover, ATF's classification of surplus military firearms as curios or relics has extended only to those firearms in their original military configuration. Frames or receivers of curios or relics and surplus military firearms not in their original military configuration were not generally recognized as curios or relics by ATF since they were not of special interest or value as collector's items.

Specifically, they did not meet the definition of curio or relic in section 178.11 as firearms of special interest to collectors by reason of a quality other than is ordinarily associated with sporting firearms or offensive or defensive weapons.

Furthermore, they did not ordinarily have monetary value as novel, rare, or bizarre firearms; nor were they generally considered curios or relics because of their association with some historical figure, period or event.

It is clear from the legislative history that Congress did not intend for the frames or receivers alone of surplus military firearms, or any other surplus military firearms not in their original military configuration, to be importable under section 925(e). It is also clear that only those firearms classified by ATF as curios or relics were intended to be approved by ATF for importation.

**HELD**, to be importable under 18 U.S.C. section 925(e), surplus military firearms must be classified as curios or relics by ATF. Applications by licensed importers to import frames or receivers alone of surplus military curio or relic firearms will not be approved under section 925(e). Surplus military firearms will not be classified as curios or relics unless they are assembled in their original military configuration, and applications for permits to import such firearms will not be approved.

[ATF 85-3, 46]

## PROCEDURES

### PART 178: COMMERCE IN FIREARMS

(Also 27 CFR 178.94, 178.12)

Recordkeeping procedures for "drop shipments" of firearms are prescribed.

#### ATF Proc. 75-3

This ATF Procedure sets forth the recordkeeping procedures for "drop shipments" of firearms [other than National Firearms Act firearms as defined in section 5845(a) of Chapter 53, Title 26, U.S.C.] between federally licensed firearms dealers, importers, and manufacturers.

Where licensee "A" places an order for firearms with licensee "B", and "B" transmits the order to licensee "C" for direct shipment (drop shipment) to "A", a certified copy of the license/list of "A" must be forwarded to "C" prior to shipment of the order.

On shipment of the order to "A", "C" shall enter in his bound record the disposition of the firearms to "A". On receipt of the shipment by "A", he shall enter the acquisition of the firearms in his bound record. Both licensees shall make such entries in the manner prescribed by regulations.

Since the actual movement of the firearms is between "C" and "A", and since "B" does not take physical possession, "B" will make no entry in his bound record. However, "B" should make appropriate entries or notations in his commercial records to reflect the transaction.

**FOR EXAMPLE:** Where a licensed dealer orders firearms from a wholesaler and the wholesaler requests drop shipment from a manufacturer to the dealer, a certified copy of the dealer's license (or a certified copy of the dealer's list, if he has a multilicensed business organization) shall accompany the wholesaler's order to the manufacturer.

The manufacturer shall enter in his bound record the disposition of the firearms to the dealer, and the dealer shall enter the acquisition of the firearms in his bound record reflecting receipt from the manufacturer.

The wholesaler, although a part of the business transaction, neither acquires nor disposes of the firearms and would, therefore, enter nothing of the transaction in his bound record.

**NFA FIREARMS:** Transfer of National Firearms Act firearms may be accomplished only pursuant to the manner outlined in Subpart F, Part 179, Title 27, Code of Federal Regulations.

**INQUIRIES:** Inquiries concerning this procedure should refer to its number and be addressed to your nearest ATF office. (See ATF Publication 5300.5, *State Laws and Published Ordinances-Firearms* for the current address.)

[75 ca 78] [Amended]

### 27 CFR 179.36: THE SPECIAL TAX STAMP RECEIPT FOR SPECIAL (OCCUPATIONAL) TAXES

(Also 179.32, 179.34 and 179.88)

Obtaining an ATF identification number for NFA-related business operations.

#### ATF Proc. 80-6

**PURPOSE:** The purpose of this ATF procedure is to inform special (occupational) taxpayers of an ATF identification number to be used on all National Firearms Act (NFA) transaction forms.

**BACKGROUND:** Section 5801 of Title 26, U.S.C. provides that on first engaging in business, and thereafter on or before the first day of July of each year, every importer, manufacturer, and dealer in NFA firearms shall pay the appropriate special (occupational) tax. In addition, section 5802 requires each importer, manufacturer, and dealer to register.

The regulations at 27 CFR 179.34 provide that each person, prior to commencing any business taxable under section 5801 shall, for each place of business, prepare, sign, and file a return (ATF Form 5630.5, *Annual Special Tax Registration and Return* [formerly IRS Form 11]), and pay the proper tax to ATF per instructions on the form. In addition, 27 CFR 179.36 provides that taxpayers complying with the requirements of section 179.34 will be issued a special tax stamp as evidence of payment of the special (occupational) tax.



A firearm registered to a special (occupational) taxpayer may be transferred by that person without payment of the transfer tax to any other special (occupational) taxpayer qualified to manufacture, import, or deal in that type of firearm. 27 CFR 179.88(a). The application for a tax exempt transfer must, among other things, identify the Federal firearms license and the special (occupational) tax stamps of the transferor and the transferee. 27 CFR 179.88(b). Identification of the tax stamps is necessary to ensure both transferor and transferee are qualified to manufacture, import, or deal in that kind of firearm.

**MEANS OF CERTIFICATION:** Delays in receipts of tax stamps have resulted in the inability of special (occupational) taxpayers to

comply with the example noted above, and have created business inconveniences.

In order to facilitate processing of making and transfer applications submitted by special taxpayers, the Bureau's NFA Branch had adopted the following procedure, which has proven beneficial to NFA licensees:

After having obtained a Federal firearms license, an employer identification number, and having paid the special tax required of those manufacturing, importing, or dealing in NFA firearms—

1. Send a letter of request to the Bureau of ATF, Attn: National Firearms Act Branch, Washington, DC 20226, for an ATF identification number;
2. Furnish proof (cancelled check; copy of ATF Form 5630.5) that the special (occupational) tax has been paid; and
3. Provide a copy of your Federal firearms license.

Once you have received a response letter containing the ATF identification number, this number should appear on all of your correspondence, and on your applications to make and transfer weapons.

**This procedure will, with respect to the example set out above, identify the class of the special taxpayer (as specified in 27 CFR 179.32), satisfying the requirements of section 179.88(b).** The ATF identification number will suffice as your authorization to engage in business involving NFA firearms.

**INQUIRIES:** Inquiries regarding this ATF procedure should refer to its number and be addressed to the NFA Branch.

[ATFB 1980-4, 37] [Amended]

## INDUSTRY CIRCULARS

### Industry Circular 72-23

#### SHIPMENT OR DELIVERY OF FIREARMS BY LICENSEES TO EMPLOYEES, AGENTS, REPRESENTATIVES, WRITERS, AND EVALUATORS

**Purpose.** The purpose of this circular is to clarify the provisions of 18 U.S.C. Chapter 44, and Subpart F of the Regulations thereunder (27 C.F.R. 178) pertaining to the shipment of firearms in interstate commerce by a firearms licensee to its own nonlicensed employees, agents, and representatives, for the use and benefit of the licensee's business. The position of the Bureau is set out in Revenue Ruling 69-248.

**Background.** Revenue Ruling 69-248 provides as follows: [See RR 69-248].

**Scope.** Included within the category of agents and representatives discussed in the Revenue Ruling are professional writers, consultants and evaluators who in the course of their professions acquire firearms from a licensee for research or evaluation. The Revenue Ruling applies only to firearms acquired from a licensee for limited lengths of time and where the title to and ultimate control of the firearm remains in the licensee. Should the writer or evaluator desire to permanently keep the examined firearm, prior arrangements must be made to acquire the firearm through a licensee in such writer's or evaluator's State of residence and the Revenue Ruling would have no application.

**Restriction.** This Revenue Ruling also does not apply to firearms and ammunition within the purview of the National Firearms Act (26 U.S.C. Chapter 53).

**Records.** The licensee should enter in his firearms records the shipment or delivery of firearms to the employee, agent, representative, writer, consultant, or evaluator in accordance with Subpart H of the regulations. Upon the completion of the business purpose for which the firearms were received the

firearms must be returned to the licensee who should enter their receipt in his records.

#### Editor's Note:

RR 69-248 and ATFR 73-19 discuss this matter in greater detail and can be found in this publication.

### Industry Circular 72-30

#### IDENTIFICATION OF PERSONAL FIREARMS ON LICENSED PREMISES NOT OFFERED FOR SALE

**Purpose.** The purpose of this circular is to urge licensed firearms dealers to identify their personal collection of firearms kept at the business premises.

**Scope.** The provisions of Section 923(g), 18 U.S.C. Chapter 44, and Subpart H of the regulations (27 C.F.R. 178) require all licensed firearms dealers to maintain records of their receipt and disposition of all firearms at the licensed premises. Section 178.121(b) of the regulations and the law further provide for the examination and inspection during regular business hours or other reasonable times of firearms kept or stored on business premises by licensees and any firearms record or document required to be maintained.

**Guidelines for Identifying Personal Firearms on the Business Premises of Licensed Dealers.** 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 and not for sale. Firearms dealers who have such personal firearms on licensed premises should not intermingle such firearms with firearms held for sale. Such firearms should be segregated from firearms held for sale and appropriately identified (for example, by attaching a tag) as

being "not for sale". Personal firearms on licensed premises which are segregated from firearms held for sale and which are appropriately identified as not being for sale need not be entered in the dealers 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 procedures described above with respect to segregation and identification must be followed.

The above procedures will facilitate the examination and inspection of the records of firearms dealers and result in less inconvenience to licensees.

#### Editor's Note:

Industry Circular 72-30 was cited in *United States v. Scherer*, 523 F.2d 371 (1975) at 374.

### Industry Circular 74-13

#### GUIDELINES FOR VERIFYING IDENTITY AND LICENSED STATUS OF TRANSFEREE

**GENERAL:** The Bureau urges all firearms licensees to require whatever information they deem necessary and within reason in order to verify the identity and licensed status of transferee licensees with whom they do business.

**PERSONAL APPEARANCE:** A licensee who appears in person at another licensee's business premises for the purpose of acquiring firearms should be required to furnish, to the transferor, positive identification in addition to a certified copy of his license [or in addition to a copy of his certified list, if a multilicensed entity]. Such identification should prove to the satisfaction of the trans-



feror that the person receiving firearms is, in fact, the same person to whom the license was issued.

**MAIL ORDER SALES:** When the shipment is to be made to an address other than the transferee's premises as listed on his license or on his certified list, it is suggested that the transferor verify the address as being that of the transferee.

#### Industry Circular 77-20

### DUPLICATION OF SERIAL NUMBERS ON IMPORTED FIREARMS

#### Importers of Firearms and Destructive Devices:

ATF has noted cases where some importers have adopted the same serial number for more than one firearm. These instances of duplication have generally occurred when firearms are received from more than one source.

Title 27 CFR 178.92 requires that the serial number you affix to a firearm must not duplicate the number affixed to any other firearm that you import into the United States. Those of you who import destructive devices are under the same requirement due to the inclusion of destructive devices in the definition of firearm as used in 27 CFR 178.11. ATF Ruling 75-28 stated that a serial number affixed by the foreign manufacturer may be adopted to fulfill this unique serial number requirement. However, the manufacturer's serial number must be affixed in the manner set forth in 27 CFR 178.92 and must not duplicate a number previously adopted by you for another firearm.

If you receive two or more firearms with the same serial number, it is your responsibility to affix additional markings to make each serial number unique.

ATF Ruling 75-28 also reminds you of the other identifying marks required by 27 CFR 178.92. In addition to a unique serial number, each firearm must be marked to show the model (if any); the caliber or gauge; the name of the manufacturer and importer, or recognizable abbreviations; the country of manufacture; and the city and State (or recognized abbreviations) in which your licensed premises are located.

#### Industry Circular 79-10

### CLARIFICATION OF "STRAW MAN TRANSACTIONS"

"Straw Man Transactions" are of two basic types, each of which involves a "third party" sale. In the first type, the dealer may have reason to believe that the person who executes the Form 4473 is being used as a conduit to make an illegal sale to a person prohibited by the Gun Control Act from purchasing a firearm. For instance, a dealer may be approached by a potential purchaser who, when asked to identify himself, produces out-of-State identification or identifies himself as a felon. When the dealer informs the individual that he cannot sell to him because he is an out-of-State resident or a felon, the individual

produces a friend who is eligible to purchase. The friend ("Straw Man") is then used as the purchaser of record when it is obvious that the actual recipient is a prohibited person.

The second type of "Straw Man Transaction" is similar to the first. However, in this instance, it is the dealer himself who suggests to the potential purchaser that a third party be used to effect the sale and such a sale is completed. The Gun Control Act of 1968 does not necessarily prohibit a dealer from making a sale to a person who is actually purchasing the firearm for another person. It makes no difference that the dealer knows that the purchaser will later transfer the firearm to another person, so long as the ultimate recipient is not prohibited from receiving or possessing a firearm. A dealer may lawfully sell a firearm to a parent or guardian who is purchasing it for a minor child. The minor's subsequent receipt or possession of the firearm would not violate Federal law, even though the law does prohibit a dealer's direct sale to the underaged person.

**What the Act forbids is the sale or delivery of a firearm to a person the licensee knows or has reason to believe is a person to whom a firearm may not be sold (e.g. a nonresident or a felon) or to a person the licensee knows will transfer the firearm to a person prohibited from receiving or possessing it.**

A firearms licensee runs the risk of violating the law when he becomes involved in a transaction where it is apparent that the purchaser of record is merely being used to disguise the actual sale to another person, who could not personally make the purchase or is prohibited from receiving or possessing a firearm.

Where the dealer knowingly utilizes this technique to sell a firearm to a prohibited person, both he and the "third person" or "Straw Man" are placed in a position of unlawfully aiding the prohibited person's own violation.

We realize that this circular is quite general in tone. **The best advice we can give is that the dealer should be sure to have Form 4473 completed by the person to whom the dealer is actually selling the firearm; and if the dealer has any reason to believe the firearm is being acquired for a prohibited person, he should avoid the transaction.**

#### Industry Circular 86-15

### ARMOR PIERCING AMMUNITION

On August 28, 1986, the President signed Public Law 99-408, which regulates the manufacture, importation and sale of armor piercing ammunition.

This Act amends Chapter 44 of Title 18, United States Code [Title I of the Gun Control Act], to define the term **armor piercing ammunition at section 921(a)(17)(B):**

"The term **armor piercing ammunition** means a projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one or a

combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium.

"Such term does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the Secretary finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the Secretary finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device."

Provisions of Public Law 99-408 provide that:

1. No person may manufacture or import armor piercing ammunition, and no manufacturer or importer may sell or deliver such ammunition except:

a. For the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof;

b. For the purposes of exportation; or

c. For the purposes of testing or experimentation as authorized by the Director.

2. Manufacturers and importers of armor piercing ammunition must be licensed by the Bureau. Such licenses have a fee of \$1,000 per year.

3. Licensed importers and licensed manufacturers must mark all armor piercing projectiles and packages containing such projectiles for distribution.

4. The Director may, after notice and opportunity for hearing, revoke the license of a licensed dealer who willfully transfers armor piercing ammunition.

**[EDITOR'S NOTE: This Circular was issued on or after December 4, 1986. As the final rule (Treasury Decision ATF-270) went into effect on March 31, 1988, the items below are addressed in the present tense.]**

• Requirements now in Part 178 include:

a. Recordkeeping for armor piercing ammunition disposition;

b. Procedures for approval to receive armor piercing ammunition for testing or experimentation; and

c. Marking of the armor piercing projectiles and packages containing such projectiles.

• Armor piercing ammunition received and maintained by licensed dealers as business inventory prior to August 28, 1986, may be transferred to any department or agency of the United States or any State or political subdivision thereof if a record of the ammunition is maintained in the form and manner prescribed in Part 178.

• As required by the Act, the Director furnished each licensed dealer an initial listing of projectiles considered armor piercing, which follows below:

**[The information is not all-inclusive for the purposes of the prohibition on the manufacture, importation, or sale or delivery by**

*a manufacturer of such ammunition, or with respect to criminal misuse described in 18 U.S.C. 929.]*

**LIST OF ARMOR PIERCING AMMUNITION**

1. KTW ammunition, all calibers. (Identified by a green coating on the projectile.)
2. ARCANE ammunition, all calibers. (Identified by a pointed bronze or brass projectile.)
3. THV ammunition, all calibers. (Identified by a brass or bronze projectile and having a head stamp containing the letters SFM and THV.)
4. Czechoslovakian manufactured 9mm Parabellum (Luger) ammunition having an iron or steel bullet core. (Identified by a cupro nickel jacket and a head stamp containing a triangle, star, and dates of 49, 50, 51, or 52. This bullet is attracted to a magnet.)
5. German manufactured 9mm Parabellum (Luger) ammunition having an iron or steel bullet core. (Original packaging is

marked Pistolenpatronen 08 m.E. This bullet is attracted to a magnet.)

6. MSC .25ACP caliber ammunition. (Identified by a hollow point bronze bullet.)
7. Black Steel Armor Piercing Ammunition as produced by National Cartridge, Atlanta, Georgia.
8. Black Steel Metal Piercing Ammunition as produced by National Cartridge, Atlanta, Georgia.
9. 7.62mm NATO AP. (Identified by a black coloring on the bullet tip. This ammunition is produced in various NATO countries. The U.S. military designation is M61 AP.)
10. 7.62mm NATO SLAP. (Identified by a projectile having a plastic sabot around a hard penetrator. The penetrator protrudes above the sabot and is similar in appearance to a Remington accelerator cartridge.)

**EDITOR'S NOTE:**

**During 1987, the following articles were identified as "armor piercing ammunition:"**

11. PMC Ultramag .38 Special caliber, constructed entirely from a brass type material, and a plastic pusher disc located at the base of the projectile.

12. Omnishock; A .38 Special cartridge with a lead bullet containing a mild steel core with a flattened head resembling a wad cutter.

**EDITOR'S NOTE:**

**The following articles were exempted from the "armor piercing ammunition" definition:**

5.56 mm (.223) SS 109 Ammunition

5.56 mm (.223) M 855 Ammunition

Both may be identified by a green coating on the bullet tip.

Inquiries regarding this circular should refer to its number [Industry Circular 86-15] and be addressed to the Associate Director (Compliance Operations), Bureau of Alcohol, Tobacco and Firearms, POB 189, Washington, DC 20044-0189.

# GENERAL INFORMATION

## QUESTIONS AND ANSWERS

### INTRODUCTION

The following questions and answers are intended to help you understand Federal laws and regulations which pertain to firearms. Although this listing is by no means all inclusive, it contains a selection of those questions received by ATF. To aid you in using the material in this section, a "Q & A Table of Contents" and a "Q & A Subject Index" have been included. These questions and answers relate only to Federal laws and regulations. Numerous States, counties, and municipalities have enacted their own requirements. "State Laws and Published Ordinances—Firearms," ATF Publication 5300.5, contains relevant State and local laws on this subject.

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### A. GENERAL QUESTIONS

#### (A1) Does the law regulate who can be in the business?

Yes, The Gun Control Act (GCA), administered by the Bureau of Alcohol, Tobacco and Firearms (ATF) of the Department of the Treasury, contains Federal licensing standards for various firearms related businesses (manufacturers, importers, and dealers). Two

examples of these standards are: The applicant must have a business premises and must be open to the public. [18 U.S.C. 923] [178.47]

#### (A2) Who can get a license?

ATF will approve the application if the applicant:

- Is 21 years of more of age;
- Is not prohibited from shipping, transporting, receiving or possessing firearms or ammunition in, or affecting interstate commerce;
- Has not willfully violated the GCA or its regulations;
- Has not willfully failed to disclose required material information or willfully made false statements concerning material facts in connection with his application; and,
- Has premises for conducting business or collecting. [178.47(b)]

#### (A3) Does ATF issue a license or permit to carry a concealed weapon?

No. The GCA of 1968 contains no provision for issuing a license or permit to carry concealed weapons. Carrying permits may be issued by a State and/or its political subdivisions.

#### (A4) Do antique firearms come within the purview of the GCA?

No. As defined in Title I and Title II, antique firearms are excluded. [178.141 (d)]

#### (A5) Are all kinds of ammunition covered by the GCA?

Yes, all ammunition, including components such as cartridge cases, primers, bullets and propellant powder for use in modern firearms, is covered by small arms ammunition. [Items NOT covered include blank ammunition, tear gas ammunition, pellets, non-metallic shotgun hulls and casings without primers.]

Generally, no records are required for ammunition transactions. However, information about the disposition of armor piercing ammunition is required to be entered into a record by importers, manufacturers, and collectors. As of November 15, 1986, a license is no longer required for dealers in ammunition, only.

#### (A6) Does the GCA control the sale of firearms parts?

No, except frames or receivers of firearms are "firearms" as defined in the law and subject to the same controls as complete firearms, [178.11]. It should be noted that certain machinegun and silencer parts are defined as firearms and are subject to all controls under the National Firearms Act.

#### (A7) Does the GCA prohibit anyone from making a handgun, shotgun or rifle?

A Title I (sporting-type) firearm can be made by a nonlicensee provided it is not for sale or distribution, and the maker is not prohibited from possessing firearms. The making of an NFA type firearm requires a formal application (Form 1), fingerprint card, payment of the making tax (\$200) and approval by ATF. After May 19, 1986, an application to make a machinegun will not be

approved unless documentation is submitted in compliance with the regulations to establish that the weapon is being made for or on behalf of the United States or any Department or Agency thereof or a State, or a department, agency or political subdivision thereof.

#### (A8) Are suppliers who deal in black powder required to be licensed as an ammunition dealer under the GCA?

No. However, black powder dealers are subject to the provisions of 27 CFR Part 55, Commerce in Explosives, which provides, among other things, that a dealer in any quantity of black powder must have a license as a dealer in low explosives.

#### (A9) An unlicensed individual wishes to manufacture a prototype firearm. Does he need a license?

A prototype firearm may be manufactured without its maker being licensed under the Gun Control Act of 1968, provided the firearm is not for sale or distribution. The making of a "firearm" as defined by the National Firearms Act is subject to ATF approval, and to the tax and registration requirements of the Act. (See Question A7)

### B. UNLICENSED PERSONS

#### (B1) How is an unlicensed person affected by the Gun Control Act?

He can only buy or sell a firearm within his own State, with the following exceptions:

(1) He may sell a firearm to a licensee in any State; and

(2) He may buy a rifle or shotgun from a licensee, in person, at the licensee's premises in any State, provided the sale complies with State and local laws applicable in the State of sale and in the State of the purchaser's place of residence. In addition, when an unlicensed person purchases a firearm from a licensed dealer, he will be required to furnish sufficient identification to the dealer to establish his name, address, and age, and he must complete Section A of Form 4473 and sign the form certifying that he is not prohibited by Federal law from purchasing and/or possessing a firearm. (Also see D5) [178.124(c)]

#### (B2) May an unlicensed person obtain a firearm from an out-of-State source if he arranges to obtain the firearm through a licensed dealer in his own State?

A person not licensed under the Act and not prohibited by the Act from acquiring firearms may order a firearm from an out-of-State source and obtain the firearm if an arrangement is made between the out-of-State source, a licensed dealer in the purchaser's home State, and the purchaser, for delivery of the firearm to the purchaser by the licensed dealer in his home State. [178.29]

#### (B3) May an unlicensed person obtain ammunition from an out-of-State source?

Yes, provided the person is not prohibited by the Act from receiving firearms and ammunition [18 U.S.C. 922(g), (n)].

#### (B4) Are there certain persons who can't legally receive or possess guns?

Yes, a person who...



(1) Is under indictment for, or has been convicted in any court of a crime punishable by a term exceeding one year;

(2) Is a fugitive from justice;

(3) Is an unlawful user of or addicted to any controlled substance (as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802);

(4) Has been adjudicated as a mental defective or has been committed to a mental institution;

(5) Is an alien "legally or unlawfully in the United States;

(6) Has been discharged from the Armed Forces under dishonorable conditions; or,

(7) Having been a citizen of the United States, has renounced his citizenship;

...cannot receive, possess, or transport a firearm in commerce or affecting commerce.

**(B5) Is there anything a person can do who cannot lawfully receive or possess guns?**

Yes. Persons may apply for relief from the firearms disabilities imposed by Federal law. [178.144] Information and forms may be obtained from the ATF Firearms Enforcement Branch (202) 566-7258.

**(B6) May a nonlicensee transport firearms interstate for sporting purposes?**

Yes. Provided the weapon is unloaded and in a locked trunk or, in a vehicle lacking a trunk, in a locked container other than the glove compartment or console. Also, the carrying and transportation must be lawful in the place of origin and destination. [178.38] [18 U.S.C. 926A]

**(B7) Can a nonlicensee ship a firearm out of State?**

Yes, provided the addressee is a firearms licensee. The common or contract carrier must be notified of the contents of the shipment [178.31, 178.147]

**(B8) Who may ship a firearm through the mails?**

A nonlicensee may mail a shotgun or rifle (but not a handgun) to a licensed importer, manufacturer, or dealer, and a licensee may return to the same person a repaired firearm or a replacement firearm of the same kind and type. A nonlicensee may mail a longgun to another nonlicensee in the same State. A common or contract carrier must be used to ship a handgun. The carrier must be notified of the contents of the shipment.

The Postal Service recommends that any longguns be sent by registered mail and that no marking of any kind which would indicate the nature of the contents be placed on the outside of any parcel containing firearms. (Also see Question F13)

**(B9) Can a person who is relocating out of State move firearms with other household goods?**

Yes, he may transport Title I firearms if he is not prohibited by the GCA.

Certain Title II (NFA) firearms, identified in 178.28, must have prior approval from the NFA Branch, Bureau of ATF, Washington, DC 20226, before they may be legally moved.

The person must notify the mover that firearms are being transported. He should also check State and local laws where he is relocating to insure that his movement of firearms into his new State does not violate any State law or local ordinance. [178.28, 178.31]

**(B10) Can someone who isn't in the gun business make a sale to a person in another State?**

No. A person who is not licensed may not sell to someone who is not a resident of the same State unless the purchaser is a licensee or the transfer is made through a licensee resident of the same State as the purchaser.

**(B11) Can someone who isn't in the gun business sell firearms to other persons who reside in the same State as the seller?**

Yes. There is nothing in the GCA which prohibits sales between residents of the same State, provided any sale is not in violation of any State law or local ordinance, and the purchaser is not prohibited by any provision of the GCA from acquiring or possessing a firearm. In general, a single sale, unattended by other circumstances, does not require that a person be licensed.

**(B12) What constitutes residency in a State?**

The State of residence is the State in which an individual regularly resides or maintains his home. A member of the Armed Forces on active duty is a resident of the State in which his permanent duty station is located. If a member of the Armed Forces maintains his home in one State and his permanent duty station is in another nearby State to which he commutes each day, then he may purchase a firearm in either the State where he is stationed or where he maintains his home. [178.11]

**(B13) Can a person who resides in one State and owns property in another State purchase a handgun in either State?**

If a person maintains a home in two States and resides in both States for certain periods of the year, he may, while residing in each particular State, purchase a handgun in that State. But simply owning property in another State does not qualify the person to purchase a handgun in that State.

**(B14) May foreign visitors buy firearms?**

Yes, provided they meet certain requirements:

(1) An alien who is in this country legally and has resided in a particular State for a period of at least 90 days is considered to be a resident of that State able to purchase a firearm provided he is not otherwise prohibited; or,

(2) An alien who is in a State in which his embassy or consulate is located and who has been authorized in writing by the principal officer of the embassy or consulate to purchase a handgun would be considered a resident of that State for purposes of purchasing a handgun within that State, only. If the alien has been authorized by his embassy or consulate to purchase a rifle or shotgun,

the rifle or shotgun may be purchased from a licensee in other States.

**(B15) Since underage persons cannot buy firearms or ammunition from dealers, how can they obtain them?**

A parent or guardian may purchase firearms and ammunition for a juvenile, GCA age restrictions are intended only to prevent juveniles from acting without their parents' or guardians' knowledge.

## C. LICENSING

**(C1) How does one get a license?**

Submit ATF Form 7, with the appropriate fee in accordance with the instructions on the form. These forms may be obtained through your local ATF office. [178.44]

**(C2) Can one license cover several locations?**

No. A separate license must be obtained for each location. Storage facilities are not required to be covered by a license. [178.50]

**(C3) Does an importer or manufacturer of firearms also need a dealer's license?**

No, as long as he is engaged in business at his licensed premises in the same type of firearms authorized by his license to be imported or manufactured.

**(C4) If a person timely files an application for the renewal of his license and his present license expires prior to his receipt of the license so applied for, may he continue to conduct the business covered by his expired license?**

Yes, a person who timely files an application for the renewal of his license may continue operations authorized by his expired license until his application is finally acted upon. An application is timely filed when it is received at the appropriate P.O. Box in Dallas, Texas with the appropriate fee prior to the expiration date of the license being renewed.

If a person does not timely file an application for the renewal of his license and his license expires, he must file ATF Form 7, Application for License, as required by 27 CFR 178.44, and obtain the required license before continuing business activity. [178.45; ATF Ruling 75-27]

**(C5) Must a licensee's records be surrendered to ATF if the licensee discontinues his business?**

If someone is taking over the business, the licensee will underline the final entry in each bound book, note the date of transfer, and deliver all completed Forms 4473 and the bound books to the successor (who must apply for, and receive, his own license before lawfully engaging in business). If there is no business successor, within 30 days of business discontinuance the licensee is to ship his bound books and Forms 4473 to ATF or to the Firearms Out-of-Business Records Center, 3361F 75th Avenue, Landover, Maryland 20785. [178.127]

**(C6) Can a successor owner of a business entity, other than one who is a successor under the provisions of 27 CFR 178.56 (for example, the surviving spouse or child, or a receiver or trustee in bank-**

ruptcy), commence a firearms business prior to receiving a Federal firearms license in his name?

No. Each person intending to engage in business as a firearms dealer, importer or manufacturer or an ammunition importer or manufacturer must obtain the required Federal firearms license prior to commencing business. [178.41]

**(C7) Does a Federal firearms license allow me to carry a firearm in the course of my business?**

No. The Federal firearms license confers no right or privilege to conduct any business or activity contrary to State or local law. [178.58]

#### **D. FORM 4473 - FIREARMS TRANSACTION RECORD**

**(D1) Where can a dealer get Forms 4473?**

They are available free of charge from the ATF Distribution Center. The current address is 7943 Angus Court, Springfield, VA 22153. Please order a quantity of forms estimated for one year's use.

**(D2) Is a Form 4473 needed in the private sale of a firearm by a nonlicensee?**

No. Form 4473 is required only for sales by a licensee. [178.124]

**(D3) Does a dealer have to execute Form 4473 to take a weapon out of his saleable inventory for his own use?**

No.

**(D4) Who signs Form 4473 for the seller?**

Form 4473 must be signed by the person who verified the identity of the buyer. [178.124(c)]

**(D5) Is a Social Security card a proper means of identification?**

No. A Social Security card, alien registration card, or military identification alone does not contain sufficient information to identify a firearms purchaser. However, a firearms purchaser may be identified by any combination of documents which together establish all of the required information: Name, residence address, date of birth or age, and signature. [178.124(c); ATF Rul. 79-7]

**(D6) When must the Form 4473 be signed?**

Part I (yellow) used for over-the-counter transfers or sales, must be completed, signed and dated by the buyer at the time of delivery of the firearm to the buyer. [178.124(c)]

Part II (green) used for intrastate non-over-the-counter transfers or sales must be completed, signed and dated in duplicate by the buyer prior to delivery of the form to the dealer. [178.124(f)]

#### **E. RECORDS REQUIRED - LICENSEES**

**(E1) What is a "bound book"?**

A "bound book" is a permanently bound book, or an orderly arrangement of loose-leaf pages which must be maintained on the business premises. In either event, the format must follow that prescribed in the regulations

and the pages must be numbered consecutively. [178.125]

**(E2) May a dealer keep more than one "bound book" at the same time?**

Yes. A dealer in firearms is not limited to using only one "bound book". It may be convenient for a dealer to account for different brands or types of firearms in separate "bound books." [178.125]

**(E3) Does the Government sell a record book for licensees to use in recording their receipts and dispositions of firearms?**

No. Certain trade associations have them available at nominal cost. Your supplier should be able to tell you about this.

**(E4) What is the dealer's responsibility where a variation from normal regulatory practice has been authorized?**

The ATF letter authorizing the variation must be kept at the licensed premises and available for inspection. For businesses with more than a single licensed outlet, each outlet covered by the variation must have a copy of the letter authorizing the change. [178.22, 178.125(g)]

**(E5) How much time does a dealer have to record acquisitions and dispositions of firearm in his "bound book"?**

If commercial records are kept containing the information required on Form 4473, and if these records are kept available for inspection and separate from other commercial documents, dealers have seven days from the time of receipt or disposition to record the receipt or disposition.

Receipts not covered by these records must be entered in the "bound book" by the close of the next business day after the acquisition or purchase. If a disposition is made before the acquisition has been entered in the "bound book," the acquisition entry must be made at the same time as the disposition entry. [178.125(d)-(f)]

**(E6) Are the ammunition record-keeping requirements the same as for firearms?**

No. No records are required for standard ammunition. Disposition records must be kept by licensed manufacturers, importers, or collectors for transactions in armor piercing ammunition. See 178.125 for required information.

**(E7) Are rental firearms subject to recordkeeping control?**

Yes, but the control is not imposed on the loan or rental of firearms for use on the premises by clubs, associations or similar organizations. [178.97]

**(E8) Can a licensee who has firearms in his private collection sell any of these firearms without making firearms record entries?**

No. A licensee may sell a firearm from his personal collection, subject to the same restrictions on firearm sales by unlicensed persons [178.32(d)], provided the firearm has been entered in his bound book and transferred to him one year prior to the sale. On selling the personal weapon after one year, a

disposition record is required [178.125(a)], but no Form 4473 is required.

#### **F. CONDUCT OF BUSINESS - LICENSEES**

**(F1) Does the Federal firearms law require that licensees comply with State laws and local published ordinances which are relevant to the enforcement of the Gun Control Act?**

Yes. It is unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or deliver any firearm or ammunition to any person if the person's purchase or possession would be in violation of any State law or local published ordinance applicable at the place of sale or delivery. [18 U.S.C. 922(b)(2)] [178.99(b)]

**(F2) Can a licensed dealer sell a firearm to a nonlicensee who is a resident of another State?**

A licensee can sell a rifle or shotgun to a person who is not a resident of the State where his business is located in an over-the-counter transaction, provided the transaction is lawful both in the State where the licensee is located, and in the State where the purchaser resides.

In the case of handguns, a licensee may not make a direct sale to a nonresident. The dealer may, however, ship the handgun to a licensed dealer whose business is in the purchaser's State of residence. The purchaser could then pick up the firearm after completing Form 4473. [178.96]

**(F3) May a dealer sell firearms to law enforcement agencies and individual officers in another State?**

Yes. Sales and deliveries of firearms to police and sheriff departments are not prohibited by the GCA. A dealer may also sell or ship Title I firearms to an individual law officer, regardless of age, if he has a signed statement from an authorized official of the agency for which the officer works stating that the items are to be used in the buyer's official duties. Form 4473 need not be executed; however, the bound book must be properly notated, and the signed statement included in the dealer's records. [178.146]

**(F4) May an employee of a licensed dealer, such as a manager or clerk, who is under 21 years of age, sell handguns and ammunition suitable for use in handguns for the licensee?**

Yes, if he is not a prohibited person (e.g., a felon). As an employee of the dealer, he is not restricted by the GCA because of age. Form 4473, in all cases, is to be signed for the seller by the person who verifies the identity of the buyer.

**(F5) As a licensed dealer, must I advise ATF if I sell more than one handgun to an individual?**

If you sell more than one handgun to any nonlicensee during a period of five consecutive business days, the sale must be reported on Form 3310.4, "Report of Multiple Sale or Other Disposition of Pistols and Revolvers," and forwarded to an ATF Office no later than

the close of business on the day the second handgun was sold. [178.126a]

**(F6) Does a customer have to be a certain age to buy firearms or ammunition from a licensee?**

Yes. Longguns and longgun ammunition may be sold only to persons 18 years of age or older. Sales of handguns and handgun ammunition are limited to persons 21 years of age and older. Although some State and local ordinances have lower age requirements, dealers are bound by the minimum age requirements established by the GCA. If State law or local ordinances establish a higher minimum age, the dealer must observe the higher age requirement. [178.99(b)]

**(F7) May a licensee sell interchangeable ammunition such as .22 cal. rimfire to a person less than 21 years old?**

Yes, provided the buyer is 18 years of age or older, and the dealer is satisfied that it is for use in a rifle. If the ammunition is intended for use in a handgun, the 21 year old minimum age requirement is applicable. [178.95]

**(F8) In transactions between licensees, how does the seller assure himself that a purchaser of his firearm is a licensed dealer?**

Verification shall be established by the transferee furnishing to the transferor a signed certified copy of the transferee's license and by any other means as the transferor deems necessary. [178.95]

**(F9) Must a multi-licensed business submit a certified copy of each of its licenses when acquiring firearms?**

No. It need submit to the seller only a list, certified to be true, correct and complete, containing the name, address, license number and expiration date for each location. [178.94]

**(F10) May a licensee continue to deliver to a business whose license has expired?**

Yes, for a period of 45 days following the expiration date of the license. After the 45-day period the transferor licensee is required to again verify the licensed status of the transferee. If the transferee's license renewal application is still pending, in order to continue shipments, the transferor licensee must obtain evidence from the Regional Director (Compliance) to the effect a license renewal has been timely filed by the transferee and is still pending. [178.94; ATF Ruling 75-27]

**(F11) Is a license required to engage in the business of selling small arms ammunition?**

No. A license is not required for the sale of ammunition, but a manufacturer or an importer must be licensed.

**(F12) May firearms be sold at a gun show?**

The transfer of NFA weapons may be lawfully made only in accordance with ATF-approved transfer applications. (See L15 for information.) Other firearms may be sold at a gun show if State law or local ordinances are not violated, within the following framework:

**A FIREARMS DEALER LICENSED IN THE SAME STATE AS THE GUN SHOW MAY:**

(1) Sell firearms at gun shows located in the same State as that specified on his license, as an extension of his premises;

(2) Buy firearms from licensed collector and any nonlicensee.

**A FIREARMS DEALER LICENSED IN A STATE OTHER THAN THE STATE IN WHICH THE GUN SHOW IS BEING CONDUCTED MAY ONLY DISPLAY AND TAKE ORDERS FOR FIREARMS, ORDERS MUST BE FILLED ONLY AT THE DEALER'S LICENSED PREMISES WITH RESPECT TO THESE OUT-OF-STATE ORDERS.**

**A NONLICENSED RESIDENT OF THE STATE IN WHICH THE SHOW IS BEING HELD MAY:**

(1) Make an occasional sale of a firearm to another nonlicensee residing in his State (as long as he is not "engaging in the business"), or to any licensed dealer;

(2) Buy firearms from a nonlicensee residing in his State or from a licensee qualified to sell firearms at the show.

**A LICENSED COLLECTOR MAY:**

(1) Buy curios and relics from any source;

(2) Dispose of curios and relics to another licensed collector or dealer, or to nonlicensee residents of his State.

**NOTE, HOWEVER, THAT ALL LICENSEES MUST KEEP AND MAINTAIN RECORDS!**

Commercial records containing the required information may be kept while at the show. On return to the licensed premises, this information must be entered into the bound book record and a notation made to indicate that the sale was made at the particular gun show.

**(F13) Who may ship firearms through the mails?**

Federal firearm licensees may deposit an unloaded firearm in the mails for conveyance to any officer, employee, agent, or watchman who is eligible under 18 U.S.C. 1715 to receive pistols, revolvers, and other firearms capable of being concealed on the person for use in connection with his official duties.

However, any person proposing to mail a handgun must file with the postmaster, at the time of mailing, an affidavit signed by the addressee stating that he is qualified to receive the firearm, and the affidavit must bear a certificate stating that the firearm is for the official duty use of the addressee. See the current Postal Manual for details.

The Postal Service recommends that all firearms be sent by registered mail and that no marking of any kind which would indicate the nature of the contents be placed on the outside of any parcel containing firearms. (See, also, Question B8)

**(F14) Must a dealer show firearms received on consignment for sale in his records?**

Yes. Firearms received for sale on a consignment basis must be entered in the deal-

er's acquisition record at the time of acquisition as having been received from the person who consigned them.

Sales of the firearms are handled in the same manner as other firearm sales. Return of the remaining firearms by the licensee to the consignor is entered in the dealer's disposition record, and the consignor completes a Form 4473 in the same manner as a pawnbroker redeeming his firearm. (See Question J2)

**(F15) To whom does a dealer report stolen firearms?**

Stolen handguns, rifles and shotguns are to be reported to your local police. Stolen NFA firearms are to be reported to your local police and to the NFA Branch (202) 566-7371 immediately upon discovery of theft or loss. [179.141]

**(F16) If my firearms are stolen, what do I do about my records?**

Take an inventory of stock on hand and enter "stolen" and the date in the disposition section for those stolen firearms. The police report should serve as a general backup for the incident.

## G. COLLECTORS

**(G1) Is there a specific license which permits a collector to acquire firearm in interstate commerce?**

Yes. Such person may obtain a collector's license; however, this license shall apply only to transactions in curio or relic firearms. [178.41(c), (d); 178.50; 178.93]

**(G2) Does a collector's license afford any privileges to the licensee with respect to acquiring or disposing of firearms other than curios or relics in interstate or foreign commerce?**

No. A licensed collector is of the same status under the Act as a nonlicensee except in transactions pertaining to curio or relic firearms. [178.93]

**(G3) Since a licensed firearms dealer may legally deal in curio or relic firearms, is there any reason why the same person would need both a dealer's license and collector's license?**

Yes. A dealer may not sell or deliver any firearm, including a curio or relic, at a location other than his licensed premises, or at a qualified gun show held in the State in which his licensed premises is located. A licensed collector may acquire curios and relics at any location and dispose of curios and relics to any licensee or to other persons who are residents of the State where the collector's license is held and the disposition is made. [178.50]

**(G4) Do I need a license to collect modern firearms for my personal collection?**

The Gun Control Act of 1968 does not provide for a license to be issued for the collection of modern firearms. No Federal license exists for this activity.

**(G5) Are licensed collectors required to execute ATF Form 4473 for transactions in curio or relic firearms?**

No. Licensed collectors are only required to keep a "bound book" record.

#### H. MANUFACTURERS

**(H1) Must a person who engages in the business of manufacturing and importing firearms and/or ammunition have a separate license to cover each type of business?**

Yes. A separate license is required to cover each type of business. [178.41]

**(H2) May a person licensed as a manufacturer of ammunition also manufacture firearms?**

No. A person licensed as a manufacturer of ammunition may not manufacture firearms unless he obtains a license as a firearms manufacturer. [178.41]

**(H3) May a person licensed as a manufacturer of firearms also manufacture ammunition?**

Yes. He may also manufacture ammunition (not including destructive device ammunition or armor piercing ammunition) without obtaining a separate license as a manufacturer of ammunition. [178.41]

**(H4) Is one who reloads ammunition required to be licensed as a manufacturer?**

Yes, if he sells or distributes the reloads. No, if he reloads only for his own use. [178.41]

**(H5) Must a licensed manufacturer pay excise taxes?**

Not under the GCA. However, excise taxes are paid to the Internal Revenue Service.

#### I. GUNSMITHS

**(I1) Is a license needed to engrave, customize, refinish or repair a firearm?**

Yes. A person conducting such activities as a business is considered to be a gunsmith within the definition of a dealer. [178.11]

**(I2) Does a gunsmith need to enter in his permanent "bound book" record every firearm which he receives for adjustment or repair?**

Yes. If a firearm is brought in for repairs and the owner waits while it is being repaired or if the gunsmith is able to return the firearm to the owner during the same business day, it is not necessary to list the gun in his records as an "acquisition." If the gunsmith has possession of the firearm from one business day to another or longer, he must record the firearm in his permanent "bound book" records.

**(I3) Is Form 4473 required when a gunsmith returns a repaired firearm?**

No, provided the firearm is returned to the person from whom received. [178.124(a)]

**(I4) Can gunsmith make immediate repairs at locations other than his place of business?**

Yes.

**(I5) Can a licensed gunsmith receive a Title II (NFA) weapon for purposes of repair?**

Yes, for the sole purpose of repair and subsequent return to its owner. It is suggested that the owner receive permission from ATF for the transfer by completing and mailing ATF Form 5 to the NFA Branch and receive approval prior to the delivery. The gunsmith must do the same prior to returning the firearm.

Only the face of the form need be completed in each instance. Forms 5, instructions and approvals are obtained from the NFA Branch, Bureau of ATF, Washington, DC 20226 (202) 566-7371.

#### J. PAWNBROKERS

**(J1) What disposition records must be kept by a pawnbroker upon the redemption of a pawned firearm?**

The redemption of a pawned firearm is a "disposition" of a firearm under Federal firearms law and is subject to all the record-keeping requirements under the GCA. This disposition must be properly entered in the pawnbroker's "bound book" and Form 4473 must be executed in connection with the redemption. [178.124, 178.125] (See Question J4.)

**(J2) What is the procedure for a licensed pawnbroker to return a firearm?**

The procedure varies, depending upon the firearm and the situation.

#### Some Examples—

**(1) Pawnbroker and nonlicensee are resident of the same State:** The pawnbroker may return a handgun or longgun to either the person who pawned it or to the same-State resident holder of the pawn ticket. Use Form 4473, Part I (yellow) at the time of redemption.

**(2) Pawnbroker and nonlicensee are not residents of the same State:**

a. The pawnbroker may return a handgun only to the person who pawned it, using ATF Form 4473 Part I (yellow) at the time of redemption.

b. The pawnbroker may return a rifle or shotgun to the person who pawned it or to any holder of the pawn ticket at the licensee's premises; provided that the transaction is legal in the State where the pawnbroker's business is located, and in the State where the pawn ticket holder resides. An ATF Form 4473 Part I (yellow) is used for this transaction.

**(J3) Are there prohibited categories of persons from whom a pawnbroker should not accept firearms?**

Yes. The pawnbroker cannot lawfully return a firearm to a person who is under age or within a prohibited category of persons to whom the sale or other disposition of the firearm would be unlawful. For example, a pawnbroker cannot lawfully return a pawned handgun to a person who is less than 21 years of age, nor can he return a firearm to a convicted felon or to anyone else who is prohibited from receiving the firearm. [178.99]

**(J4) Does a pawnbroker have to have the person who pawns and redeems the**

**same firearm, repeatedly, complete Form 4473 at the time of each redemption?**

Not necessarily. Subsequent transactions involving the same weapon and the same nonlicensee may be recorded on a sheet of paper attached to the original Form 4473, and it must be signed and dated (recertified) by that person each time the firearm is redeemed.

#### K. IMPORTING AND EXPORTING

**(K1) May a licensee who does not have an importer's license make an occasional importation?**

Yes. A licensee may make an occasional importation of a firearm for the personal use (not for resale) of a nonlicensee or himself. The licensee must first submit a Form 6, Part I to the Imports Branch for approval. The licensee may then present the approved Form 6 and completed Form 6A to the U.S. Customs Service. Contact the Imports Branch, Bureau of ATF, Washington, DC 20226 (202) 566-7151 for forms.

**(K2) Does a licensee need an export license to export a firearm?**

The GCA does not provide for an export license. However, firearms and ammunition shall be exported in accordance with provision of the Arms Export Control Act of 1976 and clearance must be obtained from the Office of Munitions Control, U.S. Department of State, Washington, DC 20502 (703) 875-6616 and, in the case of exporting machineguns, destructive devices and certain other weapons, from the Director, ATF.

The export of sporting shotguns is regulated by the U.S. Department of Commerce. For further information, contact them at their nearest district office or the Office of Export Administration, U.S. Department of Commerce, Washington, DC 20230 (202) 377-4811.

#### L. FIREARMS—NATIONAL FIREARMS ACT (NFA)

**(L1) The types of firearms that must be registered in the National Firearm Registration and Transfer Record are defined in the National Firearms Act and in 27 CFR Part 179. What are some examples?**

Some examples of the types of firearms that must be registered are:

- Machineguns;
- The frames or receivers of machineguns;
- Any combination of parts designed and intended for use in converting weapons into machineguns;
- Any part designed and intended solely and exclusively for converting a weapon into a machinegun;
- Any combination of parts from which machineguns can be assembled if the parts are in the possession or under the control of a person;
- Silencers and any part designed and intended for fabricating a silencer;
- Sawed-off rifles; sawed-off shotguns;

- Destructive devices; and,
- "Any other weapons."

**Included among destructive devices are:**

- Molotov cocktails;
- Anti-tank guns;
- Bazookas; and,
- Mortars.

**A few examples of "any other weapon" are:**

- H&R Handyguns;
- Ithaca Auto-Burglar guns;
- Cane guns; and,
- Gadget-type firearms and "pen" guns, designed to expel tear gas which fire fixed ammunition.

**(L2) How can an individual legally acquire National Firearms Act weapons?**

Basically, there are two ways that an individual (who is not prohibited by Federal, State, or local law from receiving or possessing firearms) may legally acquire NFA weapons:

(1) By lawful transfer of a registered weapon from its lawful owner residing in the same State as the transferee. Obtain any forms needed from the NFA Branch, Bureau of ATF, Washington, DC 20226.

(2) By obtaining prior approvals to "make" NFA firearms. [179.84-179.87; 179.62-179.67]

**(L3) What is the tax on making an NFA weapon by persons other than a properly licensed manufacturer who has paid the special (occupational) tax to manufacture NFA weapons?**

The tax is \$200 for making any NFA weapon, including "any other weapon."

**(L4) How is this tax paid?**

A money order or check made payable to the Bureau of ATF together with the application forms are to be mailed to the Bureau of ATF, P.O. Box 73201, Chicago, IL 60673.

**(L5) What is an unserviceable firearm?**

An unserviceable firearm is defined as one which is incapable of discharging a shot by means of an explosive and which is incapable of being readily restored to a firing condition.

An acceptable method of rendering most firearms unserviceable is to fusion weld the chamber closed and fusion weld the barrel solidly to the frame. Certain unusual firearms require other methods to render the firearms unserviceable.

An unserviceable NFA firearm is still subject to the controls of the NFA, but may be transferred tax free as a curio or ornament. [179.11; 179.91] Contact the Firearms Technology Branch, Bureau of ATF, Washington, DC 20226, (202) 566-7131 for instructions.

**(L6) What is the status of an unregistered NFA firearms acquired through seizure or abandonment by a State or political subdivision such as a police or sheriff's department?**

When NFA weapons are desired for official use, they shall be registered by filing ATF

Form 10 with the NFA Branch, Bureau of ATF, Washington, DC 20226.

Since approval is conditioned on an "official use only" basis, subsequent transfers on Form 5 cannot be approved except to the Federal Government or to States or their qualified political subdivisions. [179.104] [ATFR 74-8]

**(L7) Can a private citizen who owns an NFA firearm which is not registered have his firearm registered?**

No. An unregistered NFA firearm is a contraband firearm and it is unlawful to possess the weapon. The possessor should contact the nearest ATF office to arrange for its disposition.

**(L8) What can happen to someone who has an NFA weapon which is not registered to him?**

Violators can be fined not more than \$10,000, and imprisoned not more than 10 years, or both (26 U.S.C. 5861). In addition, any vessel, vehicle or aircraft used to knowingly transport, conceal or possess an unregistered NFA weapon is subject to seizure and forfeiture (49 U.S.C. 781-788) as is the weapon itself (26 U.S.C. 5872).

**(L9) What should a person do if he comes into possession of an unregistered NFA weapon?**

Contact the nearest ATF office immediately.

**(L10) Are there any exemptions from the making or transfer tax (or both) provisions of the National Firearms Act?**

Yes, there are. These are noted below, along with the required form number.

You will have to contact the NFA Branch, Bureau of ATF, Washington, DC 20226, (202) 566-7371. Completed forms must be approved by the NFA Branch prior to the making and/or transfer:

(1) Tax exempt transfer and registration of a firearm between special (occupational) taxpayers: ATF Form 3. [179.88]

(2)(a) Tax-exempt making and registration of a firearm being made on behalf of the United States, or any department, independent establishment, or agency of the United States, or on behalf of any State or possession of the United States or any political subdivision of a State, or any official police organization of the government entity engaged in criminal investigations: ATF Form 1. Tax-exempt transfer and registration of the firearm: ATF Form 5. [179.69, 179.70, 179.89, 179.90]

(b) A licensed manufacturer under contract to make NFA firearms for the U.S. Government may be granted exemption from payment of the special (occupational) tax as a manufacturer of NFA firearms and exemption from all other NFA provisions (except importation) with respect to the weapons made to fulfill the contract. Exemptions are obtained by writing the NFA Branch, stating the contract number(s) and the anticipated date of termination. In like manner this exemption must be renewed each year prior to July 1. [26 U.S.C. 5851]

(3) Tax-exempt transfer and registration of an unserviceable firearm which is being transferred as a curio or ornament; also, the tax-exempt transfer and registration of a firearm to a lawful heir: ATF Form 5. [179.91]

**(L11) How does a person qualify to import, manufacture, or deal in NFA firearms?**

He must be licensed under Title I of the GCA, and pay the required special (occupational) tax imposed by the National Firearms Act (Title II of the GCA). In addition, an importer (except importers of shotguns and shotgun ammunition) must also be registered with ATF under the Arms Export Control Act of 1976. [178.41, 179.34, 179.193]

After becoming licensed under Title I of the GCA, he must take the following steps: ATF Form 5630.5 (formerly Form 11) with the appropriate taxpayment in the entire amount must be filed with ATF in accordance with instructions on the form.

A copy of the Federal firearms license and one of the following three items must be filed with the NFA Branch, Bureau of ATF, Washington, DC 20226:

- (1) Proof of payment of the special tax (canceled check); or
- (2) A copy of completed ATF Form 5630.5; or
- (3) A copy of the special tax stamp.

If he is qualifying for the first time, he should request this information from the NFA Branch.

**(L12) When must firearms special (occupational) taxes be paid, how much are the taxes, and how are they paid?**

On first engaging in business, and thereafter on, or before, the first day of July, these taxes must be paid in full. The current taxes (as changed by Public Law 100-203) are set out in this table; taxes are paid in the manner discussed in (L11), above.

SPECIAL (OCCUPATIONAL) TAX RATES UNDER THE NATIONAL FIREARMS ACT (NFA)	
CLASS OF TAXPAYER	ANNUAL FEE
1 - Importer of Firearms (Including "Any Other Weapons")	\$1000.00
2 - Manufacturer of Firearms (Including "Any Other Weapons")	\$1000.00
3 - Dealer of Firearms (Including "Any Other Weapons")	\$ 500.00
1 - Importer of Firearms (Including "Any Other Weapons") REDUCED*	\$ 500.00
2 - Manufacturer of Firearms (Including "Any Other Weapons") REDUCED*	\$ 500.00

\* REDUCED = Rates which apply to certain taxpayers whose total gross receipts in the last taxable year are less than \$500,000.

**(L13) Does a single special (occupational) tax payment entitle a person or firm to import and manufacture firearms?**

No. A separate special (occupational) tax payment must be made for each of these activities. However, Class 1 and Class 2 special (occupational) taxpayers are qualified to deal in NFA weapons without also having



to pay special (occupational) tax as a Class 3 dealer. [179.39]

**(L14) Can a licensed collector obtain National Firearms Act weapons in interstate commerce?**

Only if the weapons are classed as curio or relic firearms. In addition, he must meet the requirements set forth in Question L15.

**(L15) What are the required transfer procedures to an individual who is not qualified as a manufacturer, importer, or dealer of NFA weapons?**

ATF Form 4 (5320.4), in duplicate: The transferor must first complete the face of the form. The transferee must complete the transferee's certification on the reverse of the form and must have the "Law Enforcement Certification" completed by the chief law enforcement officer, the State or local district attorney, or prosecutor. [ATFR 77-25]

The transferee is to affix, on each copy of the form, a 2 inch by 2 inch photograph of himself taken within the past year (proofs, group photographs or photocopies are unacceptable). The transferee's address must be a street address, not a post office box. If there is no street address, specific directions to the residence must be included.

If State or local law requires a prior permit or license to purchase, possess, or receive NFA weapons, a copy of the transferee's permit or license must accompany the application. A check or money order for \$200 (\$5 for transfer of "any other weapon") shall be made payable to ATF by the transferor. All signatures on both copies must be in ink.

FBI Form FD-258, in duplicate: Fingerprints must be taken by a person qualified to do so, and must be clear and classifiable. If wear or damage to the fingertips do not allow clear prints, and if the prints are taken by a law enforcement official, a statement on his or her official letterhead giving the reason why good prints are unobtainable should accompany the fingerprints.

Forward completed information and appropriate taxpayment to the Bureau of ATF, P.O. Box 73201, Chicago, IL 60673. Transfer of the NFA weapon may be made only upon approval of the ATF Form 4 by the NFA Branch.

**(L16) How does an individual obtain authorization to make an NFA firearm?**

Prior to making the firearm, he must submit ATF Form 1, Application to Make and Register a Firearm, to the NFA Branch, Bureau of ATF, Washington, DC 20226, and receive approval. The applicant must forward the original and a duplicate of the form along with a check or money order for \$200 made payable to the Bureau of ATF, P.O. Box 73201, Chicago, IL 60673. If application is approved, the NFA Branch will return the original of the form with the cancelled stamp affixed, showing approval, to the applicant.

**(L17) Are parts which would convert a Title I firearm into an NFA weapon subject to registration?**

Yes. Examples:

- An M-2 conversion kit;

• Any part designed and intended solely and exclusively to convert a weapon into a machinegun. (Also, see Question L1.)

**(L18) Is it necessary to submit a photograph and fingerprints if the transferee is a special (occupational) taxpayer obtaining the NFA firearm as a part of his business inventory?**

No. The photograph and fingerprints are required only when the transferee is a natural person who is not a special (occupational) taxpayer. (See Question L15)

**(L19) Can a licensed firearms dealer who is registered and properly qualified to deal in National Firearms Act weapons or an unlicensed individual transfer an un-serviceable machinegun or other NFA type firearm to an unlicensed individual in another State?**

No. Title I of the GCA generally prohibits the interstate transfer from a licensed dealer to a nonlicensee (except for an over-the-counter sale of a longgun to an unlicensed person where the sale is legal in the States of both buyer and seller), or from one unlicensed person to another nonlicensee. [178.29, 178.30]

**(L20) If the chief law enforcement official, State or local district attorney, or prosecutor, whose jurisdiction includes the proposed transferee's residence, refuses to sign the "Law Enforcement Certification," will the signature of a like official in another jurisdiction be acceptable?**

No.

**(L21) Does the registered owner of a destructive device, machinegun, short barreled shotgun, or short barreled rifle need authorization to lawfully transport these items interstate?**

Yes, unless the owner is a qualified dealer, manufacturer or importer for a licensed collector transporting only curios or relics). Prior approval must be obtained, even if the move is temporary, and is requested by either submitting a letter application containing all necessary information (see 178.28), or by submitting ATF F 5320.20 to the NFA Branch, Bureau of ATF, Washington, DC 20226.

**(L22) If an individual is changing his State of residence and his application to transport his NFA firearms cannot be approved, what options does the lawful possessor have?**

NFA firearms or their receivers may be left in a safe deposit box. Also, the firearm could be left or stored at the house of a friend or relative, in a locked room or container to which only the registered owner has a key. The friend or relative should be supplied with a copy of the registration forms and a letter from the owner authorizing storage of the firearm at that location.

The NFA Branch shall be notified of the location at which the firearms are stored.

**(L23) May a transferor submit an application to transfer an NFA weapon prior to the date on which the transferor receives the weapon, with an approved transfer from someone else?**

No.

**(L24) If a person has a pistol and an attachable shoulder stock, does this constitute possession of an NFA firearms?**

Yes, unless the barrel of the pistol is at least 16 inches in length (and the overall weapon is 26 inches in length), or unless the stock lug or receiving slot on the pistol has been altered permanently to prevent attachment of the stock. However, certain stocked handguns such as original semiautomatic Mauser "Broomhandles" and Lugers have been removed from the purview of the National Firearms Act as collectors' items. [179.11]

**(L25) Does the owner of a registered NFA weapon have to have any evidence to show it is registered lawfully to him?**

Yes. The approved application received from ATF serves as evidence of registration of the NFA firearm in the owners name. This document must be kept available for inspection by ATF officers. It is suggested that a photocopy of the approved application be carried by the owner when the weapon is being transported.

**(L26) What is the status of deactivated, unloaded or dummy grenade, artillery shell casings and other similar devices?**

Such devices would merely be ornaments and not within the purview of the GCA.

However, such devices would have to be cut or drilled in such a manner as to preclude possible use as ammunition components for destructive devices.

**(L27) Are muzzle-loading cannons classified as destructive devices?**

Generally, no. Muzzle-loading cannons not capable of firing fixed ammunition and manufactured in or before 1898, and replicas and models thereof, are antiques and not subject to the provisions of either Title I or Title II of the GCA. Other cannons which the Director finds are not likely to be used as weapons may be excluded from the "destructive device" definition. [179.11]

**(L28) Are grenade and rocket launcher attachments destructive devices?**

Grenade and rocket launcher attachments for use on military type rifles generally do not come within the definition of destructive devices. However, the grenades and rockets used in these devices are generally within the definition. [179.11]

**(L29) What is a "conversion kit"?**

A conversion kit is any part or combination of parts designed and intended for use in converting a weapon into a machinegun.

## M. MACHINEGUNS—NATIONAL FIREARMS ACT (NFA)

**(M1) Can an unlicensed person make a machinegun?**

Generally, no. But, in the event that documentation can be provided, along with the Application to Make a Machinegun, which establishes that the weapon is being made for distribution to—



(1) The United States or any department or agency thereof; or

(2) A State, or a department, agency or political subdivision thereof

—Then the individual would be permitted to make the machinegun.

(M2) Can machineguns be transferred from one registered owner to another?

Yes. If the machinegun was lawfully registered and possessed before May 19, 1986 it may be transferred provided that the transferee has received approval on an ATF Form 4, Application to Transfer and Registration of a Firearm, approved by the Director.

## GENERAL INFORMATION

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### Important Information Concerning AR-15-Type Rifles

ATF has encountered, with increasing frequency, various AR-15-type assault rifles such as those manufactured by Colt, E.A. Company, SGW, Sendra and others, which have been assembled with fire control components designed for use in M16 machineguns. The vast majority of these rifles which have been assembled with an M16 bolt carrier, hammer, trigger, disconnecter and selector will fire automatically merely by manipulation of the selector or removal of the disconnecter. Many of these rifles using less than the five M16 parts listed above also will shoot automatically by manipulation of the selector or removal of the disconnecter.

Any weapon which shoots automatically, more than one shot, without manual reloading, by a single function of the trigger, is a machinegun as defined in 26 U.S.C. Section 5845(b), the National Firearms Act (NFA). In

addition, the definition of a machinegun also includes any combination of parts from which a machinegun may be assembled, if such parts are in possession or under the control of a person. An AR-15-type assault rifle which fires more than one shot by a single function of the trigger is a machinegun under the NFA. Any machinegun is subject to the NFA and the possession of an unregistered machinegun could subject the possessor to criminal prosecution.

Additionally, these rifles could pose a safety hazard in that they may fire automatically without the user being aware that the weapon will fire more than one shot with a single pull of the trigger.

In order to avoid violations of the NFA, M16 hammers, triggers, disconnecters, selectors and bolt carriers must not be used in

assembly of AR-15-type semiautomatic rifles, unless the M16 parts have been modified to AR-15 Model SP1 configuration. Any AR-15-type rifles which have been assembled with M16 internal components should have those parts removed and replaced with AR-15 Model SP1-type parts which are available commercially. The M16 components also may be modified to AR-15 Model SP1 configuration.

It is important to note that any modification of the M16 parts should be attempted by fully qualified personnel only.

Should you have any questions concerning AR-15-type rifles with M16 parts, please contact your nearest ATF Law Enforcement Office. Our telephone numbers are listed in the "United States Government" section of your telephone directory under the "United States Treasury Department."

### 1. OMITTED RULINGS, PROCEDURES AND CIRCULARS

The following rulings, procedures and circulars are not included within this publication for the reason(s) stated:

#### I. RULINGS—

**Rev. Rul. 69-59 GUN SHOWS:** [Rendered moot by Sec. 923(j) (1986)]

**Rev. Rul. 69-114 CONTIGUOUS STATE SALES:** [Rendered moot by Sec. 922(b)(3)(A) (1986)]

**ATF Rul. 76-24 RESIDENCY:** [Now in regulations]

**ATF Rul. 77-25 OFFICIALS AUTHORIZED TO CERTIFY NFA FIREARMS...FORMS:** [Now in regulations]

**ATF Rul. 77-26 INTERCHANGEABLE AMMUNITION:** [Recordkeeping of small arms

ammunition sales ended by 922(b)(5) amendments (1986)]

**ATF Rul. 80-8 SURPLUS MILITARY FIREARMS FOR LAW ENFORCEMENT OFFICERS:** [Law enforcement officers now prohibited from transferring "official use only" weapons outside of the law enforcement community by 179.104]

**ATF Rul. 85-3 DELIVERY TO INDIVIDUALS IN CONTIGUOUS STATES:** [Contiguous State requirements eliminated in 922(b)(3) amendments (1986)]

## II. PROCEDURES—

**ATF Proc. 78-1:** [Listings of Federal licenses are available from the Disclosure Branch, but not on microfiche]

## III. CIRCULARS—

**IC 83-9 THREE YEAR LICENSES:** [Now in regulations]

**IC 84-8 MENTAL DISABILITY POLICY:** [Reversed by 1986 amendments, particularly 925(c)]

**IC 84-9 ANTI-TRUST VIOLATION POLICY:** [Reversed by repeal of Title VII of the Omnibus Crime Control and Safe Streets Act (1986)]

**IC 84-10 SALES...AT GUN SHOWS:** [Rendered moot by regulations (1984); by Sec. 923(j) (1986)]

**IC 85-2** [Same as ATF Rul. 85-2, which IS CURRENT]

**IC 85-3 DELIVERY TO INDIVIDUALS IN CONTIGUOUS STATES:** [Contiguous State requirements eliminated in 922(b)(3) amendments (1986)]

**IC 85-11** [Same as ATF Rul. 85-10, which IS CURRENT]

## 2. FEDERAL FIREARMS LICENSE NUMBERING SYSTEM

The **Basic number** consists of digits 2 and 3, and 11 through 15.

This basic number may be used on your letterheads, business cards, invoices, records, etc., and may also be applied to a computerized records system, if the use of the system has been specifically authorized by ATF.

DIGIT	STANDS FOR
1	ATF Region
2,3	IRS District
4,5,6	County of the State
7,8	Type of License
9,10	Expiration Date Code
11-15	Sequence Number of License

### EXAMPLE:

5 75 057 01 1E 13981  
5 = Southwest Region  
75 = Dallas (TX) District  
057 = Dallas County  
01 = Dealer  
1E = May 1991  
13981 = Sequence Number

THEREFORE, THE BASIC NUMBER IN THIS EXAMPLE IS 75-13981.

## 3. INFORMATION ABOUT ATF

For assistance with applications, records, transactions, and other regulatory matters, contact your ATF Compliance Operations office.

For assistance with criminal violations of Federal firearms law and regulations, contact your ATF Law Enforcement office.

Check ATF local listings in your telephone directory under "**U.S. Government.**" If unavailable, see the listings contained in ATF Publication 5300.5, furnished all Federal firearms licensees.

Requests for ATF forms and publications should be directed to the ATF Distribution Center; the address of which is in the current edition of Publication 5300.5, "**State Laws and Published Ordinances—Firearms.**"

The Bureau publishes, quarterly, the "**ATF Quarterly Bulletin,**" by which this Agency informs interested persons about current alcohol, tobacco, firearms, and explosives matters, including regulatory, procedural, and administrative information; items of general interest; and, excerpts from Public Laws and Congressional committee reports. The **Quarterly Bulletin** may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 275-3033. Checks should be made payable to the Superintendent of Documents.

## 4. FEDERAL AGE RESTRICTIONS

Federal law prohibits Federal firearms licensees from selling or delivering any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age. [18 U.S.C. 922(b)(1); 27 CFR 178.99(b)(1)]

[**Note:** Ammunition interchangeable between rifles and handguns (such as .22 caliber rimfire) may be sold to an individual 18 years of age, but less than 21, if the licensee is satisfied that the ammunition is being acquired for use in a rifle.]

The foregoing is provided due to less restrictive age provisions in some State and local laws. **Where State or local law is MORE restrictive than the Federal, the State or local law shall apply.**

## 5. CHECK FOR FIREARMS SERIAL NUMBERS

Manufacturers of firearms continue to advise ATF that licensed dealers are shipping firearms having either no serial numbers or obliterated serial numbers to them for repair. This shipment is in violation of 18 U.S.C., Section 922(k), which states:

"It shall be unlawful for any person knowingly to transport, ship, or re-

ceive, in interstate or foreign commerce, any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered."

Manufacturers, being aware of this problem, do not wish to place themselves in the position of violating the Federal statute by receiving or returning these firearms by interstate commerce.

All licensees should be aware that since Title I of the Gun Control Act went into effect during December 1968, all firearms manufactured in the United States or imported into the United States must contain serial numbers. As set forth in 18 U.S.C. 923(i), serial numbers must be "...engraved or cast on the receiver or frame of the weapon...."

Under the old Federal Firearms Act (1938-1968), certain firearms (generally shotguns and .22 caliber longguns) were not required to have serial numbers. Firearms manufactured at that time are exempt from the provisions of Section 922(k).

It is the responsibility of the licensee to determine whether firearms which must by law bear serial numbers meet this requirement prior to their shipment in commerce.

Any firearm appearing to have an altered or removed serial number cannot be lawfully shipped.

Licensees having questions concerning this matter should contact ATF for assistance.

## 6. SALES OF FIREARMS TO LAW ENFORCEMENT OFFICERS

Section 925(a)(1) of Title I of the Gun Control Act exempts law enforcement agencies from the transportation, shipment, receipt, or importation controls of the Act when firearms are to be used for the official business of the agency.

If a law enforcement officer is issued a certification letter on the agency's letterhead, signed by a person in authority within the agency stating the officer will use the firearm in performance of official duties, the officer specified in the certification may purchase a firearm from you regardless of the State in which the officer resides, or in which the agency is located.

You (the seller) are not required to prepare a **Form 4473** covering this particular sale, as the certification letter is evidence of the transaction. Disposition to the officer is to be entered in your permanent record, and the certification letter kept in your files.

ATF considers the following as persons having authority to certify that law enforcement officers purchasing firearms will use the firearms in performance of official duties:

1. In a city or county police department, the director of public safety or the chief or commissioner of police.
2. In a sheriff's office, the sheriff.
3. In a State police or highway patrol department, the superintendent or the supervisor in charge of the office to which the State officer or employee is assigned.

4. In Federal law enforcement offices, the supervisor in charge of the office to which the Federal officer or employee is assigned.

The Bureau would also recognize someone signing on behalf of a person in authority, provided there is a proper delegation of authority and overall responsibility has not changed in any way.

## 7. SALE OF FIREARMS TO ALIENS IN THE UNITED STATES

ATF frequently receives questions about the legality of selling firearms to aliens. Some dealers have turned away foreign customers unnecessarily due to their uncertainty, while in a few cases Federal firearms licensees have made unlawful sales to aliens. The purpose of this Item of Interest is to clarify the status of aliens who wish to purchase firearms, and to provide some of the exportation guidelines.

### A. DOMESTIC SALES

In order to purchase firearms in the United States, an alien must:

- Be 18 years of age (21 for handguns);
- Provide suitable identification;
- Complete **ATF Form 4473, Firearms Transaction Record**;
- Be a resident of the State in which the firearm purchase is made; and
- Observe all applicable State and local laws.

An alien who is legally in the United States will be considered to be a resident of a State for the purpose of complying with the Gun Control Act if he has resided in that State continuously for at least 90 days before purchasing a firearm. **Note, however**, that even a legal resident alien who has lived in the U.S. for many years will have to wait 90 days before purchasing a firearm if he changes his State of residence.

### ALTERNATIVE(S) TO THE 90 DAY STANDARD:

**a. HANDGUN PURCHASE:** An alien who is in a State in which his embassy or consulate is located, and who has been authorized in writing by the principal officer of the embassy or consulate to purchase a handgun would be considered a resident of that State for purposes of purchasing a handgun within that State, only;

**b. LONGGUN (RIFLE OR SHOTGUN) PURCHASE:** An alien who has been authorized in writing by the principal officer of his embassy or consulate to purchase a longgun would be considered a resident of that State for purposes of purchasing a longgun from a licensee in that or another State.

The Federal firearms licensee is to attach the letter of authorization to the corresponding completed **Form 4473** and retain them as part of the permanent records.

### B. EXPORT SALES

Removal of a firearm from the U.S. by an alien is an **exportation**. With few exceptions, the firearms licensee must obtain an export

license (**Form DSP-5**) from the State Department's **Office of Munitions Control (OMC)** prior to exportation. In most cases the alien will **not** be able to obtain the export license. The licensee should send the firearm directly to the alien in his home country.

OMC takes the position that when a gun dealer knows or believes that a foreign customer intends to take a rifle or handgun out of the U.S., the dealer is legally obligated to notify OMC that the firearm was sold for the purpose of exportation.

Whenever it is not possible to legally sell a firearm to an alien in the U.S., it may still be possible to sell the weapon for delivery overseas. No additional licenses or permits are required from ATF in order to export sporting type rifles, shotguns, and handguns.

Since the weapon is to be shipped directly out of the U.S., the licensee need only record the name and address of the foreign customer in his bound book. Therefore, **Form 4473** need not be completed, and residence in a particular State is not required.

**EXPORTATION GUIDELINES (RIFLES AND HANDGUNS).** Exportation of rifles and handguns is regulated by the Department of State, Office of Munitions Control (OMC).

For further information about obtaining an export license as well as detailed rifle and handgun exportation information, contact:

**OFFICE OF MUNITIONS CONTROL  
PM/MC, ROOM 800, SA-6  
DEPARTMENT OF STATE  
WASHINGTON, DC 20520  
Telephone (703) 875-6616**

**EXPORTATION GUIDELINES (SHOTGUNS).** The Department of Commerce, under 15 CFR 371.6(c) and 371.11(a)(1), oversees the exportation of shotguns with barrels between 18 and 28 inches in length. The Department of Commerce requires a general license to export these items. There is no fee for a general license. For further information, contact:

**OFFICE OF EXPORT ADMINISTRATION  
DEPARTMENT OF COMMERCE  
WASHINGTON, DC 20230  
Telephone (202) 377-4811**

**CERTAIN SHIPMENTS TO CANADA.** Certain shipments to Canada are exempt from the **Form DSP-5** licensing requirements (22 CFR 126.5). For all exportations to Canada, the person exporting the firearm must present a **Shipper Export Declaration (Department of Commerce Form 7525-V)** to the U.S. Customs Service prior to, or at the time of, exportation (22 CFR 123.25).

Licensees located near the Canadian border have asked ATF and OMC if a Canadian resident could visit the shop, negotiate a purchase, and then arrange to receive the firearm in Canada. The dealer could bring or ship the firearm to the border, present a **Form 7525-V** to Customs, and then arrange to have the Canadian receive the firearm in Canada. The dealer records the transaction in his bound book, with the disposition showing sale to the Canadian with the Canadian address

listed. No **Form 4473** is required since delivery was not made in the U.S.

If the dealer performs this type transaction more than occasionally, the dealer is required to register with OMC as an exporter even though **Forms DSP-5** are not required.

Under the provisions of the Arms Export Control Act of 1976, an export license must be obtained from OMC before exporting a rifle or a handgun anywhere other than to Canada. Application for an export license is made to OMC on **Form DSP-5**. There is no fee for the license. For all exportations, the person exporting the firearm must present a **Shipper Export Declaration (Department of Commerce Form 7525-V)** to the U.S. Customs Service prior to, or at the time of, exportation (22 CFR 123.25). **Anyone who regularly exports firearms is required to register with OMC as an exporter on Form DSP-9 and payment of a registration fee, as follows:**

1 year .....	\$250
2 years .....	\$500
3 years .....	\$700
4 years .....	\$850
5 years .....	\$1000

[22 CFR 122.2]

### C. SALES TO DIPLOMATS

Diplomats, as individuals, are not exempt from Federal, State or local firearms laws. Sales to individuals, including diplomats and embassy personnel, must comply with all requirements of the Gun Control Act (18 U.S.C., Chapter 44) and the firearms regulations (27 CFR Part 178).

### D. SALES TO FOREIGN EMBASSIES OR CONSULATES

Special provisions have been made to allow for the sale of small quantities of firearms to foreign missions for the purpose of the physical security of the embassy grounds. The arms become the property of the government whose embassy made the purchase, not the private property of an individual.

The gun dealer should obtain documentation which will show that the sale was a bona fide sale to a foreign mission and not a sale to an individual diplomat. Documentation should contain the following:

- A purchase order or invoice from the foreign mission; **OR**
- Payment out of government funds rather than from private funds; **OR**
- A written statement by the principal officer of the embassy or consulate that the weapons are being purchased by, and will be the property of, the mission.

Once the dealer has documented that a sale is to a foreign mission, he may complete the transaction by shipping or delivering the firearms directly to the foreign mission. **Form 4473** need not be completed since the sale is considered to be an exportation.

ATF views the transaction as an exportation, as embassy grounds are regarded as foreign territory.

OMC does not view the sale of "reasonable quantities" of firearms to a foreign embassy to be an exportation. Consequently, the dealer need not obtain an export license from OMC to deliver firearms to the embassy. **OMC should be contacted for further information.**

The dealer should inform the foreign mission buying the weapons that they will have to obtain an export license from OMC before taking the guns out of the U.S.

## 8. CANADIAN FIREARMS INFORMATION

[FROM THE CANADIAN FIREARMS POLICY CENTRE, MINISTRY OF THE SOLICITOR GENERAL]

### A. BRINGING FIREARMS INTO CANADA HANDGUNS ARE NOT ALLOWED ENTRY INTO CANADA

Firearms are divided into 3 categories:

- 1) Prohibited;
- 2) Restricted; and
- 3) Long guns.

1) **Prohibited firearms**, which have no legitimate sporting or recreational use, are not permitted entry into Canada. They include:

a) Any firearm that is capable of firing bullets in rapid succession during one pressure of the trigger; and

b) Any firearm that has been adapted from a rifle or shotgun so that it has a barrel of less than 46 cm (18 in.) in length or is less than 66 cm (26 in.) in overall length.

2) **Restricted firearms** include:

a) Any firearm designed, altered, or intended to be aimed and fired by the action of one hand, including handguns;

b) Any firearm that has a barrel less than 47 cm (18-1/2 in.) in length capable of discharging centre fire ammunition in a semi-automatic manner; and

c) Any firearm designed or adapted to be fired when reduced to a length of less than 66 cm (26 in.) by folding, telescoping, or otherwise.

Tourists or visitors travelling in or through Canada may not import restricted weapons.

However, non-resident marksmen competing in a meet recognized by the Amateur Trap Shooting Association, Dominion of Canada Rifle Association or the National Skeet Shooting Association may import restricted weapons. A permit for this purpose may be secured in advance from a Canadian Local Registrar of Firearms. The issuance of these permits should be coordinated with the host club.

3) **Long guns** may be imported, or moved in transit through Canada, without a permit, provided the visitor is 16 years of age or over and the firearm is for sporting or competition use. A long gun is a regular

hunting rifle or shotgun as so described by the manufacturer, and one which does not fall into the category of a prohibited or restricted firearm.

**Non-residents arriving at a Canada Customs port must declare all their firearms.** Those who mistakenly believe they may bring restricted weapons into Canada will be given the opportunity to export them. In the event that weapons are not declared, they will be seized and forfeited and criminal charges may be laid.

Pellet guns with a muzzle velocity of more than 152.5 metres (500 feet) per second are considered to be firearms and come under the above regulations. Those with a muzzle velocity of less than 152.5 metres (500 feet) per second are exempt.

For further information on the entry of firearms, please contact:

MINISTRY OF THE SOLICITOR  
GENERAL  
FIREARMS POLICY CENTRE  
340 LAURIER AVENUE WEST, 12TH  
FLOOR  
OTTAWA, ONTARIO, CANADA K1A 0P8  
B. FIREARMS IN CANADA'S NATIONAL PARKS  
HUNTING PROHIBITED: CANADA'S NATIONAL  
PARKS

Firearms may not be carried in National Parks unless they are of a kind or model capable of being dismantled by taking apart and separating the barrel and stock and carried in a dismantled condition, or are carried in a closed case or wrapped and tied securely in such a manner as not to expose any part of the firearm. It is recommended that visitors contact Parks Canada, Ottawa, Ontario, Canada K1A 1G2, for further information.

### C. HUNTING IN CANADA—IN GENERAL

As hunting is governed by provincial laws, non-residents are required to obtain a hunting license from each province or territory in which they plan to hunt. In many of Canada's provincial parks and reserves and adjacent areas, the entry of any type of weapon is forbidden.

### D. FIREARMS IN BRITISH COLUMBIA

A non-resident carrying a firearm in British Columbia, while not on an arterial or secondary highway, must have either a British Columbia firearms license or a hunting license.

## 9. OPERATIONS BY FEDERALLY LICENSED FIREARMS COLLECTORS

### A. LICENSING

A collector of curios or relics may obtain a collector's license under the Gun Control Act of 1968 (Chapter 44 of Title 18, United States Code) and the Federal firearms regulations, 27 CFR Part 178. The privileges conferred by this license extend only to curio or relic transactions, as discussed in detail be-

low. In transactions involving firearms not classified as curios or relics, the licensed collector has the same status as a nonlicensee. A person need not be federally licensed to collect curios or relics. However, the individual must be licensed in order to lawfully receive curios or relics by shipment from outside his or her State of residence. Federal law and regulations pertaining to licensed collectors and curios or relics can be found in this publication.

Recordkeeping requirements for licensed collectors are discussed in detail in Part 178 of Title 27, Code of Federal Regulations.

### B. WHAT ARE CURIOS OR RELICS?

As set out in the Federal regulations (27 CFR 178.11), curios or relics include firearms which have special value to collectors. These firearms have special value because they possess some qualities not ordinarily associated with firearms intended for sporting use or as offensive or defensive weapons.

Please note that ammunition [as now defined in 18 U.S.C. 921(a)(17)(A)] has been deleted as items classified as curios or relics by the Congress during 1986. Ammunition is not to be confused with armor piercing ammunition, defined during 1986 in Section 921(a)(17)(B).

To be recognized as curios or relics, firearms must:

1. Have been manufactured at least 50 years prior to the current date, but not including replicas thereof; **OR**

2. Be certified by the curator of a municipal, State or Federal museum which exhibits firearms to be curios or relics of museum interest; **OR**

3. Derive a substantial part of their monetary value from the fact that they are novel, rare, or bizarre, or from the fact of their association with some historical figure, period, or event.

Collectors wishing to obtain a determination whether a particular firearm qualifies for classification as a curio or relic in accordance with 27 CFR 178.11, 178.26 or 179.11, should submit a written request for a ruling. The letter should include:

- A complete physical description of the item;
- Reasons the collector believes the item merits the classification;
- Data concerning the history of the item, including production figures, if available, and market value.

In some cases, actual submission of the firearm may be required prior to a determination being made. Requests should be sent to the Firearms Technology Branch, Room B230, Bureau of ATF, Washington, DC 20226.

Curios and relics are identified within four sections of classification as follows:

**Section I. Ammunition Classified as Curios or Relics:** As noted above, Congress ended the recognition of ammunition curios or relics. Thus, no ammunition has received curio or relic classification since August 1986.

**Section II. Firearms Classified as Curios or Relics Under 18 U.S.C. Chapter 44:** Licensed collectors may acquire, hold or dispose of these firearms as curios or relics. However, they are still firearms as defined in 18 U.S.C. 921(a)(3) and are, therefore, subject to all Chapter 44 controls. Generally, this category includes commemorative handguns, semiautomatic pistols, revolvers and rifles.

**Section III. National Firearms Act Weapons Removed From the National Firearms Act as Collectors' Items and Classified as Curios or Relics Under 18 U.S.C. Chapter 44:** Weapons in this section are excluded entirely from the provisions of the National Firearms Act. Thus, approval from ATF to transfer these weapons is not required. They need not be registered in the National Firearms Registration and Transfer Record; there is no transfer tax liability. These weapons are still firearms under Chapter 44, and remain subject to regulation under Part 178. Licensed collectors may receive these weapons in both intrastate and interstate commerce, and may transfer them intrastate to both licensees and nonlicensees and interstate to licensed collectors and other licensees. While transfer may be made interstate to another licensee, they cannot be shipped interstate to a nonlicensee.

**Section IV. National Firearms Act Weapons Classified as Curios or Relics Under 18 U.S.C. Chapter 44:** These weapons (e.g., machineguns), are firearms within the scope of the National Firearms Act (NFA) [26 U.S.C. Chapter 53], and are subject to all the Act's provisions. Accordingly, these weapons cannot be lawfully transferred or received unless they are registered in the National Firearms Registration and Transfer Record, at ATF Bureau Headquarters.

Once the registration requirements have been met, transfer may be made either intrastate or interstate to licensed collectors on **ATF Form 4, Application For Tax Paid Transfer and Registration of a Firearm**. In each instance, the appropriate transfer tax must be paid and ATF must first approve the transfer application. The application to transfer must be accompanied by an individual transferee's fingerprints and photograph as prescribed on the form. The form also contains a law enforcement official's certification which must be completed.

Unserviceable weapons are still subject to the provisions of the National Firearms Act, except that they may be transferred free of transfer tax on **ATF Form 5, Application For Tax Exempt Transfer and Registration of a Firearm**.

Questions concerning the lawfulness of transactions in these weapons should be directed to the Bureau of ATF, National Firearms Act Branch, Washington, DC 20226.

Questions concerning the criteria for rendering a specific weapon unserviceable should be directed to the Firearms Technology Branch at the same address.

#### C. THE LICENSED COLLECTOR'S ACTIVITIES

Subject to other applicable provisions of the law and regulations, a collector's license

entitles its holder to transport, ship, receive and acquire curios or relics in interstate or foreign commerce, and to dispose of curios or relics in interstate or foreign commerce to any other Federal firearms licensee.

However, ATF has recognized only assembled firearms as curios or relics. Moreover, ATF's classification of surplus military firearms as curios or relics has extended only to those firearms in their original military configuration.

Frames or receivers of curios or relics and surplus military firearms not in their original military configuration are not generally recognized as curios or relics by ATF since they are not of special interest or value as collectors' items. Specifically, they do not meet the definition of curio or relic in Section 178.11 as firearms of special interest to collectors by reason of a quality other than is ordinarily associated with sporting firearms or offensive or defensive weapons.

Those collectors having questions concerning the importability of specific curio or relic firearms should contact the Bureau of ATF, Firearms and Explosives Imports Branch, Washington, DC 20226.

The principal advantage of a collector's license is that the collector can acquire curios or relics from both licensees and nonlicensees without regard to his/her State of residence. A licensed collector may acquire and dispose of curios or relics at any location, the only limitation being that a disposition made to a nonlicensee is to be made to a resident of the same State in which the collector is licensed.

#### D. RESTRICTIONS ON THE LICENSED COLLECTOR'S ACTIVITIES

As stated earlier, the collector's license covers only transactions in curios or relics. A licensed collector has the same status as a nonlicensee with respect to transactions in firearms that are not curios or relics.

While a licensed collector may acquire curios or relics and dispose of same from a personal collection, the collector is not authorized to engage in a firearms dealing business in curios or relics pursuant to a collector's license. As stated in regulation section 178.41(d), "...if the acquisition and disposition of curios and relics by a collector bring the collector within the definition of a manufacturer, importer or dealer under this part, he shall qualify as such." For example, if a collector acquires curios and relics for the purpose of sale rather than to enhance a collection, the collector would have to be licensed as a dealer in firearms under Chapter 44. Additionally, if the collector is dealing in National Firearms Act weapons, the collector would be liable for the special (occupational) tax prescribed by the National Firearms Act. **The sole intent and purpose of the collector's license is to enable a firearms collector to enhance a collection of curios or relics.**

## 10. ANTIQUE FIREARMS UNDER THE GUN CONTROL ACT OF 1968 AND THE ARMS EXPORT CONTROL ACT OF 1976

Under Section 921(a)(16) of Title 18, U.S.C. [Title I of the Gun Control Act (GCA)], the term **antique firearm** means:

"(A) Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; and

"(B) Any replica of any firearm described in subparagraph (A) if such replica—

"(i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or

"(ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade."

Under Section 5845(g) of Title 26, U.S.C. [Title II of the Gun Control Act (GCA); also known as the National Firearms Act], **antique firearms** means:

"...Any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade."

To illustrate the distinction between the two definitions of **antique firearm** under Title I and Title II of the GCA, a rifle manufactured in or before 1898 would not come under the provisions of Title I even though it uses conventional ammunition. However, if such rifle has a barrel of less than 16 inches in length AND uses conventional fixed ammunition which is available in the ordinary channels of commercial trade, it would still be a **firearm** subject to the provisions of Title II.

An **antique firearm** as defined in BOTH Title I and Title II is exempt from all of the provisions and restrictions contained in the GCA. Consequently, such an **antique firearm** may be bought, sold, transported, shipped, etc., without regard to the requirements of the Act pertaining to licensing, recordkeeping, and import permits.

However, certain firearms which are otherwise **antique firearms** as defined in Title I and Title II of the GCA are still subject to the import control provisions of the **Arms Export Control Act of 1976** and require a permit to be imported. For example:

**A permit is required to import any firearm manufac-**

ured after 1897, except a black powder firearm which uses an antique ignition system such as a matchlock, flintlock, or percussion cap. No permit is required to import such black powder firearm, regardless of the date of manufacture.

No all-inclusive list of "antique firearms" is published by the Bureau, as it would not be possible to establish and maintain such an all-inclusive list.

## 11. OCCASIONAL IMPORTATION BY NONLICENSEES

### A. NON-MILITARY

A permit must be obtained to import or bring into the United States any firearm or ammunition which was acquired outside the United States. The firearm or ammunition must be generally recognized as particularly suitable for, or readily adaptable to, sporting purposes.

Surplus military firearms are generally excluded from being imported into the United States except for certain curio or relic surplus military firearms imported by licensed importers, only.

A federally licensed firearms dealer located in the nonlicensee's State of residence may act as an agent to import the nonlicensee's personal firearms, provided that the firearms are lawfully importable and are not for resale. The form to be used by the licensee is **ATF Form 6, Part I, Application and Permit For Importation of Firearms, Ammunition and Implements of War**, and may be obtained from the Director, Bureau of Alcohol, Tobacco and Firearms, Attn: Firearms & Explosives Imports Branch, Washington, DC 20226.

A nonlicensee may obtain a permit to import sporting type ammunition (excluding tracer or incendiary), and firearm parts (other than frames, receivers, or actions) without engaging the services of a Federal firearms licensee, provided that the importation is for personal use and not for resale. If the nonlicensee chooses to have a licensee handle the importation, the licensee should execute and forward the **ATF Form 6, Part I** in accordance with the instructions on the form. The nonlicensee's name, address, and telephone number should appear in Item 9, "Specific purpose of importation."

No permit or authorization from ATF is required to bring into the United States a firearm or ammunition that was **previously taken out** of the U.S. by the person bringing it in. The U.S. Customs Service is authorized to release a firearm or ammunition without a permit from ATF upon a proper showing of proof that the firearm or ammunition was taken out of the country by the person bringing it in. This proof is best established by having registered the item or items with U.S. Customs on **Customs Form 4457, Certificate of Registration**, at the point and time of departure.

For further information, see **ATFR 81-3** and **ATFR 85-10**, set out within the **Rulings, Procedures, and Industry Circulars** portion of this publication.

### B. MEMBERS OF THE ARMED FORCES

#### PART 1—IMPORT PERMIT REQUIREMENTS

Section 925(a)(4) of Title 18, U.S.C. (Title I of the Gun Control Act) provides that:

"When established to the satisfaction of the Secretary to be consistent with the provisions of this chapter [Chapter 44] and other applicable Federal and State laws and published ordinances, the Secretary may authorize the transportation, shipment, receipt or importation into the United States to the place of residence of any member of the United States Armed Forces who is on active duty outside the United States (or who has been on active duty outside the United States within the 60 day period immediately preceding the transportation, shipment, receipt, or importation), of any firearm or ammunition which is:

"(A) determined by the Secretary to be generally recognized as particularly suitable for sporting purposes, or determined by the Department of Defense to be a type of firearm normally classified as a war souvenir, and

"(B) intended for the personal use of such member."

Preparation and mailing of applications for permission to import firearms and ammunition:

(a) Applications to import firearms are filed on **ATF Form 6, Part II**.

(b) Applications should show a detailed description of each firearm to be imported. Incomplete information will cause return of your application.

(c) Applications should be completed in triplicate and mailed to the Director, Bureau of Alcohol, Tobacco and Firearms, Attn: Firearms and Explosives Imports Branch, Washington, DC 20226.

A member of the Armed Forces who does not meet the above criteria must obtain the services of a Federal firearms licensee located in his State of residence to import a firearm on behalf of the member. The licensee would submit an application on **ATF Form 6, Part I**.

A permit must be obtained for all firearms to be imported, regardless of the date purchased. However, this does not apply to a firearm previously taken out of the United States by the person bringing it in, nor to a firearm shipped by a licensee of the United States to a serviceman on active duty outside the United States or to an authorized Rod and Gun Club abroad specifically for the serviceman importing the firearm;

**Provided**, it has been determined by the Secretary of the Treasury to be generally recognized as particularly suitable for sporting purposes.

The U.S. Customs Service is authorized to release a firearm without a permit from ATF upon presentation of proof to Customs

that the firearm was taken out of the United States by the person bringing it in, or shipped from the United States to the serviceman under one of the aforementioned conditions.

If your application is approved, the original will be returned to you. This will be your authorization to import the firearm(s) described on the form. The permit is valid for 6 months from the date of approval. If disapproved, your application will be stamped disapproved, and returned to you with the reason for disapproval stated.

Authorization will not be given to import a machinegun, or any other firearm as defined in the National Firearms Act, regardless of the degree of serviceability.

Authorization will not be given to import any surplus military firearm [unless it has been listed as a curio or relic in accordance with 18 U.S.C. 921(a)(13), per Section 925(e)] or any firearm not recognized as particularly suitable for sporting purposes. However, such firearm may be brought into the United States without a permit, provided the person bringing it in can establish to the satisfaction of U.S. Customs officials that he previously owned the firearm in the United States and is now returning it to the United States.

**To determine whether or not a handgun may be authorized for importation, as particularly suitable for sporting purposes, the factoring criteria for pistols and revolvers (ATF Form 4590) is used.**

#### PART 2—IMPORTATION OF WAR SOUVENIRS OR WAR TROPHY FIREARMS

The regulations [27 CFR 178.114(c)] provide that firearms determined by the Department of Defense to be war souvenirs may be imported into the United States by the military members of the U.S. Armed Forces under such provisions and procedures as the Department of Defense may issue.

For information regarding the classification of war souvenirs or trophies by the Department of Defense, see DOD regulations AR 608-4, OPNAVINST 3460.7A, AFR 125-13, and MCO 5800.6A, describing articles and material that are not considered war trophies and may not be kept or imported into the United States by members of the U.S. Armed Forces.

The aforementioned Department of Defense regulations list machineguns and other firearms coming within the purview of the National Firearms Act, regardless of the degree of serviceability, among the items which are prohibited from being retained and introduced into the United States by Armed Forces personnel.

The Customs Service is authorized to release a firearm without an import permit from ATF, where a properly executed **DD Form 603, Registration of War Trophy Firearms**, is presented certifying that the firearm to be brought in has been classified as a war souvenir under DOD regulations. To be valid, the **DOD Form 603** must have been issued during a period authorized by DOD.



**PART 3—REVENUE RULING 69-309**

The requirement that an import permit be obtained for each firearm to be imported was relaxed somewhat by Rev. Rul. 69-309. This ruling allows members of the U.S. Armed Forces, under specified conditions, to import up to three rifles or shotguns, excluding surplus military, and up to 1,000 rounds of ammunition without obtaining an import permit. The waiver provided by this ruling does not include handguns. A permit for each handgun to be imported must be obtained.

[Rev. Rul. 69-309 is set out within the Rulings, Procedures, and Industry Circulars portion of this publication. A sample copy of the certification can be seen below, with minor adjustment to reflect 1986 legislative changes]

**PART 4—ATF RULING 74-13**

The Bureau was informed by State and local authorities that handguns were transported, shipped, received, or imported into the United States by members of the U.S. Armed Forces to their respective State of residence without such members having obtained the required permits or other authorizations required by the State which would permit them to possess or own (as opposed to license to purchase) handguns in that State.

[ATF Rul. 74-13 is set out within the Rulings, Procedures, and Industry Circulars portion of this publication]

**SAMPLE OF CERTIFICATION UNDER REVENUE RULING 69-309 (ATTACHES TO FORM 6A)**

Under the penalties provided by law, I hereby declare that I now am, or have been, on active duty outside the United States within 60 days immediately preceding this importation; that I am returning to the United States from a permanent overseas duty station; that the transportation to, and the receipt and possession by, me at my place of residence or new permanent duty station located at [City] [State] of the firearm(s) and/or ammunition described on the attached ATF Form 6A would not constitute any violation of Title I of the Gun Control Act (18 U.S.C., Chapter 44), or of Section 38 of the Arms Export Control Act of 1976 (22 U.S.C., Sec. 2778), or of any applicable State law, or of any published, local ordinance.

Signature	Date	Rank
Date of Birth	Branch/Service	Serial Number

**12. SPECIAL TAXPAYERS AND NFA WEAPONS**

[NOTE: This Item of Interest does not apply to the licensee who engages in business activity involving Title I, sporting type firearms, only, such as handguns, rifles, and shotguns]

**A. GENERAL**

Anyone wishing to manufacture, import, or deal in firearms as defined in Title II of the Gun Control Act [known as the National Firearms Act (NFA)] **MUST:**

- 1. BE PROPERLY LICENSED AS A FEDERAL FIREARMS LICENSEE;**
- 2. HAVE AN EMPLOYER IDENTIFICATION NUMBER** (even if you have no employees); and
- 3. PAY THE SPECIAL (OCCUPATIONAL) TAX REQUIRED OF THOSE MANUFACTURING, IMPORTING, OR DEALING IN NFA FIREARMS.**

Those weapons defined as NFA firearms can be found in Sections 5845(a) - 5845(f) of Title 26, United States Code.

After payment of the tax, you will receive a Special (Occupational) Tax Stamp as evidence you have paid the required Occupational Tax of a NFA manufacturer, importer, or dealer.

**B. OBTAINING AN ATF ID NUMBER**

You also have to obtain an ATF identification number before commencing NFA-related operations. This is done by sending a letter of request to:

**BUREAU OF ALCOHOL, TOBACCO AND FIREARMS  
NATIONAL FIREARMS ACT BRANCH  
WASHINGTON, DC 20226  
(202) 566-7371**

You must be able to:

1. Furnish proof that the Special Occupational Tax has been paid;
2. Provide a Federal firearms license number; and
3. Supply a business telephone number.

Once you have received the letter containing the ATF ID number, this number should appear on all of your correspondence, as well as on all applications to transfer NFA weapons. The ID number will suffice as your authorization to engage in business involving NFA weapons.

**C. WHAT YOU NEED TO PROCEED**

If you do not already have an Employer Identification Number, you must obtain and complete a Form SS-4 Application to obtain such a number. You may obtain the Form SS4 from any Social Security Administration Office, an IRS Service Center, or IRS District Office.

Federal firearms licensees who wish to engage in business of importing, manufacturing, or dealing in firearms defined as NFA firearms are required to pay Special (Occupational) Tax for each business location. The tax year begins July 1st and ends June 30th of the following year. If you begin business any time during the tax year, you are responsible for the full amount of tax for the entire year; i.e., the taxes are not prorated.

CLASS OF SPECIAL TAX	ACTIVITY COVERED	ANNUAL TAX AMOUNT	TYPE OF FIREARMS LICENSE
Class 1	Importer	\$1,000*	Type 08 or 11
Class 2	Manufacturer	\$1,000*	Type 07 or 10
Class 3	Dealer	\$ 500	Type 01

\* = If your gross receipts for the prior Fiscal Year were less than \$500,000, the tax is \$500.

If you want to be a Class 3 dealer, you could have a Type 01, Type 02, Type 07, or Type 08 Federal firearms license. The tax you would pay (Class 3) allows you to deal, only, in NFA firearms. Being a Class 3 dealer will not, however, have any effect on your business activity involving non-NFA (sporting type) firearms.

• Submit ATF Form 5630.5, Annual Special Tax Registration and Return (formerly IRS Form 11), along with your check or money order [not cash] to:

**BUREAU OF ALCOHOL, TOBACCO AND FIREARMS  
P.O. BOX 371993M  
PITTSBURGH, PENNSYLVANIA  
15250-7993**

• Upon receipt of your properly completed ATF Form 5630.5, together with your remittance, a Special Tax Stamp will be mailed directly to you. If you had been previously assigned an ATF ID number, and you let your Special Tax lapse, a new ATF ID number will be assigned to you. This new number must appear on all registration documents when you apply to receive or transfer any NFA weapons.

**D. PERMANENT CHANGE OF...**

If you change your address, location, or trade name, you must file a new ATF Form 5630.5 advising us of that change. You may accomplish this easily by attaching ATF Form 5630.5 to your Special Tax Stamp, and mailing them to the Pittsburgh address seen above.

In addition, you must also obtain an amended Federal firearms license. This is done by sending a copy of your license (with the changes noted thereon) to the ATF Regional or Field Office return address entered on your license.

We suggest that you directly contact the NFA Branch at (202) 566-7371 if the change is either in control of the business, or in business structure.

**APPLICATIONS TO TRANSFER OR MAKE NFA WEAPONS**

All applications to transfer or make NFA weapons must be submitted in duplicate, with both copies bearing original signatures.

Extra care in ensuring that the transfer applications are completed accurately will expedite the flow of your paperwork.

Particular attention should be given to the serial number of the weapon to ensure that it doesn't have suffixes or prefixes.

With regard to transfers going to individuals, please ensure that the law enforcement

certification is signed by someone acceptable to sign, and that he does, in fact, have jurisdiction where the transferee resides.

All ATF Form 4 applications must be accompanied by 2 properly completed sets of fingerprint cards (FBI Form FD-258) Fingerprint classification can take as long as 4 to 6 weeks. In some cases (particularly when fingerprints have not been properly taken), fingerprint classification can, and does, take several months. For your Form 4 applications to be expeditiously acted upon, it is imperative that the fingerprint cards you submit be complete in all respects.

All applications for taxpaid making or transfers (ATF Forms 1 and ATF Forms 4) should be forwarded, together with proper remittance, to the following address:

**BUREAU OF ATF**  
P.O. Box 73201  
CHICAGO, ILLINOIS 60673

All other applications and correspondence should be forwarded to the National Firearms Act Branch at the address appearing at the end of this item.

#### F. MACHINEGUNS

Machineguns produced, imported, or registered after May 19, 1986, the effective date of Public Law 99-308, are restricted for use by a government entity or for exportation. We will allow Class 3 dealers to receive a small quantity of the various newly produced models (commonly referred to as "sales samples") if they each obtain a letter from a local law enforcement agency, on their letterhead, indicating a bona fide need to see the weapon.

If we, through an error in processing, fail to note on your transfer document(s) that certain weapons are restricted, such error will not exempt you from complying with the intent of Public Law 99-308.

#### G. FORMS

Forms you will probably need in the conduct of your business (but not bound books which are privately sold) are available from:

**ATF DISTRIBUTION CENTER**  
7943 ANGUS COURT  
SPRINGFIELD, VIRGINIA 22153

#### H. GOING OUT OF BUSINESS

##### PART I—NFA ACTIVITIES, ONLY

If you, as a Special (Occupational) Taxpayer, decide not to renew your payment of the Special Tax, all firearms which you possess containing the restriction imposed by Public Law 99-308, must be transferred to a qualified Special (Occupational) Taxpayer having a legitimate need for the weapon(s), or be exported. Such transfer must occur before you allow your Federal firearms license and Special Tax status to expire. Otherwise, these firearms must be abandoned to ATF, or be subject to seizure.

When you, as a Special (Occupational) Taxpayer, go out of business as a dealer in NFA weapons, you may, if you are a sole

proprietorship, retain those weapons imported or manufactured prior to May 19, 1986, the effective date of Public Law 99-308. You should note your acquisition/disposition book to show that the weapon(s) are now in your possession as an individual. Please also complete Form(s) 4473, showing the disposition of the weapon(s). **These provisions allowing retention of weapons manufactured prior to May 19, 1986 do not apply to corporations or partnerships.**

#### CAUTION

**The taxfree acquisition of NFA weapons for the SOLE purpose of enhancing one's own personal collection constitutes tax fraud. [Also, see ATF Rul. 76-22, set out within the Rulings, Procedures, and Industry Circulars portion of this publication.]**

Firearms may have been transferred to you the approval of which could not have occurred were it not for your Special Taxpayer status. We are obligated to inform you that, should your Special Tax status lapse, your continued possession of certain firearms may place you in violation of various State laws and local ordinances. We urge you to carefully consider the consequences of possessing NFA weapons in your particular city, county, and State without being a Special (Occupational) Taxpayer.

#### PART II—DISPOSITION OF RECORDS

If someone is taking over the business, you will underline the final entry in each bound book, note the date of transfer, and deliver all completed Forms 4473 and the bound books to the successor (who must apply for, and receive, his own license before lawfully engaging in business).

If there is no business successor, within 30 days of business discontinuance you are to ship your bound books and Forms 4473 to ATF or to the Firearms Out-of-Business Records Center, 3361F 75th Avenue, Landover, Maryland 20785.

#### I. QUESTIONS OR PROBLEMS

In the event you have any inquiries relating to your NFA business activity, please contact:

**BUREAU OF ALCOHOL, TOBACCO AND FIREARMS**  
NATIONAL FIREARMS ACT BRANCH  
WASHINGTON, DC 20226  
(202) 566-7371

#### 13. MOVING REGISTERED NFA FIREARMS INTERSTATE

Anyone, except a federally licensed firearms dealer who has paid the required Special (Occupational) Tax to deal in machineguns, short-barreled shotguns, short-barreled rifles, or destructive devices, must apply to ATF for permission to move his/her federally registered firearm interstate. Only after the individual receives ATF approval can the firearm be taken into another State, even for a short period of time. **ATF Form 5320.20,**

**Application to Transport Interstate or Temporarily Export Certain National Firearms Act (NFA) Firearms,** can be used for this purpose.

Alternatively, the lawful owner of the firearm may write a letter, in duplicate, giving:

- a. A complete description and identification of the device or weapon to be transported;
- b. A statement whether such transportation involves a transfer of title;
- c. The need for such transportation;
- d. The approximate date such transportation is to take place;
- e. The present location of such device or weapon and the transportation to be used (including, if by common carrier, the name and address of the carrier); and
- f. Evidence that the transportation or possession of such device or weapon is not inconsistent with the laws at the place of destination.

An application could not be approved if possession of the firearm at the place of destination would place the possessor in violation of State or local law.

If you have any questions regarding this subject, please contact:

**BUREAU OF ALCOHOL, TOBACCO AND FIREARMS**  
NATIONAL FIREARMS ACT BRANCH  
WASHINGTON, DC 20226  
(202) 566-7371

#### 14. LISTS OF LICENSEES/ PERMITTEES

Current lists of Federal firearms licensees and Federal explosives licensees and permittees are available. Prices are quoted on request.

For a copy of the order form, contact:

**BUREAU OF ALCOHOL, TOBACCO AND FIREARMS**  
DISCLOSURE BRANCH  
1200 PENNSYLVANIA AVENUE, NW  
WASHINGTON, DC 20226  
(202) 566-7118

We must advise, however, that Federal law and a Supreme Court decision prohibits the disclosure (either affirmatively or negatively) of the name of any person in association with the ownership of an NFA weapon. Therefore, please do not ask us for the names of persons engaged in business with respect to machineguns or other Title II Gun Control Act (i.e., National Firearms Act) weapons. [Haynes v. United States, 390 U.S. 85 (1968); Public Law 90-618, Sec. 207 (and 26 U.S.C. 5848 (1968)); 26 U.S.C. 6103(b) (1976).]

#### 15. IDENTIFYING FIREARMS

Some licensed firearms manufacturers and importers fail to properly identify firearms. ATF wishes to remind these licensees that it is their responsibility to ensure imported firearms are properly identified in accordance with ATF rules and regulations. The markings

on the guns are vital to our gun tracing program.

#### A. HANDGUNS, RIFLES, AND SHOTGUNS

Section 178.92 of 27 CFR provides the marking requirements of Title I (sporting type) firearms, for both manufacturers and importers, set out here with headings:

##### 178.92 IDENTIFICATION OF FIREARMS

###### (1) General:

(i) **Certain firearms.** Each licensed manufacturer or importer shall, in a manner not susceptible of being readily obliterated or altered or removed, legibly identify each firearm manufactured or imported; and

(ii) **Certain firearms parts.** The licensed manufacturer or importer shall also identify a firearm frame or receiver, or any part defined as a machinegun, firearm muffler, or firearm silencer in 178.11, which is not a component part of a complete weapon at the time it is sold or disposed of, as required by this section. [Also, see ATFR 75-28, adoption by importers of serial numbers on imported firearms]

(2) **Methods of identification.** Identification required by this section shall be by engraving or casting or stamping (impressing), or by other means as the Director may specifically authorize in 178.92(6), below.

(3) **Identification on the frame or receiver.** An individual serial number not duplicated by the manufacturer or importer on any other firearm shall be placed on the frame or receiver of each firearm manufactured or imported.

(4) **Identification on the frame or receiver or barrel.** The following identification is also required to be placed on the frame or receiver or barrel of each firearm manufactured or imported:

(i) Model (if a designation has been made);

(ii) Caliber or gauge;

(iii) Name (or recognized abbreviation) of the manufacturer; and

(iv) Name of importer (when applicable).

(5) **Additional identification on the frame or receiver or barrel:**

(i) **Domestically produced firearm.** The city and State (or recognized abbreviation) in which the licensed manufacturer's business is located shall be placed on each firearm manufactured in the United States.

(ii) **Imported firearm.** The name of the country in which manufactured, and the city and State (or recognized abbreviation) in which the licensed importer's business is located shall be placed on each firearm imported into the United States.

(6) **Authorization.** The Director may authorize other means of identification upon receipt of a letter application:

(i) Showing that the alternative identification is reasonable and will not hinder the effective administration of this part; or

(ii) Showing the weapon to be identified is a destructive device, and that identification placement in the usual manner would be dangerous or impracticable.

In addition, section 178.112(d) provides that within 15 days after release from Customs custody, the licensed importer shall:

1. Complete and forward ATF Form 6A;

2. Place all required [178.92] identification on each imported firearm if it did not bear the identification at the time of release from Customs; and

3. Post in his firearms records all required information regarding the importation.

#### B. NATIONAL FIREARMS ACT (NFA) WEAPONS

Section 179.102 of 27 CFR provides the marking requirements of Title II (NFA) firearms, for both manufacturers and importers, set out here with headings:

##### 179.102 IDENTIFICATION OF FIREARMS

(a) **Certain firearms.** Each manufacturer, importer, or maker shall, in a manner not susceptible of being readily obliterated or altered or removed, legibly identify each firearm; and

(b) **Certain firearms parts.** The manufacturer, importer, or maker shall also identify a firearm frame or receiver, or any part defined as a machinegun, firearm muffler, or firearm silencer in this part which is not a component part of a complete weapon at the time it is sold or disposed of, as required by this section.

(c) **Methods of identification.** Identification required by this section shall be by engraving or casting or stamping (impressing), or by other means as the Director may specifically authorize in 179.102(g), below.

(d) **Identification on the frame or receiver.** An individual serial number not duplicated by the manufacturer, importer, or maker on any other firearm shall be placed on the frame or receiver of each firearm manufactured, imported, or made.

(e) **Identification on the frame or receiver or barrel.** The following identification is also required to be placed on the frame or receiver or barrel of each firearm manufactured, imported, or made:

(1) Model (if a designation has been made);

(2) Caliber or gauge;

(3) Name (or recognized abbreviation) of the manufacturer or maker; and

(4) Name of importer (when applicable).

(f) **Additional identification on the frame or receiver or barrel:**

(1) **Domestically produced firearm.** The city and State (or recognized abbreviation) in which the manufacturer's or importer's business is located, or in which the maker made the firearm, shall be placed on each firearm manufactured in the United States.

(2) **Imported firearm.** The name of the country in which manufactured, and the city and State (or recognized abbreviation) in which the importer's business is located shall be placed on each firearm imported into the United States.

(g) **Alternative identification.** The Director may authorize other means of identification upon receipt of a letter application:

(1) Showing that the alternative identification is reasonable and will not hinder the effective administration of this part; or

(2) Showing the weapon to be identified is a destructive device, and that identification placement in the usual manner would be dangerous or impracticable.

(h) **Alternative identification denied.** Other means of identification will not be authorized for:

(1) A firearm frame or receiver;

(2) Any part defined as a machinegun, firearm muffler, or firearm silencer; or

(3) Any other part defined as a machinegun, or a muffler or silencer for the purposes of Part 179 which is **not a component part of a complete weapon** at the time it is to be sold or otherwise disposed of by the manufacturer, importer, or maker.

In addition, section 179.112(a) provides that within 15 days after release from Customs custody, the licensed importer shall:

1. Complete and forward the original copy of ATF Form 2;

2. Retain a copy of the Form 2 with the records required by Part 179;

3. Complete and forward ATF Form 6A as required by section 178.112; and

4. Place all required [179.102] identification on each imported firearm.

**Timely receipt of the Forms 2 and 6A by ATF will accomplish registration of the firearm to the importer.**

#### 16. NFA FIREARMS IN DECEDENT'S ESTATE

Possession of a National Firearms Act (NFA) firearm and not registered to the possessor is a violation of Federal law and the weapon is subject to seizure and forfeiture.

However, a reasonable time is allowed for transfer of **lawfully registered** firearms in a decedent's estate.

It is the responsibility of the executor or administrator of an estate to transfer firearms registered to a decedent. ATF Forms 5 are used in applying for the tax exempt transfer to anyone of an **unserviceable** firearm which is being transferred as a curio or ornament.

Forms 5 are also used to transfer a **serviceable** firearm tax exempt to a lawful heir or to a government entity. A lawful heir is anyone named in the decedent's will or, in the absence of a will, anyone entitled to inherit under the laws of the State in which the decedent last resided. If an heir is one of the prohibited categories of persons listed in the instructions accompanying the transfer application form, or if possession of the firearm is prohibited under State or local law in the area of residence of the transferee (the heir), the transfer application would be disapproved.

When a firearm is being transferred to an individual, whether an heir or someone else, the **transferee's fingerprints on FBI Forms FD-258 must accompany the transfer application**. Generally, a firearm may be approved for transfer directly interstate only to a Federal firearms licensee and special (occupational) taxpayer qualified to deal in the type firearm being transferred, or to a lawful heir.

ATF Forms 4 are used in applying for the taxpaid transfer of a serviceable firearm to anyone other than a lawful heir or a government entity. A check or money order in payment of the transfer tax must accompany the Form 4. The tax is \$200 on the transfer of any registered firearm except those in the "any other weapon" category, on which the transfer tax is \$5.

If the executor does not choose to transfer the decedent's registered firearms, the nearest ATF office should be contacted for assistance in arranging for abandonment of the firearms.

For further information, contact:

**BUREAU OF ALCOHOL, TOBACCO AND FIREARMS**

**NATIONAL FIREARMS ACT BRANCH  
WASHINGTON, DC 20226  
(202) 566-7371**

**17. FEDERAL EXCISE TAX  
[INTERNAL REVENUE SERVICE]:  
TAX INFORMATION FOR  
MANUFACTURERS OF FIREARMS,  
SHELLS, AND CARTRIDGES**

**A. INTRODUCTION**

A Federal excise tax is imposed by 26 U.S.C. 4181 on the sale of pistols and revolvers, other firearms, shells, and cartridges sold by firearms manufacturers, producers, and importers. In the case of importers, the tax attaches to the sale of used or antique firearms as well as to new firearms. An individual, who purchases a foreign-made firearm from a foreign producer in a transaction handled through a licensed importer, is treated as the importer and is subject to this tax.

The tax attaches only to the sale of complete firearms or firearms that, although in a knockdown condition, are complete as to all component parts.

The tax extends to sales of firearms produced from component parts by a dealer who engages in the business of assembling firearms in quantity for sale or distribution in interstate or foreign commerce. The dealer

must be licensed as a manufacturer of firearms under the Gun Control Act of 1968.

Firearms manufactured for their appeal as replicas, but which can be modified for actual firing, are subject to the tax. However, the tax does not apply to the sale of parts or accessories sold either separately or with a complete firearm for use as spare parts or accessories. For example, telescopic mounts, rubber recoil pads, rifle sights, and similar parts for rifles and shotguns are not taxable if they are sold separately or with complete firearms for use as spare parts or accessories.

**Firearms include** all portable weapons, such as rifles, carbines, machine guns, shotguns, and fowling pieces from which a shot, bullet, or projectile may be discharged by an explosive. Antique firearms are subject to the excise tax.

**Firearms do not include:**

1) Pistols designed solely for firing blank cartridges that are not capable of discharging a shot, bullet, or projectile of any type;

2) Air pistols and rifles that do not use an explosive to discharge projectiles; and

3) Spear guns for underwater deepsea fishing that are powered by rubber bands or rubber tubes rather than explosives.

**Pistols** include short barrel, small projectile firearms that have a short one-hand stock at an angle to the line of bore, and are designed, made and intended to be aimed and fired with one hand. The term does not include gadget devices, guns altered to resemble pistols, or small portable guns such as one-hand stock guns that fire shotgun or rifle ammunition.

**Revolvers** include pistol type, small projectile firearms with a breech-loading chambered cylinder so arranged that the cocking of the hammer or movement of the trigger rotates it and brings the next cartridge in line with the barrel for firing.

**Shells and cartridges** include all combinations of projectile, explosive, and container that are designed, assembled, and ready, without further manufacture, for use in portable firearms, including pistols and revolvers.

**Blank ammunition**, such as that used by sports officials to start races, is taxable if it is suitable for use with taxable firearms.

A manufacturer of firearms, shells, and cartridges is liable for the tax on shells and cartridges used in testing firearms or sold to other manufacturers of firearms for testing purposes.

**Reloading of used shells** or cartridges is considered a manufacturing operation. Sale of such shells by the reloader is subject to the excise tax. However, if the reloader merely reloads shells belonging to a customer and is paid for labor and materials, the reloading service is not a taxable sale, provided the reloader returns the identical shells furnished by the customer.

**Sales exempt from tax.** Sales to State and local Governments, certain sales for further manufacture sales for export, sales of certain supplies for vessels and airplanes,

and sales for the exclusive use of certain nonprofit educational organizations are exempt from the excise tax. Requirements concerning the registration of sellers and purchasers, and information and instructions that apply to these exempt transactions and others that may be exempt from the tax, are available from your Internal Revenue office.

**B. COMPUTATION OF TAX**

The manufacturer, producer, or importer of firearms, shells, and cartridges is liable for the manufacturers excise tax, which applies to the sale price of the article sold.

The **tax rate** is 10% of the sale price for pistols and revolvers, 11% for firearms other than pistols and revolvers, and 11% for shells and cartridges.

The **sale price** of an article, for excise tax purposes, includes any charge for coverings or containers, regardless of their nature, and any charge incident to placing the article in condition packed ready for shipment.

The **manufacturers excise tax** itself is excluded from the taxable sale price, whether or not it is stated as a separate charge.

The **cost of transportation**, delivery, insurance, installation, and other charges incurred in placing the article in the hands of the purchaser may be excluded from the sale price. However, when excluding such charges, the seller must be able to substantiate them with adequate records.

**Discounts, rebates**, and similar allowances actually granted to the purchaser also may result in adjustment of the taxable sale price.

**Constructive sale price.** If the manufacturer, producer, or importer sells an article at retail, the tax is based on the lower of:

1) The price for which that article is sold; or

2) The highest price for which those articles are sold to wholesale distributors, in the ordinary course of trade, by manufacturers or producers, as determined by the Internal Revenue Service.

**Note:** If articles are on consignment, or if articles are sold at less than the fair market value in a transaction that is not at arm's length, the tax is based on the price at which manufacturers and producers sell such articles in the ordinary course of trade.

**When tax attaches.** Generally the manufacturers excise tax attaches when title to the article passes from the seller to the purchaser. In most instances, this occurs upon delivery of the article to the customer. However, the specific terms of the sales contract and attendant facts and circumstances ultimately control when title passes.

**C. FILING REQUIREMENTS**

If you are required to pay the manufacturers excise tax on firearms, shells, or cartridges, you must file quarterly returns on Form 720, Quarterly Federal Excise Tax Return.

**You must file a return** for each quarter whether or not you incur any liability in the quarter. If you do not, your District Director of

Internal Revenue may require you to file Form 720 monthly instead of quarterly.

If you overpay the excise tax on any quarterly return, you may request that the overpayment be applied as a credit on your next Form 720 or you may check the appropriate box on line 8 of Form 720 if you prefer to have the overpayment refunded to you.

Your records should be maintained at your principal place of business or some other convenient location. They must be accurate for all transactions, and should include duplicate copies of Form 720 previously filed.

Quarterly returns must be filed on or before the following due dates:

QUARTER COVERED	DUE DATE
January, February, March.....	April 30
April, May, June.....	July 31
July, August, September.....	October 31
October, November, December.....	January 31

However, if your return is accompanied by depositary receipts showing timely deposits in full payment of the taxes due for the entire calendar quarter, your return may be filed on or before the 10th day of the 2nd month following the quarter for which the return is prepared.

**D. DEPOSIT REQUIREMENTS**

Monthly deposits. If in any month, except the last month of a calendar quarter, you are liable for more than \$100 of taxes reportable on Form 720, you must deposit those

taxes on or before the last day of the month following the one in which the liability is incurred. This deposit must be made with a Federal Reserve Bank or a commercial bank authorized to receive Federal tax deposits.

**Semimonthly deposits.** If you have more than \$2,000 in excise tax liability for any month of a calendar quarter, your taxes for the following calendar quarter (regardless of amount) must be deposited on a semimonthly basis.

**Special requirement.** If, when you compute your excise tax liability for the quarter, your tax liability exceeds the deposits you have made for that quarter by more than \$100, you must deposit the entire balance due. If the excess is \$100 or less, you may deposit the balance due or pay it when you file the quarterly Form 720.

**Deposit Form.** Each deposit of excise tax must be accompanied by Form 504, Federal Tax Deposit, Excise Taxes. The Government furnishes this form and will mail you a supply each quarter. When you make a deposit, write the amount of the deposit on the form, and the amount, date, and check number on the stub, which you should detach and keep for your records.

**E. ADDRESS LISTING OF INTERNAL REVENUE SERVICE CENTERS**

Find the State or county in which your principal place of business, office or agency (or legal residence, if you have no principal

place of business, office or agency in the United States) is located on the following list. The address of your Internal Revenue Service Center will appear in the corresponding right-hand column.

Location of Applicant's Business	Internal Revenue Service Center
New Jersey, New York City and counties of Nassau, Rockland, Suffolk, and Westchester	Holtsville, NY 00501
New York (all other counties), Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	Andover, MA 05501
District of Columbia, Delaware, Maryland, Pennsylvania	Philadelphia, PA 19255
Alabama, Florida, Georgia, Mississippi, South Carolina	Atlanta, GA 31101
Michigan, Ohio	Cincinnati, OH 45999
Arkansas, Kansas, Louisiana, New Mexico, Oklahoma, Texas	Austin, TX 73301
Alaska, Arizona, Colorado, Idaho, Minnesota, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming	Ogden UT 84201
Illinois, Iowa, Missouri, Wisconsin	Kansas City, MO 64999
California, Hawaii	Fresno, CA 93888
Indiana, Kentucky, North Carolina, Tennessee, Virginia, West Virginia	Memphis, TN 37501