

# QUESTIONS & ANSWERS

## TABLE OF CONTENTS

<b>A. GENERAL QUESTIONS .....</b>	<b>175</b>
1. Businesses subject to regulation.....	175
2. Federal license or permit to carry.....	175
3. Antiques.....	175
4. Ammunition covered by the GCA.....	175
5. Sale of firearms parts .....	175
6. Making of firearms.....	175
7. Relief from firearms disabilities .....	175
8. Alternatives to relief.....	175
<b>B. UNLICENSED PERSONS .....</b>	<b>175</b>
1. Transfers of firearms .....	175
2. Acquisition of firearms .....	175
3. Out-of-State purchases of firearms .....	176
4. Out-of-State purchases of ammunition .....	176
5. Prohibited persons .....	176
6. Law enforcement officers subject to restraining orders .....	176
7. Mailing firearms through the U.S. Postal Service .....	176
8. Shipment of firearms by common/contract carriers .....	176
9. Interstate shipment of firearms for sporting purposes.....	176
10. Transporting firearms interstate as part of a move .....	177
11. Residency—general.....	177
12. Residency in more than one State.....	177
13. Firearm purchases by legal aliens .....	177
14. Juveniles obtaining firearms .....	177
15. Curio or relic firearms.....	177
16. Recordkeeping for private firearms transactions .....	177
17. Potato guns .....	177
<b>C. LICENSING.....</b>	<b>178</b>
1. Licensing eligibility.....	178
2. Application procedure .....	178
3. Locations covered by license .....	178
4. Dual licensing .....	178
5. Operations after expiration .....	178
6. Surrender of records .....	178
7. What records are to be surrendered .....	178
8. Successor owner—need for license.....	179
9. FFL does not provide a State right/privilege to carry .....	179
10. License to deal at gun shows.....	179
11. Change in location.....	179
12. Sales of black powder .....	179

<b>D. ATF FORM 4473—FIREARMS TRANSACTION RECORD .....</b>	<b>179</b>
1. Form 4473 availability .....	179
2. Private sales .....	179
3. Dealer transferring to himself .....	179
4. Who signs the Form 4473 for the seller .....	179
5. Means of identification .....	179
6. Form 4473—when signed .....	179
<b>E. RECORDS REQUIRED—LICENSEES .....</b>	<b>179</b>
1. Bound book .....	179
2. Multiple bound books .....	179
3. Bound book—availability .....	179
4. Approved variances.....	179
5. Time for entries into bound book .....	180
6. Ammunition .....	180
7. Rental firearms .....	180
8. Sale of personal firearms .....	180
9. Computer records .....	180
<b>F. CONDUCT OF BUSINESS—LICENSEES .....</b>	<b>180</b>
1. Compliance with State and local laws .....	180
2. Sales to out-of-State nonlicensees .....	180
3. Out-of-State sales to law enforcement.....	180
4. Employees under age 21 .....	180
5. Handguns—reporting multiple sales .....	180
6. Firearm and ammunition purchasers—age requirements .....	181
7. “Interchangeable” ammunition purchasers—age requirements .....	181
8. Verification—licensees' status .....	181
9. Verification—multi-licensed entity .....	181
10. Deliveries after license expiration .....	181
11. License to sell ammunition .....	181
12. Sales at gun shows .....	181
13. Sales at out-of-State gun shows .....	181
14. Mailing firearms through the U.S. Postal Service .....	181
15. Consignment sales .....	181
16. Reporting stolen firearms .....	182
17. Stolen firearms—records .....	182
18. Distribution of multiple sale forms .....	182
19. Responses to trace requests .....	182
20. Written notification on juvenile handgun possession .....	182
21. Posting signs on juvenile handgun possession .....	182
<b>G. COLLECTORS .....</b>	<b>182</b>
1. Collector's license .....	182
2. Collector's license limitations .....	182

3. Collector cannot engage in business .....	182
4. Dealer's need for collector's license .....	182
5. Form 4473 .....	182
6. Brady law .....	182
7. Notification and posting signs concerning juvenile handgun possession .....	182
8. Surrender of records .....	183
<b>H. MANUFACTURERS .....</b>	<b>183</b>
1. Import business not covered by manufacturer's license .....	183
2. Firearms not covered by ammunition manufacturer's license .....	183
3. Ammunition covered by firearms manufacturer's license .....	183
4. Reloaders of ammunition .....	183
5. Excise taxes .....	183
<b>I. GUNSMITHS .....</b>	<b>183</b>
1. Activity requires license .....	183
2. Records .....	183
3. Form 4473 .....	183
4. Immediate repairs .....	183
5. NFA weapon repair .....	183
6. Notification and posting signs concerning juvenile handgun possession .....	183
7. Brady law .....	183
<b>J. PAWNBROKERS .....</b>	<b>183</b>
1. Disposition records .....	183
2. Form 4473 .....	184
3. Prohibited categories of persons .....	184
4. Notification and posting signs concerning juvenile handgun possession .....	184
5. Brady law .....	184
<b>K. AUCTIONEERS .....</b>	<b>184</b>
1. License requirements .....	184
2. Location of sales .....	184
<b>L. IMPORTING AND EXPORTING .....</b>	<b>185</b>
1. Importation by licensed dealers .....	185
2. Exportation .....	185
3. Regulation of gas masks .....	185
4. Resale of imported gas masks .....	185
<b>M. FIREARMS—NATIONAL FIREARMS ACT (NFA) .....</b>	<b>185</b>
1. Firearms requiring registration .....	185
2. Lawful acquisitions .....	185
3. Tax on making .....	185
4. Paying tax on making .....	185
5. Unserviceable NFA firearms .....	185

6. NFA firearms acquired by police .....	186
7. Unregistered NFA firearms .....	186
8. Penalties for unlawful possession .....	186
9. Disposal of unregistered firearm .....	186
10. Exemptions from making/transfer tax .....	186
11. How to qualify to import/manufacture/deal .....	186
12. Payment—special (occupational) tax .....	186
13. Special tax generally required for each activity.....	186
14. Licensed collector—NFA firearms .....	186
15. Required transfer procedures .....	186
16. Authorization to make .....	187
17. Conversion part(s) subject to registration .....	187
18. Acceptable “law enforcement certifications” .....	187
19. Absence of duty to sign “law enforcement certification” .....	187
20. Refusal to sign “law enforcement certification” .....	187
21. Approval to transfer interstate—when required .....	187
22. Disapproved application to transfer interstate—options .....	187
23. Application to transfer prior to receipt not allowed .....	188
24. Pistol and attachable shoulder stock .....	188
25. Evidence of registration required .....	188
26. Status—unloaded grenades, shell casings, etc. ....	188
27. Status—muzzle-loading cannons .....	188
28. Status—grenade and rocket launcher attachments .....	188
29. Definition of “conversion kit” .....	188
30. Paintball and/or airgun sound suppressors.....	188
<b>N. MACHINE GUNS—NATIONAL FIREARMS ACT (NFA) .....</b>	<b>188</b>
1. Manufacture by unlicensed person .....	188
2. Transfers by registered owners .....	188
<b>O. SEMIAUTOMATIC ASSAULT WEAPONS AND LARGE CAPACITY AMMUNITION</b>	
<b>FEEDING DEVICES (SAWs and LCAFDs) .....</b>	<b>188</b>
1. Definition of the semiautomatic assault weapon (SAW) ban.....	188
2. Duration of SAW ban .....	188
3. Definition of the Large Capacity Ammunition Feeding Device (LCAFD) ban .....	188
4. Duration of LCAFD ban .....	188
5. Records maintenance .....	189
6. Sale of SAWs and LCAFDs to civilians.....	189
7. Importation.....	189
8. Firearm assembly from imported parts .....	189
9. NFA weapons.....	189
10. Tribal law enforcement entities .....	189
11. State law .....	189
<b>P. BRADY LAW .....</b>	<b>189</b>
1. Persons who must comply .....	189
2. Effective date of permanent Brady law .....	189

3. FBI operates NICS .....	189
4. Agencies that perform NICS checks .....	189
5. States as points of contact for NICS checks .....	189
6. How to find out if you are in a point of contact State .....	189
7. Charge for NICS checks .....	190
8. Enrolling with FBI for access to NICS .....	190
9. Firearms subject to NICS checks .....	190
10. Antique firearms .....	190
11. Transfers between licensees .....	190
12. Transfers of curios or relics by licensed collectors .....	190
13. Transfers by licensed dealers to licensed collectors .....	190
14. Licensees' sales of personal firearms .....	190
15. Loan or rental of firearms .....	190
16. FFL sales at gun shows .....	190
17. Redemption of pawned firearms .....	190
18. Pawnbroker's disposition of pawned firearm when transfer "denied" .....	190
19. Repeated pawn of same firearm .....	190
20. NICS checks prior to accepting firearms in pawn .....	190
21. Completion of Form 4473 on pre-pawn NICS check .....	190
22. Action of pawnbroker when pre-pawn NICS check results in "denial" .....	190
23. Action of pawnbroker when pre-pawn NICS check results in "approval" .....	190
24. Return of repaired firearm; transfer of replacement firearm .....	191
25. Return of consignment firearm .....	191
26. Sales to law enforcement officers for official use .....	191
27. Sales to law enforcement officers for personal use .....	191
28. Exceptions to requirement to initiate NICS check .....	191
29. Required steps prior to firearm transfer .....	191
30. Identification of purchaser .....	191
31. Non-over-the-counter sales subject to NICS .....	191
32. Non-over-the-counter sales not subject to NICS .....	191
33. Social security numbers on Form 4473 .....	192
34. NICS "proceed," "denied," "delayed" responses .....	192
35. "Business day" for purposes of Brady law .....	192
36. Transfer of firearm after "delayed" NICS response .....	192
37. Action of licensee after "denied" NICS response .....	192
38. Advice by licensee to proposed transferee denied by NICS .....	192
39. How proposed transferee may learn of reasons for "denied" NICS response .....	192
40. Recording NICS responses on Form 4473 .....	192
41. Action by licensee when no transaction number is provided .....	192
42. Keeping Form 4473 when proposed transfer does not occur.....	192
43. When to contact NICS .....	192
44. Period of time a NICS check is valid .....	192
45. When the period of validity of NICS check begins to run .....	193
46. Orders for custom-made firearms .....	193
47. Multiple firearms transactions .....	193
48. When transfer may be made if NICS response is "proceed" or "delayed" .....	193

49. State instant or point of sale checks as alternatives to NICS .....	193
50. NICS checks after successful appeal of NICS “denial” .....	193
51. How licensees know whether a permit is an alternative to NICS check. ....	193
52. NICS alternative permits not covering type of firearm being purchased .....	193
53. NICS alternative permits only valid in State of issuance .....	194
54. NICS alternative permits must be valid under State law .....	194
55. State instant check systems .....	194
56. NICS “proceed” response and State waiting periods .....	194
57. Compliance with Federal and State waiting periods .....	194
58. NICS checks for transfers to personal collections .....	194
59. NICS checks for NFA firearms .....	194
60. Raffleing firearms at organizational events .....	194
<b>Q. MISDEMEANOR CRIME OF DOMESTIC VIOLENCE .....</b>	<b>195</b>
1. Definition of misdemeanor crime of domestic violence .....	195
2. Effective date of disability .....	195
3. Constitutionality of disability .....	195
4. No requirement to be called a “domestic violence” offense .....	195
5. Example of conviction before effective date .....	195
6. Applicable law to determine if “convicted” .....	195
7. What State and local offenses are misdemeanors .....	195
8. Convictions of local criminal ordinances .....	196
9. Relationship not required “element” of predicate crime .....	196
10. Effect of deferred adjudication .....	196
11. Action by convicted licensees .....	196
12. Action by convicted individuals .....	196
13. Application to law enforcement officers .....	196
14. Pardons, expungements, set asides, and civil rights restoration .....	196
<b>R. NONIMMIGRANT ALIENS .....</b>	<b>196</b>
1. Purchase and possession of firearms and ammunition .....	196
2. Definition of “nonimmigrant aliens” .....	196
3. Waiver .....	197
4. Concealed weapons permit .....	197
5. Definition of alien or admission number .....	197
6. Pre-1998 acquisition of firearms and ammunition.....	197
7. Permanent resident aliens (“green card” holders) .....	197
8. Use of a State hunting license to claim exemption in a different State .....	197
9. Purchasing firearms in U.S. to take to home country using hunting license and alien/admission number .....	197
10. Purchasing firearms in U.S. to take to home country without hunting license or alien/admission number .....	197
11. Canadians and alien/admission number.....	197
12. Getting an alien/admission number once you already are in the U.S. ....	197
13. Temporary import permits for hunting and other lawful sporting purposes .....	198
14. Required forms for temporary import for hunting or other lawful sporting purposes .....	198
15. Necessity for Form 6 NIA .....	198
16. Documentation required to accompany Form 6 NIA applications.....	198
17. Documentation required upon entry to U.S.....	198

18. Documentation required upon entry to U.S. (Part 2).....	198
19. Approval time for Form 6 NIA applications.....	198
20. Number of firearms/ammunition that can be listed on Form 6 NIA.....	199
21. Who may fill out and submit a Form 6 NIA application .....	199
22. Submission of Form 6 NIA applications via facsimile (fax) .....	199
23. ATF Form 6A .....	199
24. Multiple hunting trips to U.S. in the same year .....	199
25. Multiple competitive U.S. sporting events in same year .....	199
26. Individual Form 6 NIA applications for group hunting trip .....	199
27. Finding out if a U.S. sporting event qualifies for import permit exception.....	199
28. Import permit requirements for antique firearms .....	199
29. Restrictions on types of firearms that may be temporarily imported for hunting or shooting competitions in U.S. ....	199
30. Leaving firearms with relatives in the U.S. after receiving a temporary import permit .....	199
31. Leaving firearms with an FFL in the U.S. after receiving a temporary import permit.....	200
32. No export permit required after receiving temporary import permit .....	200
33. Renting firearms while in the U.S. for sporting purposes .....	200
34. Temporary import permit requirements for U.S. citizens living abroad .....	200
35. Canadian citizens traveling through the U.S. to get to another part of Canada .....	200
36. Permit requirements for returning to the U.S. with firearms legally purchased in the U.S. ....	200
37. Import permit requirements for Canadian law enforcement officers attending U.S. sporting competitions .....	200

## 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, Firearms and Explosives (ATF) of the Department of Justice, contains Federal licensing standards for various firearms businesses (manufacturers, importers, and dealers). An example of these standards is that the applicant must have a business premises.

[18 U.S.C. 923(d), 27 CFR 478.47]

### (A2) Does the Federal Government issue a license or permit to carry a concealed weapon?

No. Neither ATF nor any other Federal agency issues such a permit or license. Carrying permits may be issued by a State or local government.

### (A3) Do antique firearms come within the purview of the GCA?

No.

[18 U.S.C. 921(a)(3) and (16), 27 CFR 478.11 and 478.141(d)]

### (A4) What kinds of ammunition are covered by the GCA?

Ammunition includes cartridge cases, primers, bullets or propellant powder designed for use in any firearm other than an antique firearm. Items **NOT** covered include blank ammunition, tear gas ammunition, pellets and nonmetallic shotgun hulls 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. A license is not required for dealers in ammunition only.

[18 U.S.C. 921(a)(17) and 922(b)(5), 27 CFR 478.11 and 478.125]

### (A5) Does the GCA control the sale of firearms parts?

No, except that frames or receivers of firearms are "firearms" as defined in the law and subject to the same controls as complete firearms. Silencer parts are also firearms under the GCA, as well as under the National Firearms Act (NFA). Certain ma-

chinegun parts, such as conversion parts or kits, are also subject to the NFA.

[18 U.S.C. 921(a)(3) and (24), 26 U.S.C. 5845, 27 CFR 478.11 and 479.11]

### (A6) Does the GCA prohibit anyone from making a handgun, shotgun or rifle?

With certain exceptions a firearm may be made by a nonlicensee provided it is not for sale and the maker is not prohibited from possessing firearms. However, a person is prohibited from assembling a nonsporting semi-automatic rifle or nonsporting shotgun from imported parts. In addition, the making of an NFA firearm requires a tax payment and approval by ATF. An application to make a machinegun will not be approved unless documentation is submitted showing that the firearm is being made for a Federal or State agency.

[18 U.S.C. 922(o) and (r), 26 U.S.C. 5822, 27 CFR 478.39, 479.62 and 479.105]

### (A7) How can a person apply for relief from Federal firearms disabilities?

Under the provisions of the Gun Control Act of 1968 (GCA), convicted felons and certain other persons are prohibited from possessing or receiving firearms. The GCA provides the Attorney General with the authority to grant relief from this disability where the Attorney General determines that the person is not likely to act in a manner dangerous to the public safety and granting relief would not be contrary to the public interest. The Attorney General delegated this authority to ATF.

Since October 1992, however, ATF's annual appropriation has prohibited the expending of any funds to investigate or act upon applications for relief from Federal firearms disabilities submitted by individuals. As long as this provision is included in current ATF appropriations, the Bureau cannot act upon applications for relief from Federal firearms disabilities submitted by individuals.

[18 U.S.C. 922(g), 922(n) and 925(c)]

### (A8) Are there any alternatives for relief from firearms disabilities?

A person is not considered convicted for Gun Control Act purposes if he has been pardoned, had his civil

rights restored, or the conviction was expunged or set aside, unless the pardon, expungement, or restoration expressly provides the person may not ship, transport, possess, or receive firearms.

Persons convicted of a Federal offense may apply for a Presidential pardon. 28 CFR 1.1-1.10 specify the rules governing petitions for obtaining Presidential pardons. You may contact the Pardon Attorney's Office at the U.S. Department of Justice, 500 First Street, N.W., Washington, DC 20530, to inquire about the procedures for obtaining a Presidential pardon.

Persons convicted of a State offense may contact the State Attorney General's Office within the State in which they reside and the State of their conviction for information concerning any alternatives that may be available, such as pardons and civil rights restoration.

[18 U.S.C. 921(a)(20) and (a)(33)]

## B. UNLICENSED PERSONS

### (B1) To whom may an unlicensed person transfer firearms under the GCA?

A person may sell a firearm to an unlicensed resident of his State, if he does not know or have reasonable cause to believe the person is prohibited from receiving or possessing firearms under Federal law. A person may loan or rent a firearm to a resident of any State for temporary use for lawful sporting purposes, if he does not know or have reasonable cause to believe the person is prohibited from receiving or possessing firearms under Federal law. A person may sell or transfer a firearm to a licensee in any State. However, a firearm other than a curio or relic may not be transferred interstate to a licensed collector.

[18 U.S.C. 922(a)(3) and (5), 922(d), 27 CFR 478.29 and 478.30]

### (B2) From whom may an unlicensed person acquire a firearm under the GCA?

A person may only acquire a firearm within the person's own State, except that he or she may purchase or otherwise acquire a rifle or shotgun, in person, at a licensee's premises in any State, provided the sale complies with State laws applicable in



the State of sale and the State where the purchaser resides. A person may borrow or rent a firearm in any State for temporary use for lawful sporting purposes.

[18 U.S.C 922(a)(3) and (5), 922(b)(3), 27 CFR 478.29 and 478.30]

**(B3) May an unlicensed person obtain a firearm from an out-of-State source if the person arranges to obtain the firearm through a licensed dealer in the purchaser's own State?**

A person not licensed under the GCA and not prohibited from acquiring firearms may purchase a firearm from an out-of-State source and obtain the firearm if an arrangement is made with a licensed dealer in the purchaser's State of residence for the purchaser to obtain the firearm from the dealer.

[18 U.S.C 922(a)(3) and 922(b)(3)]

**(B4) May an unlicensed person obtain ammunition from an out-of-State source?**

Yes, provided he or she is not a person prohibited from possessing or receiving ammunition.

[18 U.S.C. 922(g) and (n)]

**(B5) Are there certain persons who cannot legally receive or possess firearms and/or ammunition?**

Yes, a person 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;

(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 or an alien admitted to the United States under a nonimmigrant visa;

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

(7) Having been a citizen of the United States, has renounced his or her citizenship;

(8) Is subject to a court order that restrains the person from harassing, stalking, or threatening an intimate partner or child of such intimate partner; or

(9) Has been convicted of a misdemeanor crime of domestic violence

cannot lawfully receive, possess, ship, or transport a firearm.

A person who is under indictment or information for a crime punishable by imprisonment for a term exceeding 1 year cannot lawfully receive a firearm. Such person may continue to lawfully possess firearms obtained prior to the indictment or information.

[18 U.S.C. 922(g) and (n), 27 CFR 478.32]

**(B6) Do law enforcement officers who are subject to restraining orders and who receive and possess firearms for purposes of carrying out their official duties violate the law?**

Not if the firearms are received and possessed for official use only.

The law prohibits persons subject to certain restraining orders from receiving, shipping, transporting or possessing firearms or ammunition. To be disabling, the restraining order must:

1. specifically restrain the person from harassing, stalking, or threatening an "intimate partner" of the person (e.g., spouse);

2. be issued after a hearing of which notice was given to the person and at which the person had an opportunity to participate; and

3. include a finding that the person subject to the order represents a credible threat to the "intimate partner" or child of the "intimate partner" OR explicitly prohibits the use, attempted use, or threatened use of force against the partner.

However, the GCA has an exception for the receipt and possession of firearms and ammunition on behalf of a Federal or State agency. Therefore, the GCA does not prohibit a law enforcement officer under a restraining order from receiving or possessing firearms or ammunition for use in performing official duties. Possession of the firearm for official purposes while off duty would be lawful if such possession is required or authorized

by law or by official departmental policy. An officer subject to a disabling restraining order would violate the law if the officer received or possessed a firearm or ammunition for other than official use. (See Question Q13 on officers' receipt and possession of firearms and ammunition after a conviction of a misdemeanor crime of domestic violence. The government exception does not apply to such convictions.)

[18 U.S.C. 921(a)(32), 922(g)(8) and 925(a)(1)]

**(B7) May a nonlicensee ship a firearm through the U.S. Postal Service?**

A nonlicensee may not transfer a firearm to a nonlicensed resident of another State. A nonlicensee may mail a shotgun or rifle to a resident of his or her own State or to a licensee in any State. The Postal Service recommends that long guns 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. Handguns are not mailable. A common or contract carrier must be used to ship a handgun.

[18 U.S.C. 1715, 922(a)(3), 922(a)(5) and 922 (a)(2)(A)]

**(B8) May a nonlicensee ship a firearm by common or contract carrier?**

A nonlicensee may ship a firearm by a common or contract carrier to a resident of his or her own State or to a licensee in any State. A common or contract carrier must be used to ship a handgun. In addition, Federal law requires that the carrier be notified that the shipment contains a firearm and prohibits common or contract carriers from requiring or causing any label to be placed on any package indicating that it contains a firearm.

[18 U.S.C. 922(a)(2)(A), 922(a) (3), 922(a)(5) and 922(e), 27 CFR 478.31 and 478.30]

**(B9) May a nonlicensee ship firearms interstate for his or her use in hunting or other lawful activity?**

Yes. A person may ship a firearm to himself or herself in care of another person in the State where he or she intends to hunt or engage in any other lawful activity. The package should be addressed to the owner. Persons other than the owner should not open

the package and take possession of the firearm.

**(B10) May a person who is relocating out-of-State move firearms with other household goods?**

Yes. A person who lawfully possesses a firearm may transport or ship the firearm interstate when changing his or her State of residence.

Certain NFA firearms must have prior approval from the Bureau of ATF before they may be moved interstate. The person must notify the mover that firearms are being transported. He or she should also check State and local laws where relocating to ensure that movement of firearms into the new State does not violate any State law or local ordinance.

[18 U.S.C. 922(a)(4) and 922(e), 27 CFR 478.28 and 478.31]

**(B11) What constitutes residency in a State?**

The State of residence is the State in which an individual is present; the individual also must have an intention of making a home in that State. A member of the Armed Forces on active duty is a resident of the State in which his or her permanent duty station is located. If a member of the Armed Forces maintains a home in one State and the member's permanent duty station is in a nearby State to which he or she commutes each day, then the member has two States of residence and may purchase a firearm in either the State where the duty station is located or the State where the home is maintained. An alien who is legally in the United States is considered to be a resident of a State only if the alien is residing in that State and has resided in that State continuously for a period of at least 90 days prior to the date of sale of the firearm. See also **Item 5**, "Sales to Aliens in the United States", in the General Information section of this publication.

[18 U.S.C. 921(b), 922(a) (3), and 922(b)(3), 27 CFR 478.11]

**(B12) May a person (who is not an alien) who resides in one State and owns property in another State purchase a handgun in either State?**

If a person maintains a home in 2 States and resides in both States for

certain periods of the year, he or she may, during the period of time the person actually resides in a particular State, purchase a handgun in that State. However, simply owning property in another State does not qualify the person to purchase a handgun in that State.

[27 CFR 478.11]

**(B13) May aliens legally in the United States buy firearms?**

An alien legally in the U.S. may acquire firearms if he has a State of residence. An alien has a State of residence only if he is residing in that State and has resided in a State continuously for at least 90 days prior to the purchase. An alien acquiring firearms from a licensee is required to prove both his identity, by presenting a government-issued photo identification, and his residency with substantiating documentation showing that he has resided in the State continuously for the 90-day period prior to the purchase. Examples of qualifying documentation to prove residency include: utility bills, lease agreements, credit card statements, and pay stubs from the purchaser's place of employment, if such documents include residential addresses.

See also **Item 5**, "Sales to Aliens in the United States," in the General Information section of this publication.

[18 U.S.C. 921, 922(b)(3), (d) and (g), 27 CFR 478.11 and 478.99(a)]

**(B14) May a parent or guardian purchase firearms or ammunition as a gift for a juvenile (less than 18 years of age)?**

Yes. However, possession of handguns by juveniles (less than 18 years of age) is generally unlawful. Juveniles generally may only receive and possess handguns with the written permission of a parent or guardian for limited purposes, e.g., employment, ranching, farming, target practice or hunting.

[18 U.S.C. 922(x)]

**(B15) Are curio or relic firearms exempt from the provisions of the GCA?**

No. Curios or relics are still firearms subject to the provisions of the GCA; however, curio or relic firearms may be transferred in interstate com

merce to licensed collectors or other licensees.

**(B16) What recordkeeping procedures should be followed when two private individuals want to engage in a firearms transaction?**

When a transaction takes place between private (unlicensed) persons who reside in the same State, the Gun Control Act (GCA) does not require any record keeping. A private person may sell a firearm to another private individual in his or her State of residence and, similarly, a private individual may buy a firearm from another private person who resides in the same State. It is not necessary under Federal law for a Federal firearms licensee (FFL) to assist in the sale or transfer when the buyer and seller are "same-State" residents. Of course, the transferor/seller may not knowingly transfer a firearm to someone who falls within any of the categories of prohibited persons contained in the GCA. See 18 U.S.C. §§ 922(g) and (n). However, as stated above, there are no GCA-required records to be completed by either party to the transfer.

There may be State or local laws or regulations that govern this type of transaction. Contact State Police units or the office of your State Attorney General for information on any such requirements.

Please note that if a private person wants to obtain a firearm from a private person who resides in another State, the firearm will have to be shipped to an FFL in the buyer's State. The FFL will be responsible for record keeping. See also Question **B3**.

**(B17) How do I obtain a classification from ATF for my "potato gun"?**

Any person desiring a classification of a "potato gun," "spud gun" or similar device must submit a written request (not e-mail) to the Director and include a complete and accurate description of the device, the name and address of the manufacturer or importer, the purpose for which it is intended, and such photographs, diagrams, or drawings as may be necessary to make a classification. A final determination may require physical examination of the device. Such requests for classification should be submitted to: Bureau of ATF, Firearms Technology Branch.

## C. LICENSING

### (C1) Who can get a license?

ATF will approve the application if the applicant:

- Is 21 years or more of age;
- Is not prohibited from shipping, transporting, receiving or possessing firearms or ammunition;
- Has not willfully violated the GCA or its regulations;
- Has not willfully failed to disclose material information or willfully made false statements concerning material facts in connection with his application;
- Has premises for conducting business or collecting; and
- The applicant certifies that:

(1) the business to be conducted under the license is not prohibited by State or local law in the place where the licensed premises is located;

(2) within 30 days after the application is approved the business will comply with the requirements of State and local law applicable to the conduct of the business;

(3) the business will not be conducted under the license until the requirements of State and local law applicable to the business have been met;

(4) the applicant has sent or delivered a form to the chief law enforcement officer where the premises is located notifying the officer that the applicant intends to apply for a license; and

(5) secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees ("secure gun storage or safety device" is defined in 18 U.S.C. 921(a)(34)).

[18 U.S.C. 923(d)(1), 27 CFR 478.47(b)]

### (C2) How does one get a license?

Submit ATF Form 7, Application for License, or ATF Form 7CR, Application for License (Collector of Curios or Relics), with the appropriate fee in accordance with the instructions on the form to ATF. These forms may be

obtained from the Federal Firearms Licensing Center or your local ATF office.

[18 U.S.C. 923, 27 CFR 478.44 and 478.45]

### (C3) May one license cover several locations?

No. A separate license must be obtained for each location. However, storage facilities are not required to be covered by a separate license, although the records maintained on licensed premises must reflect all firearms held in the separate storage facility. Firearms may be shipped directly to separate storage facilities as long as they are properly recorded as an acquisition in the licensee's records.

[27 CFR 478.50]

### (C4) Does an importer or manufacturer of firearms also need a dealer's license?

No, as long as the importer or manufacturer is engaged in the business of dealing in firearms at the licensed premises in the same type of firearms authorized by the importer's or manufacturer's license.

[27 CFR 478.41(b)]

### (C5) If a person timely files an application for renewal of a license and the present license expires prior to receipt of the new license, may the person continue to conduct the business covered by the expired license?

Yes. A person who timely files an application for renewal of a license may continue operations authorized by the expired license until the application is finally acted upon. An application is timely filed when it is received accurate and completed at the P.O. Box listed on the application form with the appropriate renewal fee.

If a person does not timely file a license renewal application and the license expires, the person must file ATF Form 7, Application for License, or an ATF Form 7CR, Application for License (Collector of Curios or Relics), as required by 27 CFR 478.44, submit the application fee applicable to a new business, and obtain the required license before continuing business activity.

[27 CFR 478.45]

### (C6) Must a licensed importer's, manufacturer's, or dealer's records be surrendered to ATF if the licensee discontinues business?

If the business is being discontinued completely, the licensed dealer, manufacturer or importer is required, within 30 days, to forward the business records to the following address:

BUREAU OF ATF  
ATF OUT-OF-BUSINESS RECORDS  
CENTER  
244 NEEDY ROAD  
MARTINSBURG, WV 24501

Failure to surrender required records is a felony and could result in the licensee being fined up to \$250,000, imprisoned up to 5 years, or both. A licensee discontinuing business also must notify the Federal Firearms Licensing Center within 30 days.

If someone is taking over the business, the original licensee should underline the final entry in each bound book, note the date of transfer, and forward all records and forms to the successor (who must apply for and receive his or her own license before lawfully engaging in business) or forward the records and forms to the ATF Out-of-Business Records Center. If the successor licensee receives records and forms from the original licensee, the successor licensee may choose to forward these records and forms to the ATF Out-of-Business Record Center.

[18 U. S. C. 923(g)(4), 22 CFR 478.57, 27 CFR 478.127]

### (C7) What records am I required to forward to ATF upon discontinuance of my business?

The records consist of the licensee's bound acquisition/disposition (A/D) records, ATF Forms 4473, ATF Forms 3310.4 (Report of Multiple Sale or Other Disposition of Pistols and Revolvers), ATF Forms 3310.11 (Federal Firearms Licensee Theft/Loss Report), records of transactions in semiautomatic assault weapons, records of importation (ATF Forms 6 and 6A), and law enforcement certification letters. If the licensee was granted a variance to use a computerized recordkeeping system, the licensee is required to provide a complete printout of the entire A/D records.

[27 CFR 478.127]

**(C8) May a successor owner of a business entity, other than one who is a successor under the provisions of 27 CFR 478.56 (for example, the surviving spouse or child, or a receiver or trustee in bankruptcy), commence a firearms business prior to receiving a Federal firearms license in the successor's 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.

[27 CFR 478.41]

**(C9) Does a Federal firearms license allow the licensee to carry a firearm in the course of business?**

No. A Federal firearms license confers no right or privilege to carry a firearm, concealed or otherwise. Permits to carry are issued by State or local authorities.

**(C10) May a person obtain a dealer's license to engage in business only at gun shows?**

No. A license may only be issued for a permanent premises at which the license applicant intends to do business. A person having such license may conduct business at gun shows located in the State in which the licensed premises is located and sell and deliver curio or relic firearms to other licensees at any location.

[18 U.S.C. 923(a) and (j)]

**(C11) May a licensee change the location of the licensed business or activity?**

To change your location, you must file an application for an amended license, ATF Form 5300.38, not less than 30 days prior to the move. You must obtain the amended license before commencing business at the new location. The application for an amended license includes a certification of compliance with State and local laws and notification of local law enforcement officials.

[27 CFR 478.52]

**(C12) Are black powder dealers required to be licensed as ammunition dealers under the GCA?**

No. However, black powder deal-

ers are subject to the provisions of 27 CFR Part 555, Commerce in Explosives, which requires that a dealer in any quantity of black powder must have a license as a dealer.

[18 U.S.C. 842]

#### **D. ATF FORM 4473 FIREARMS TRANSACTION RECORD**

**(D1) Where can a dealer get ATF Forms 4473?**

They are available free of charge from the ATF Distribution Center. The current address is P.O. Box 5950, Springfield, VA 22150-5950. Please order a quantity of forms estimated for 6 months use.

**(D2) Does an unlicensed person need an ATF Form 4473 to transfer a firearm?**

No. ATF Form 4473 is required only for transfers by a licensee.

[27 CFR 478.124]

**(D3) Does a dealer have to execute ATF Form 4473 to take a weapon out of the dealer's inventory for his or her own use?**

No. However, the "bound book" must reflect the disposition of the firearm from business inventory to personal use.

However, if the business is a corporation, and the firearm is being transferred to a corporate officer or director for other than business purposes, then a Form 4473 must be executed.

[27 CFR 478.124 and 478.125a]

**(D4) Who signs ATF Form 4473 for the seller?**

ATF Form 4473 must be signed by the person who verified the identity of the buyer.

**(D5) Is a Social Security card a proper means of identification for purchasing a firearm from an FFL?**

No. A Social Security card, alien registration card, or military identification alone does not contain sufficient information to identify a firearms purchaser. However, a purchaser may be identified by any combination of government-issued documents which together establish all of the required information: Name, residence address, date of birth, and photograph of the holder.

[27 CFR 478.11 and 478.124(c)]

**(D6) When must the ATF Form 4473 be signed?**

Part I used for over-the-counter sales must be completed, signed and dated by the buyer prior to delivery of the firearm.

Part II (green form) used for intra-state non-over-the-counter sales must be completed, signed and dated in duplicate by the buyer at the time of sale.

[27 CFR 478.124(c) and 478.124(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. The format must follow that prescribed in the regulations and the pages must be numbered consecutively.

[27 CFR 478.121 and 478.125]

**(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."

**(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 variance from normal regulatory practice has been authorized?**

The ATF letter authorizing the variance 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 variance must have a copy of the letter authorizing the change.

[27 CFR 478.22 and 478.125(h)]

**(E5) How much time does a dealer have to record acquisitions and dispositions of firearms in his or her "bound book?"**

Generally, licensees have to enter the acquisition or purchase of a firearm by the close of the next business day after the acquisition or purchase and shall record sales or other dispositions within 7 days.

However, if commercial records containing the required information are available for inspection and are separate from other commercial documents, dealers have 7 days from the time of receipt to record the receipt in the "bound book."

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.

[27 CFR 478.125]

**(E6) Are the ammunition record-keeping requirements the same as for firearms?**

No. No records are required for ammunition other than armor piercing ammunition. See 27 CFR 478.125 for details on recordkeeping requirements.

**(E7) Are rental firearms subject to recordkeeping control?**

Yes, if the firearms are taken off the premises of the licensee. However, the recordkeeping is not imposed on the loan or rental of firearms for use only on the premises of the licensee.

[27 CFR 478.97]

**(E8) May a licensee who has firearms in his or her private collection sell any of these firearms without making firearms record entries?**

A licensee may sell a firearm from his or her personal collection, subject only to the restrictions on firearm sales by unlicensed persons, provided the firearm was entered in the licensee's bound book and then transferred to the licensee's private collection at least 1 year prior to the sale. When the personal firearm is sold, the sale must be recorded in a "bound book" for dispositions of personal firearms, but no ATF Form 4473 is required.

[27 CFR 478.125a]

**(E9) May a licensee maintain computer records in lieu of the "bound book?"**

Yes. The Director of Industry Operations or other designated ATF official must approve a request for a recordkeeping variance before the licensee may use a computer system in lieu of the "bound book" record required by the regulations.

[27 CFR 478.22 and 478.125(h)]

**F. CONDUCT OF BUSINESS - LICENSEES**

**(F1) Does the Federal firearms law require licensees to comply with State laws and local published ordinances when selling firearms?**

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), 27 CFR 478.99(b)(2)]

**(F2) May a licensed dealer sell a firearm to a nonlicensee who is a resident of another State?**

Generally, a firearm may not lawfully be sold by a licensed dealer to a nonlicensee who resides in a State other than the State in which the seller's licensed premises is located. However, the sale may be made if the firearm is shipped to a licensed dealer whose business is in the purchaser's State of residence and the purchaser takes delivery of the firearm from the dealer in his or her State of residence. In addition, a licensee may sell a rifle or shotgun to a person who is not a resident of the State where the licensee's business premises is located in an over-the-counter transaction, provided the transaction complies with State law in the State where the licensee is located and in the State where the purchaser resides.

[18 U.S.C. 922(b)(3)]

**(F3) May a dealer sell firearms to law enforcement agencies and individual officers in another State?**

Yes. Sales and deliveries of firearms to out-of-State police and sheriff departments are not prohibited by the

GCA. A dealer may also sell or ship firearms, other than NFA firearms, to an individual law enforcement officer, regardless of age, if the dealer has a signed statement from the officer's agency, stating that the items are to be used in the buyer's official duties and that the officer has not been convicted of a misdemeanor crime of domestic violence. No ATF Form 4473 or NICS check is required; however, the bound book must be properly posted, and the signed statement included in the dealer's records. For further information on sales of firearms to law enforcement officers, see **Item 4**, "Sales to Law Enforcement Officers", in the General Information section of this publication. You should contact your State's Attorney General's Office to ensure there is no State prohibition on such sales.

[18 U.S.C. 925(a) (1), 27 CFR 478.134 and 478.141]

**(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 the employee is not a prohibited person (e.g., a felon). However, to sell handguns, a person less than 18 years of age must have the prior written consent of a parent or guardian and the written consent must be in the person's possession at all times. Also, the parent or guardian giving the written consent may not be prohibited by law from possessing a firearm. Moreover, State law must not prohibit the juvenile from possessing the handguns or ammunition.

[18 U.S.C. 922(x)]

**(F5) As a licensed dealer, must I advise ATF if I sell more than one handgun to an individual?**

If you sell or dispose of more than one handgun to any nonlicensee during a period of 5 consecutive business days, the sale must be reported on ATF Form 3310.4, Report of Multiple Sale or Other Disposition of Pistols and Revolvers, not later than the close of the business day on which you sold or disposed of the second handgun. The licensee must forward a copy of the Form 3310.4 to the ATF office specified thereon, and another copy must be forwarded to the State police or local law enforcement agency where the sale occurred. A copy of the Form 3310.4 also must be attached to the firearms transaction record, ATF Form 4473, documenting

the sale or disposition of the second handgun.

A business day for purposes of reporting multiple sales of pistols or revolvers is a day that a licensee conducts business pursuant to the license, regardless of whether State offices are open. The application of the term "business day" is, therefore, distinguishable from the term "business day" as used in the NICS context. **Example:** A licensee conducts business only on Saturdays and Sundays, days on which State offices are not open. The licensee sells a pistol to an unlicensed person on a Saturday. If that same unlicensed person acquires another handgun the next day (Sunday), the following Saturday or Sunday, or the Saturday after the reporting requirement would be triggered, the subsequent acquisition of a handgun would have to be reported on a Form 3310.4 by the close of the day upon which the second or subsequent handgun was sold.

[18 U.S.C. 923(g)(3), 27 CFR 478.126a]

**(F6) Does a customer have to be a certain age to buy firearms or ammunition from a licensee?**

Yes. Under the GCA, long guns and long gun ammunition may be sold only to persons 18 years of age or older. Sales of handguns and ammunition for handguns 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.

[18 U.S.C. 922(b)(1), 27 CFR 478.99(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.

[18 U.S.C. 922(b)(1), 27 CFR 478.99(b)]

**(F8) In transactions between licensees, how is the seller assured that a purchaser of a firearm is a licensed dealer?**

Verification must be established by the transferee furnishing to the transferor a certified copy of the transferee's license and by any other means the transferor deems necessary (such as the FFL eZcheck).

[27 CFR 478.94]

**(F9) Must a multi-licensed business submit a certified copy of each of its licenses when acquiring firearms?**

No. It need only provide the seller a list, certified to be true, correct and complete, containing the name, address, and license number and expiration date for each location.

[27 CFR 478.94]

**(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 is required to verify the licensed status of the transferee with the Chief, Firearms Licensing Center. If the transferee's license renewal application is still pending, the transferor must obtain evidence from the Director of Industry Operations that a license renewal application has been timely filed by the transferee and is still pending.

[27 CFR 478.94]

**(F11) Is a license required to engage in the business of selling small arms ammunition?**

No. A license is not required for a dealer in ammunition only, but a manufacturer or an importer of ammunition must be licensed.

[18 U.S.C. 922 (a)(1)(B)]

**(F12) May licensed dealers sell firearms at gun shows?**

Generally, a licensee may sell firearms at a gun show located only in the same State as that specified on the seller's license. However, a licensee may sell curio or relic firearms to another licensee at any location.

[18 U.S.C. 923(j), 27 CFR 478.100]

**(F13) What may a licensed dealer do at an out-of-State gun show?**

A licensed dealer may sell and deliver curio or relic firearms to another

licensee at an out-of-State gun show. With respect to other firearms transactions, a licensed dealer may only display and take orders for firearms at an out-of-State gun show. In filling any orders for firearms, the dealer must return the firearms to his or her licensed premises and deliver them from that location. Any firearm ordered by a nonlicensee must be delivered or shipped from the licensee's premises to a licensee in the purchaser's State of residence, and the purchaser must obtain the firearm from the licensee located in the purchaser's State. Except for sales of curio or relic firearms to other licensees, sales of firearms and simultaneous deliveries at the gun show, whether to other licensees or to non-licensees, violate the law because the dealer would be unlawfully engaging in business at an unlicensed location.

[18 U.S.C. 922(a)(1), (b)(3), 923(a) and (j)]

**(F14) Who may ship handguns through the U.S. Postal Service?**

Federal firearm licensees may send an unloaded handgun in the mail to another FFL in customary trade shipments. Handguns also may be mailed 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 or her official duties.

However, postal service regulations must be followed. 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 the addressee is qualified to receive the firearm, and the affidavit must bear a certificate stating that the firearm is for the official 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 Questions **B7** and **B8**.)

**(F15) Must a dealer record firearms received on consignment?**

Yes. Firearms received for sale on consignment must be entered in the dealer's "bound book."

Sales of the firearms are handled in the same manner as other firearm sales. Return of the remaining fire-

arms by the licensee to the consignor is entered in the dealer's disposition record. An ATF Form 4473 and a NICS check must be completed.

**(F16) To whom does an FFL report stolen or lost firearms?**

A theft or loss of firearms must be reported to your local police as well as to ATF within 48 hours after the discovery. Licensees should notify ATF on the 24-hour, 7 days a week toll free line at 1-800-800-3855 and by preparing and submitting ATF Form 3310.11, Federal Firearms Licensee Theft/Loss Report.

Theft or loss of NFA firearms should also be reported to the NFA Branch immediately upon discovery.

[18 U.S.C. 923(g)(6), 27 CFR 478.39 and 479.141]

**(F17) If my firearms are stolen or lost, what do I do about my records?**

Take an inventory of stock on hand and enter "stolen" or "lost" and the date in the disposition section of the "bound book" for those stolen or lost firearms. In addition, at the time a licensee reports the theft or loss on the ATF toll free line, the licensee will be provided a control number that should be placed in the records as well as on ATF Form 3310.11, Federal Firearms Licensee Theft/Loss Report.

**(F18) How many copies of the ATF Form 3310.4, Report of Multiple Sale or Other Disposition of Pistols and Revolvers, must be completed and what becomes of each copy?**

ATF Form 3310.4 must be completed in triplicate (3 copies). The original is sent to ATF's National Tracing Center by FAX at 1-877-283-0288 or by mail to Box 1061, Falling Waters, West Virginia 25419-1061. A copy is to be sent to the designated State police or the local law enforcement agency in the jurisdiction where the sale took place. The remaining copy is to be retained in the records of the dealer and held for not less than 5 years.

[27 CFR 478.126a and 478.129]

**(F19) What is my responsibility to respond to a request to trace a firearm?**

A licensee must provide the requested information immediately and

in no event later than 24 hours after receipt of a request by ATF. Failure to respond to the request for trace information can result in monetary fines, imprisonment, and/or revocation of the licensee's Federal firearms license.

[18 U.S.C. 923(g)(7), 27 CFR 478.25a]

**(F20) Does the requirement to give written notification to handgun transferees about juvenile handgun possession apply to a licensed dealer who returns firearms to their owners, for example, handguns that the dealer repaired?**

Yes. The requirement to give written notification to nonlicensees applies to the return of handguns, as well as to their sale. It applies even if the licensee ships the repaired firearm to the customer.

[27 CFR 478.103]

**(F21) Does the requirement to post a sign on the licensed premises about juvenile handgun possession apply to a licensed dealer who only disposes of handguns to nonlicensees who do not appear at the dealer's premises?**

No. The sign posting requirement does not apply where the licensee only disposes of handguns to nonlicensees who do not appear at the licensed premises (for example, the licensee only ships repaired or replacement handguns to nonlicensees).

[27 CFR 478.103]

## G. COLLECTORS

**(G1) Is there a specific license which permits a collector to acquire firearms in interstate commerce?**

Yes. A person may obtain a collector's license. However, this license applies only to transactions in curio or relic firearms.

[18 U.S.C. 923(b), 27 CFR 478.41(c), (d), 478.50(b) and 478.93]

**(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 has the same status under the GCA as a nonlicensee except for transactions in

curio or relic firearms.  
[27 CFR 478.93]

**(G3) Does a license as a collector of curio or relic firearms authorize the collector to engage in the business of dealing in curios or relics?**

No. A dealer's license must be obtained to engage in the business of dealing in any firearms, including curios or relics.

[18 U.S.C. 922(a) and 923(a), 27 CFR 478.41]

**(G4) Since a licensed firearms dealer may legally deal in curio or relic firearms, is there any reason why a dealer would need both a dealer's license and collector's license?**

No. A collector's license enables a collector to obtain curio or relic firearms interstate. A person holding a dealer's license may also acquire curio or relic firearms interstate, and so there is no need for a licensed dealer to obtain a collector's license.

**(G5) Are licensed collectors required to execute ATF Form 4473 for transactions in curio or relic firearms?**

No. However, licensed collectors are required to keep a "bound book" record.

[27 CFR 478.125(f)]

**(G6) Are licensed collectors' transfers of curio or relic firearms subject to the Brady law, including the provision for making background checks on transferees?**

No, but it is unlawful to transfer a firearm to any person knowing or having reasonable cause to believe that such person is a felon or is within any other category of person prohibited from receiving or possessing firearms. See also Questions **P12** and **P13**.

[18 U.S.C. 922(d), 27 CFR 478.32(d)]

**(G7) Are licensed collectors required to comply with the requirements that written notification be given to handgun transferees and signs be posted on juvenile handgun possession?**

The requirement that written notification concerning juvenile handgun possession be given by licensees to a nonlicensee to whom a handgun is delivered applies to curio or relic

handguns transferred by licensed collectors. However, the sign posting requirement does not apply to licensed collectors.

[18 U.S.C. 922(x), 27 CFR 478.103]

**(G8) Are licensed collectors required to turn in their acquisition/disposition records to ATF if their collector's license is not renewed or they discontinue their collecting activity?**

No. The GCA requires the delivery of required records to the Government within 30 days after a firearms "business" is discontinued. A license as a collector of curios or relics does not authorize any business with respect to firearms. Therefore, the records required to be kept by licensed collectors under the law and regulations are not business records and are not required to be turned in to ATF when collector's licenses are not renewed or collecting activity under such licenses is discontinued.

[18 U.S.C. 923(g)(4), 27 CFR 478.127]

## H. MANUFACTURERS

**(H1) Must a person who engages in the business of manufacturing and importing firearms have a separate license to cover each type of business?**

Yes. A separate license is required to cover each of these types of businesses.

[27 CFR 478.41]

**(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 or she obtains a license as a firearms manufacturer.

**(H3) May a person licensed as a manufacturer of firearms also manufacture ammunition?**

Yes. The person may also manufacture ammunition (not including destructive device ammunition or armor piercing ammunition) without obtaining a separate license as a manufacturer of ammunition.

**(H4) Is a person who reloads ammunition required to be licensed as a manufacturer?**

Yes, if the person engages in the business of selling or distributing reloads for the purpose of livelihood and profit. No, if the person reloads only for personal use.

[18 U.S.C. 922(a) (i) and 923(a), 27 CFR 478.41]

**(H5) Must a licensed manufacturer pay excise taxes?**

Yes. Licensed manufacturers incur excise tax on the sale of firearms and ammunition manufactured. See Item 17, "Federal Excise Tax" in the General Information section of this publication.

## I. GUNSMITHS

**(I1) Is a license needed to engage in the business of engraving, customizing, refinishing or repairing firearms?**

Yes. A person conducting such activities as a business is considered to be a gunsmith within the definition of a dealer. See **Item 16**, "Federal Excise Tax" in the General Information section of this publication.

[27 CFR 478.11]

**(I2) Does a gunsmith need to enter in a permanent "bound book" record every firearm received for adjustment or repair?**

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 firearm in the "bound book" as an "acquisition." If the gunsmith has possession of the firearm from one business day to another or longer, the firearm must be recorded as an "acquisition" and a "disposition" in the permanent "bound book" record.

**(I3) Is an ATF Form 4473 required when a gunsmith returns a repaired firearm?**

No, provided the firearm is returned to the person from whom it was received.

[27 CFR 478.124(a)]

**(I4) May a gunsmith make immediate repairs at locations other than his or her place of business?**

Yes.

**(I5) May a licensed gunsmith receive an NFA firearm for purposes of repair?**

Yes, for the sole purpose of repair and subsequent return to its owner. It is suggested that the owner obtain 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 should do the same prior to returning the firearm.

Only the face of the form needs to be completed in each instance. ATF Forms 5 may be obtained from the Bureau of ATF, NFA Branch. ATF Form 5 is also available on the internet at [www.ATF.gov](http://www.ATF.gov).

**(I6) Is a licensed gunsmith required to comply with the requirements to give written notification to handgun transferees and post signs on juvenile handgun possession?**

The requirement that written notification on juvenile handgun possession be given to a nonlicensee to whom a handgun is delivered applies to all Federal firearms licensees. It applies to the return of handguns to their owners, as well as to their sale. Thus, a gunsmith who repairs or customizes a nonlicensee's handgun must provide the notification to the nonlicensee when the handgun is returned. The sign posting requirement also applies to gunsmiths, unless the gunsmith only disposes of handguns to nonlicensees who do not appear at the gunsmith's licensed premises, for example, when repaired handguns are shipped to nonlicensees.

[18 U.S.C. 922(x), 27 CFR 478.103]

**(I7) Is a licensed gunsmith's return of repaired or customized firearms to their owners subject to the Brady law, including the provision for making background checks on transferees?**

No, but it is unlawful to transfer a firearm to any person knowing or having reasonable cause to believe that such person is a felon or is within any other category of person prohibited from receiving or possessing firearms. (See also Question **P24**.)

[18 U.S.C. 922(d), 27 CFR 478.32(d)]

## 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 recordkeeping requirements under the GCA. Disposition must be properly entered in the pawnbroker's "bound book," and ATF Form 4473 must be executed in connection with the redemption.

[27 CFR 478.124 and 478.125]

### **(J2) What is the procedure for a licensed pawnbroker to return a firearm?**

The procedure varies, depending upon the firearm and the situation. ATF Form 4473 must be used in each situation. In addition, any State laws regarding pawn transactions must be followed.

Some Examples:

**(1)** Pawnbroker and nonlicensee are residents of the same State: The pawnbroker may return a handgun or long gun to either the person who pawned it or a holder of the pawn ticket who resides in the pawnbroker's State.

**(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.

**b.** The pawnbroker may return a rifle or shotgun to the person who pawned it.

**c.** The pawnbroker may transfer a rifle or shotgun to the holder of a pawn ticket who did not pawn it, provided the transaction complies with the law of the State where the pawnbroker's business is located and the law of the State where the pawn ticket holder resides.

[18 U.S.C. 922(a)(2), 922(a)(3) and 922(b)(3)]

### **(J3) Are there categories of persons to whom a pawnbroker cannot return firearms?**

Yes. A pawnbroker cannot lawfully return a firearm to a person who is underage or within a prohibited category of persons to whom the sale or other disposition of the firearm would be unlawful. For example, a pawn-

broker cannot lawfully return a pawned handgun to a person who is less than 21 years of age, nor can he or she return a firearm to a convicted felon or to anyone else who is prohibited from receiving the firearm under Federal or State law.

[18 U.S.C. 922(d), 27 CFR 478.99]

### **(J4) Are licensed pawnbrokers required to comply with the requirements that written notification be given to handgun transferees and signs be posted on juvenile handgun possession?**

The requirement that written notification on juvenile handgun possession be given to a nonlicensee to whom a handgun is delivered applies to all types of Federal firearms licensees. It also applies to the return of handguns to their owners, as well as to their sale. Thus, a pawnbroker who returns a handgun to its owner, or to another person, upon its redemption from pawn must provide the notification. The sign posting requirement also applies to licensed pawnbrokers.

[18 U.S.C. 922(x), 27 CFR 478.103]

### **(J5) Are licensed pawnbrokers' firearms sales or return of firearms redeemed from pawn subject to the Brady law, including the provision for making background checks of transferees?**

Yes. Moreover, as provided by Public Law 105-277, enacted on October 21, 1998, a licensed pawnbroker may also contact the National Instant Criminal Background Check System (NICS) for a background check on a person at the time the person offers to pawn a firearm. If NICS advises the pawnbroker that receipt or possession of the firearm by the person attempting to pawn the firearm would violate the law, the pawnbroker must advise local law enforcement within 48 hours after receipt of the information.

A pawnbroker who contacts NICS about a person prior to accepting the person's firearm in pawn must still comply with the requirements of the Brady law at the time of the firearm's redemption, i.e., the pawnbroker must contact NICS for another background check at the time of redemption. (See also Questions **P17** through **P23**.)

## **K. AUCTIONEERS**

### **(K1) Does an auctioneer who is**

### **involved in firearms sales need a dealers license?**

Generally speaking, there are two types of auctions: estate-type auctions and consignment auctions.

In estate-type auctions, the articles to be auctioned (including firearms) are being sold by the executor of the estate of an individual. The firearms belong to and are possessed by the executor. The firearms are controlled by the estate, and the sales of firearms are being made by the estate. The auctioneer is acting as an agent of the executor and assisting the executor in finding buyers for the firearms. In these cases, the auctioneer does not meet the definition of engaging in business as a dealer in firearms and would not need a license. An auctioneer who does have a license may perform this function away from his or her licensed premises.

In consignment-type auctions, an auctioneer often takes possession of firearms in advance of the auction. These firearms are generally inventoried, evaluated, and tagged for identification. The firearms belong to individuals who have entered into a consignment agreement with the auctioneer giving that auctioneer authority to sell the firearms. The auctioneer therefore has possession and control of the firearms. Under these circumstances, an auctioneer would generally need a license. If you are not sure if a license is needed in a particular consignment auction situation, contact your local ATF office.

See **ATF Ruling 96-2**.

### **(K2) If a licensed auctioneer is making sales of firearms, where may those sales be made?**

In a consignment auction, firearms may be displayed at an auction site away from the auctioneer's licensed premises and sales of the firearms can be agreed upon at that location, but delivery may only be made to purchasers after the firearms have been returned to the auctioneer's licensed premises. The simultaneous sale and delivery of the auctioned firearms away from the licensed premises would violate the law, i.e., engaging in business at an unlicensed location.

However, if the auctioneer is assisting an estate in disposing of firearms, the estate is the seller of the firearms and the estate is in control and possession of the firearms. In this situa-

tion, the firearms may be delivered from the auction site. See also Question **K1** and **ATF Ruling 96-2**.

#### L. IMPORTING AND EXPORTING

**(L1) May a licensed dealer who does not have an importer's license make an occasional importation?**

Yes. A licensed dealer may make an occasional importation of a firearm for a nonlicensee or for the licensee's personal use (not for resale). The licensee must first submit an ATF Form 6, Part I to ATF for approval. The licensee may then present the approved Form 6 and completed ATF Form 6A to U.S. Customs and Border Protection. Contact the Bureau of ATF, Firearms and Explosives Imports Branch for forms, or download them from the ATF webpage at [www.ATF.gov](http://www.ATF.gov).

**(L2) Does a licensee need an export license to export a firearm?**

The GCA does not require export licenses. However, most firearms and ammunition must be exported in accordance with the provisions of the Arms Export Control Act of 1976. Regulations implementing this Act generally require a license to be obtained from the Directorate of Defense Trade Controls, Department of State, PM/DDTC, SA-1, Room 1200, 2401 E St., N.W., Washington, DC 20037; (202) 663-1282.

The export of sporting shotguns and ammunition for sporting shotguns is regulated by the U.S. Department of Commerce rather than the State Department. An export license is generally needed to export these shotguns and ammunition. For further information, contact them at their nearest district office or the Bureau of Industry and Security, Outreach and Educational Services Division, U.S. Department of Commerce, 14th St. & Pennsylvania Ave. N.W., Washington, DC 20230, (202) 482-4811.

When exporting NFA firearms, ATF Form 9 must be completed and approved by ATF prior to export.

[22 U.S.C. 2778, 27 CFR 479.114 and 479.116]

**(L3) Does ATF regulate the importation of gas masks?**

Yes. Gas masks are "defense articles" subject to regulation under the Arms Export Control Act. ATF regu-

lates the importation of gas masks and generally requires an ATF Form 6 import permit for lawful importation of these items. The standard processing time is 4-6 weeks from the date ATF's Firearms and Explosives Imports Branch receives a complete Form 6 application. You can download the Form 6 at [www.ATF.gov](http://www.ATF.gov).

**(L4) What must I do to import gas masks for resale?**

A commercial importer must be registered in accordance with the Arms Export Control Act. You can download the application to register, ATF F 5330.4 (4587), Application to Register as an Importer of U.S. Munitions Import List Articles, at [www.ATF.gov](http://www.ATF.gov). There is a fee and the processing time is 2-4 weeks.

#### M. FIREARMS - NATIONAL FIREARMS ACT (NFA)

**(M1) The types of firearms that must be registered in the National Firearm Registration and Transfer Record are defined in the NFA and in 27 CFR Part 479. 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 a machinegun 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;

Short-barreled rifles;

Short-barreled shotguns;

Destructive devices; and,

"Any other weapon."

*A few examples of destructive devices are:*

Molotov cocktails;

Anti-tank guns (over caliber .50); 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 which fire a projectile by the action of an explosive.

[26 U.S.C. 5845]

**(M2) How can an individual legally acquire NFA firearms?**

Basically, there are 2 ways that an individual (who is not prohibited by Federal, State, or local law from receiving or possessing firearms) may legally acquire NFA firearms:

(1) By transfer after approval by ATF of a registered weapon from its lawful owner residing in the same State as the transferee.

(2) By obtaining prior approval from ATF to make NFA firearms.

[27 CFR 479.62-66 and 479.84-86 ]

**(M3) What is the tax on making an NFA firearm?**

The tax is \$200 for making any NFA firearm, including "any other weapon."

**(M4) 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, NFA Branch.

**(M5) 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 re-stored 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 re-

quire 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.

[26 U.S.C. 5845(h) and 5852, 27 CFR 479.11 and 479.91]

**(M6) What happens when a State acquires an unregistered NFA firearm through seizure or abandonment?**

When a State wants to keep such NFA firearms for official use, they must be registered by filing ATF Form 10 with the Bureau of ATF, NFA Branch.

Since approval of the Form 10 is conditioned on an "official use only" basis, subsequent transfers will not be approved except if the transfer is to another government agency for official use.

[27 CFR 479.104]

**(M7) May a private citizen who owns an NFA firearm which is not registered have the firearm registered?**

No. The NFA permits only manufacturers, makers, and importers to register firearms. Mere possessors may not register firearms. 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.

[26 U.S.C. 5861(d)]

**(M8) What can happen to someone who has an NFA firearm which is not registered to him?**

Violators may be fined not more than \$250,000, and imprisoned not more than 10 years, or both. In addition, any vessel, vehicle or aircraft used to transport, conceal or possess an unregistered NFA firearm is subject to seizure and forfeiture, as is the weapon itself.

[49 U.S.C. 781-788, 26 U.S.C. 5861 and 5872]

**(M9) What should a person do if he or she comes into possession of an unregistered NFA firearm?**

Contact the nearest ATF office immediately.

**(M10) Are there any exemptions from the making or transfer tax provisions of the NFA?**

Yes. These are noted below, along with the required form number, if any, to apply for the exemption. Completed forms must be approved by the NFA Branch prior to the making or transfer:

(1) Tax-exempt transfer and registration of a firearm between special (occupational) taxpayers: ATF Form 3.

(2) Tax-exempt making of a firearm on behalf of a Federal or State agency: ATF Form 1. Tax-exempt transfer and registration of the firearm on behalf of a Federal or State agency: ATF Form 5.

(3) A licensed manufacturer under contract to make NFA firearms for the U.S. Government may be granted an exemption from payment of the special (occupational) tax as a manufacturer of NFA firearms and an 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. This exemption must be renewed each year prior to July 1.

(4) Tax-exempt transfer and registration of an unserviceable firearm which is being transferred as a curio or ornament: ATF Form 5.

(5) Tax exempt transfer of a firearm to a lawful heir: ATF Form 5.

(6) Tax-exempt transfer by operation of law (e.g., court order).

[26 U.S.C. 5851-5853, 27 CFR 479.69, 479.70 and 479.88-91]

**(M11) How does a person qualify to import, manufacture, or deal in NFA firearms?**

The person must be licensed under the GCA and pay the required special (occupational) tax imposed by the NFA. After becoming licensed under the GCA, he or she must file ATF Form 5630.7 with the appropriate tax payment in the entire amount with ATF. In addition, an importer (except importers of sporting shotguns and shotgun ammunition) must also be registered with ATF under the Arms Export Control Act of 1976.

[26 U.S.C. 5801, 18 U.S.C. 923, 27 CFR 447.31, 478.41 and 479.34]

**(M12) When must firearms special (occupational) taxes be paid and how much are the taxes?**

These taxes must be paid in full on first engaging in business and thereafter on or before the first day of July. The current taxes are set out in the following table.

**SPECIAL (OCCUPATIONAL) TAX RATES UNDER THE NFA**

CLASS OF TAXPAYER	ANNUAL FEE
1 Importer of Firearms (Including "Any Other Weapon")	1000.00
2 Manufacturer of Firearms (Including "Any Other Weapon")	1000.00
3 Dealer of Firearms (Including "Any Other Weapon")	500.00
1 Importer of Firearms (Including "Any Other Weapon") REDUCED*	500.00
2 Manufacturer of Firearms (Including "Any Other Weapon") REDUCED*	500.00

\* REDUCED = Rates which apply to certain taxpayers whose total gross receipts in the last taxable year are less than \$500,000.

**(M13) 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 (importer) and Class 2 (manufacturer) special (occupational) taxpayers are qualified to deal in NFA firearms without also having to pay special (occupational) tax as a Class 3 dealer.

[27 CFR 479.39]

**(M14) May a licensed collector obtain NFA firearms in interstate commerce?**

Only if the firearms are classified as curios or relics, are registered, and are transferred in accordance with the provisions of the NFA. See Question M15.

**(M15) What are the required transfer procedures for an individual who is not qualified as a manufacturer, importer, or dealer of NFA firearms?**

ATF Form 4 (5320.4) must be completed, in duplicate. The transferor first completes the face of the form. The transferee completes 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 transferee is to place, on each copy of the form, a 2-inch by 2-inch photograph of the transferee 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 permit or license to purchase, possess, or receive NFA firearms, 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.

Fingerprints also must be submitted on 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 the completed application and appropriate tax payment to the Bureau of ATF, P.O. Box 73201, Chicago, IL 60673.

Transfer of the NFA firearm may be made only upon approval of the ATF Form 4 by the NFA Branch. If the application is approved, the original of the form with the cancelled stamp affixed showing approval will be returned to the applicant. If the tax application is denied, the tax will be refunded.

Upon approval of the ATF Form 4, the transferor should transfer the firearm as soon as possible, since the firearm is now registered to the transferee.

[26 U.S.C. 5812, 27 CFR 479.84-86]

**(M16) How does an individual obtain authorization to make an NFA**

**firearm?**

Prior to making a firearm, the individual must submit ATF Form 1, Application to Make and Register a Firearm, to the Bureau of ATF, NFA Branch, and receive approval. The applicant must follow the procedures described in Question **M15** concerning photographs, fingerprints and certifications. 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. If the application is approved, the original of the form with the cancelled stamp affixed showing approval will be returned to the applicant. If the application is denied, the tax will be refunded.

Applications to make a firearm will not be approved if Federal, State, or local law prohibits possession of the firearm.

[26 U.S.C 5822, 27 CFR 479.61-65]

**(M17) Are parts which would convert a firearm into an NFA firearm subject to registration?**

Yes. Examples:

An M-2 conversion kit (See Question **M29**);

Any part designed and intended solely and exclusively to convert a weapon into a machinegun. (See Question **M1**.)

**(M18) What law enforcement officials' certifications on an application to transfer or make an NFA weapon are acceptable to ATF?**

As provided by regulations, certifications by the local chief of police, sheriff of the county, head of the State police, or State or local district attorney or prosecutor are acceptable. The regulations also provide that certifications of other officials are appropriate if found in a particular case to be acceptable to the Director. Examples of other officials who have been accepted in specific situations include State attorneys general and judges of State courts having authority to conduct jury trials in felony cases.

[27 CFR 479.63 and 479.85]

**(M19) Is the chief law enforcement officer required to sign the law enforcement certification on ATF Form 1 or ATF Form 4?**

No law enforcement officer can be compelled to sign the law enforce-

ment certification under Federal or State law. However, ATF will not approve an application to make or transfer a firearm on ATF Forms 1 or 4 unless the law enforcement certification is completed by an acceptable law enforcement official who has signed the certification in the space indicated on the form. See Question **M18**.

**(M20) If the chief law enforcement official whose jurisdiction includes the proposed transferee's residence refuses to sign the "law enforcement certification," will the signature of an official in another jurisdiction be acceptable?**

No. (But see Question **M18** for the list of acceptable chief law enforcement officers.)

**(M21) Does the registered owner of a destructive device, machinegun, short-barreled shotgun, or short-barreled rifle need authorization to lawfully transport such items interstate?**

Yes, unless the owner is a qualified dealer, manufacturer or importer, or a licensed collector transporting only curios or relics. Prior approval must be obtained, even if the move is temporary. Approval is requested by either submitting a letter containing all necessary information, or by submitting ATF Form 5320.20 to the Bureau of ATF, NFA Branch. Possession of the firearms also must comply with all State and local laws.

[18 U.S.C. 922(a) (4), 27 CFR 478.28]

**(M22) If an individual is changing his or her State of residence and the individual's application to transport the NFA firearm cannot be approved because of a prohibition in the new State, what options does a lawful possessor have?**

NFA firearms may be left in a safe deposit box in his or her former State of residence. Also, the firearm could be left or stored in the former State of residence 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 firearms may also be transferred under the procedures referred to in Question **M15** or abandoned to ATF.

**(M23) May a transferor submit an application to transfer an NFA firearm prior to the date on which the transferor receives the weapon?**

No.

**(M24) If a person has a pistol and an attachable shoulder stock, does this constitute possession of an NFA firearm?**

Yes, unless the barrel of the pistol is at least 16 inches in length (and the overall length of the firearm with stock attached is at least 26 inches). However, certain stocked handguns, such as original semiautomatic Mauser "Broomhandles" and Lugers, have been removed from the purview of the NFA as collectors' items.

[26 U.S.C. 5845, 27 CFR 479.11]

**(M25) Does the owner of a registered NFA firearm have to have any evidence to show it is registered lawfully to him or her?**

Yes. The approved application received from ATF serves as evidence of registration of the NFA firearm in the owner's 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.

**(M26) What is the status of unloaded or dummy grenades, artillery shell casings and similar devices?**

Unloaded or dummy grenades, artillery shell casings, and similar devices, which are cut or drilled in an ATF approved manner so that they cannot be used as ammunition components for destructive devices are not considered NFA weapons.

**(M27) Are muzzleloading cannons classified as destructive devices?**

Generally, no. Muzzleloading cannons not capable of firing fixed ammunition and manufactured in or before 1898 and replicas thereof are antiques and not subject to the provisions of either the GCA or the NFA.

[26 U.S.C. 5845, 27 CFR 479.11]

**(M28) 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.

[26 U.S.C. 5845, 27 CFR 479.11]

**(M29) 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. A conversion kit is a machinegun for purposes of the NFA. (See Question M17.)

[26 U.S.C. 5845, 27 CFR 479.11]

**(M30) Are Paintball and/or Airgun Sound Suppressers NFA firearms?**

The terms "firearm silencer" and "firearm muffler" mean 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.

Numerous paintball and airgun silencers tested by ATF's Firearms Technology Branch have been determined to be, by nature of their design and function, firearm silencers. Because silencers are NFA weapons, an individual wishing to manufacture or transfer such a silencer must receive prior approval from ATF and pay the required tax. See Questions M15 and 16 for application details.

**If I have any further questions as to the classification of a paintball or airgun silencer, who should I contact?**

Please send a written request to ATF's Firearms Technology Branch.

[18 U.S.C. 921(a)(24), 26 U.S.C. 5845(a), 27 CFR 479.11]

#### **N. MACHINEGUNS - NATIONAL FIREARMS ACT (NFA)**

**(N1) May an unlicensed person make a machinegun?**

Generally, no. However, if documentation can be provided, along with the Application to Make a Machinegun, which establishes that the weapon is being made for distribution to a Federal or State agency, an individual may be permitted to make the machinegun.

[18 U.S.C. 922(o)(2), 27 CFR 479.105(e)]

**(N2) May 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 pursuant to an approved ATF Form 4.

[18 U.S.C. 922(o)(2), 26 U.S.C. 5812]

#### **O. SEMIAUTOMATIC ASSAULT WEAPONS AND LARGE CAPACITY AMMUNITION FEEDING DEVICES (SAWs and LCAFDs)**

**(O1) What was the semiautomatic assault weapon (SAW) ban?**

The SAW ban was enacted on September 13, 1994, by PL 103-322, Title IX, Subtitle A, section 110105. The ban made it unlawful to manufacture, transfer, or possess SAWs. The law defined SAWs as 19 named firearms, as well as semiautomatic rifles, pistols, and shotguns that have certain named features. The ban was codified at 18 U.S.C. § 922(v). SAWs lawfully possessed on September 13, 1994 were not covered by the ban. There also were certain exceptions, such as possession by law enforcement.

**(O2) Was the SAW ban permanent?**

No. The law enacting the ban provided that it would expire 10 years from the date of enactment, which was September 13, 1994. Therefore, effective 12:01 a.m. on September 13, 2004, the provisions of the law ceased to apply.

**(O3) What was the Large Capacity Ammunition Feeding Device (LCAFD) ban?**

The LCAFD ban was enacted along with the SAW ban on September 13, 1994. The ban made it unlawful to transfer or possess LCAFDs. The law generally defined a LCAFD as a magazine, belt, drum, feed strip, or similar device manufactured after September 13, 1994 that has the capacity of, or can be readily restored or converted to accept, more than 10 rounds of ammunition. The ban was codified at 18 U.S.C. § 922(w). As with SAWs, there were certain exceptions to the ban, such as possession by law enforcement.

**(O4) Was the LCAFD ban permanent?**

No. The LCAFD ban was enacted by the same law as the SAW ban. Therefore, like the SAW ban, it expired 10 years from the date of enactment. Therefore, effective 12:01 a.m. on September 13, 2004, the provisions of the law ceased to apply.

**(O5) Does expiration of the ban affect records maintained by licensed manufacturers, importers and dealers?**

Yes. Federal firearms licensees are no longer required to collect special records regarding the sale or transfer of SAWs and LCAFDs for law enforcement or government sales. However, existing records on SAWs and LCAFDs must still be maintained for a period of 5 years. Moreover, records of importation and manufacture must be maintained permanently and licensees must maintain all other acquisition and disposition records for 20 years.

**(O6) Are SAWs and LCAFDs marked "Restricted law enforcement/government use only" or "For export only" now legal to sell to civilians in the United States?**

Yes. SAWs and LCAFDs are no longer prohibited. Therefore firearms with the restrictive markings are legal to transfer to civilians in the United States and it is legal for non-prohibited civilians to possess them. All civilians may possess LCAFDs.

**(O7) Does the expiration of the SAW ban and the LCAFD ban affect importation?**

LCAFDs are no longer prohibited from importation but they are still subject to the provisions of the Arms Export Control Act. An approved Form 6 import permit is still required

Non-sporting firearms are still prohibited from importation under sections 922(l) and 925(d)(3) of the GCA. Because the vast majority of SAWs are non-sporting, they generally cannot be imported.

Temporary importation of SAWs and LCAFDs is now lawful under the provisions of 27 CFR section 478.115(d) because firearms that are temporarily imported are not required to meet sporting purpose requirements.

**(O8) Does the expiration of the SAW ban change laws regarding assembly of nonsporting shotguns and semiautomatic rifles from imported parts?**

No. The provisions of section 922(r) of the GCA and the regulations in 27 CFR 478.39 regarding assembly of non-sporting shotguns and semiautomatic rifles from imported parts still apply.

**(O9) Does the expiration of the SAW ban affect firearms under the National Firearms Act?**

All provisions of the National Firearms Act (NFA) relating to registration and transfer of machineguns, short-barreled rifles, weapons made from rifles, short-barreled shotguns, weapons made from shotguns, any other weapons as defined in 26 USC section 5845(e), silencers, and destructive devices still apply. However, it is now lawful to possess NFA firearms that are also semiautomatic assault weapons, as long as all provisions of the NFA are satisfied.

For example, USAS-12 and Striker12/ Street-sweeper shotguns are still classified as destructive devices under ATF Rulings 94-1 and 94-2 and must be possessed and transferred in accordance with the NFA.

**(O10) Can tribal law enforcement entities now possess SAWs and LCAFDs?**

Yes.

**(O11) Does the expiration of the ban affect State law?**

Expiration of the federal law will not change any provisions of State law or local ordinances. Questions concerning State assault weapons restrictions should be referred to State and local authorities.

**P. BRADY LAW**

**Editor's Note:**

**Unless otherwise noted, these questions and answers relate to the permanent provisions of the Brady law found in section 922(t) of the Gun Control Act. These provisions, including the requirement for licensees to initiate background checks of individuals to whom firearms are transferred by**

contacting the National Instant Criminal Background Check System (NICS), became effective on November 30, 1998. They replace the interim provisions of the Brady law that imposed a Federal 5-day waiting period on licensees' sales of handguns and required the sending of Brady forms to State or local officials.

**(P1) Who must comply with the requirements of the Brady law?**

Federally licensed firearms importers, manufacturers, and dealers must comply with the Brady law prior to the transfer of any firearm to a nonlicensed individual.

[18 U.S.C. 922(t), 27 CFR 478.102 ]

**(P2) When did the provisions of the permanent Brady law take effect?**

The permanent Brady law went into effect on November 30, 1998. Accordingly, any transfer occurring on or after November 30, 1998, is subject to the requirements of this law.

**(P3) Is NICS operated by ATF?**

No. NICS is operated by the Federal Bureau of Investigation (FBI).

**(P4) Do all NICS checks go through the FBI's NICS Operations Center?**

No. In many States, licensees initiate NICS checks through the State point of contact (POC).

**(P5) If the State is acting as a point of contact (POC), does that mean that all NICS checks go through the POC rather than the FBI?**

That depends on the State. In some States, the POC conducts background checks for all firearms transactions. In other States, licensees must contact the POC for handgun transactions and the FBI for long gun transactions. In some POC States, NICS checks for pawn redemptions are handled by the FBI.

**(P6) How does a licensee know whether to contact the FBI or a State point of contact (POC) in order to initiate a NICS check?**

Prior to November 30, 1998, ATF sent an open letter to licensees in each State, providing the licensees with instructions as to how to initiate a NICS check in their State. ATF has alerted FFLs if their State's procedures have changed since this time. Your local ATF office can advise you

on the appropriate point of contact for NICS checks or you can check the ATF webpage at [www.ATF.gov](http://www.ATF.gov).

**(P7) Is there a charge for NICS checks?**

The FBI does not charge a fee for conducting NICS checks. However, States that act as points of contact for NICS checks may charge a fee consistent with State law.

**(P8) Must licensees enroll with the FBI to get access to NICS?**

Licensees must be enrolled with the FBI before they can initiate NICS checks through the FBI's NICS Operations Center. Licensees who have not received an enrollment package from the FBI should call the FBI NICS Operations Center at 1-877-444-6427 and ask that an enrollment package be sent to them. Licensees in States where a State agency is acting as a point of contact for NICS checks should contact the State for enrollment information.

**(P9) Does the Brady law apply to the transfer of long guns as well as handguns?**

Yes.

**(P10) Does the Brady law apply to the transfer of antique firearms?**

No. Licensees need not comply with the Brady law when transferring a weapon that meets the Gun Control Act's definition of an "antique firearm."

**(P11) Does the Brady law apply to the transfer of firearms between two licensees?**

No. The Brady law only applies when a licensed importer, manufacturer, or dealer is transferring a firearm to a nonlicensee.

**(P12) Must licensed collectors comply with the Brady law prior to transferring a curio or relic firearm?**

No. Transfers of curio or relic firearms by licensed collectors are not subject to the requirements of the Brady law.

**(P13) Is the transfer of a firearm by a licensed dealer to a licensed collector subject to the Brady law?**

The Brady law does not apply to the transfer of a curio or relic firearm

to a licensed collector. However, a licensed collector who acquires a firearm other than a curio or relic from a licensee would be treated like a nonlicensee, and the transfer would be subject to Brady requirements.

**(P14) Must a licensed importer, manufacturer or dealer comply with the Brady law when selling firearms from his or her own personal collection?**

No, provided the licensee has maintained the firearm as part of his personal collection for at least 1 year from the date the firearm was transferred from his business inventory into his personal collection or otherwise acquired as a personal firearm and the licensee complies with the record-keeping requirements in 27 CFR 478.125(a).

**(P15) Do the provisions of the Brady law apply to a licensee's loan or rental of a firearm to a nonlicensee?**

If the firearm is loaned or rented for use on the licensee's premises, the transaction is not subject to the Brady law. However, if the firearm is loaned or rented for use off the premises, the licensee must comply with the Brady law.

**(P16) Must licensees conduct NICS checks for sales of firearms to nonlicensees at gun shows?**

Yes. A licensed importer, manufacturer, or dealer may not transfer a firearm to a nonlicensee at a gun show without first complying with the requirements of the Brady law.

**(P17) Is the redemption of a pawned firearm subject to the Brady law?**

Yes. Unlike the interim Brady law, the permanent Brady law that went into effect on November 30, 1998 does not contain an exemption for the return of a firearm to the individual from whom it was received. Accordingly, the redemption of a pawned firearm is considered a transfer subject to the permanent Brady law.

**(P18) What should a licensed pawnbroker do with a firearm he or she has in pawn when the NICS check results in a "denied" transaction?**

The licensee cannot transfer the firearm to the transferee without vio-

lating the law and placing the transferee in violation of the law. Licensees with additional questions should contact their local ATF office.

[18 U.S.C. 922(d) and (g)]

**(P19) If an individual repeatedly pawns the same firearm, is the FFL required to do a NICS check each time the firearm is redeemed?**

Yes. The fact that the transferee has redeemed the firearm before does not excuse the pawnbroker from complying with the Brady law.

**(P20) Can licensed pawnbrokers conduct NICS checks prior to accepting a firearm in pawn?**

Yes. The law provides that a NICS check may be done, on an optional basis, prior to accepting a firearm in pawn. If the check results in a "denied" response, the licensee is required to notify local law enforcement officials within 48 hours after receipt of the "denied" response.

**(P21) If a pawnbroker conducts an optional NICS check prior to receiving a firearm in pawn, should the owner of the firearm complete a Form 4473 before the pawnbroker contacts NICS?**

ATF suggests that licensees have the owner complete Section A of the Form 4473, record the results of the NICS check on the form, and retain the form in their records for at least 5 years.

**(P22) What should a licensed pawnbroker do when he or she gets a "denied" response from an optional NICS check conducted prior to the receipt of a firearm in pawn?**

The licensee is required to notify local law enforcement officials within 48 hours after receipt of the "denied" response. If the licensee has taken possession of the firearm, he or she may not return it to the individual who offered it for pawn.

**(P23) If a licensed pawnbroker conducts a NICS check prior to accepting a firearm in pawn, and gets an "approved" response from NICS, must the pawnbroker conduct another NICS check if the firearm is redeemed from pawn?**

What if it is redeemed from pawn the same day?

The law provides that another NICS check must be done at the time of redemption, regardless of how recently the pre-pawn NICS check was conducted. Even if the firearm is redeemed the same day, a separate NICS check must be conducted at the time of redemption.

**(P24) A firearm is delivered to a licensee by an unlicensed individual for the purpose of repair. Is the return of the repaired firearm subject to the requirements of the Brady law? Would the transfer of a replacement firearm from the licensee to the owner of the damaged firearm be subject to the requirements of the Brady law?**

Neither the transfer of a repaired firearm nor the transfer of a replacement firearm would be subject to the requirements of the Brady law. Furthermore, the regulations provide that a Form 4473 is not required to cover these transactions. However, the licensee's permanent acquisition and disposition records should reflect the return of the firearm or the transfer of a replacement firearm.

[27 CFR 478.124-25]

**(P25) Is a licensee's return of a consigned firearm to an unlicensed individual subject to permanent Brady?**

Yes.

**(P26) Do the requirements of the Brady law apply to sales of firearms to law enforcement officials for official use?**

Transfers of firearms to law enforcement officials for their official use are exempt from the provisions of the Brady law when the transaction complies with the conditions set forth in the regulations at 27 CFR 478.134. In general, the purchaser must provide a certification on agency letterhead, signed by a person in authority within the agency (other than the officer purchasing the firearm), stating that the officer will use the firearm in official duties, and that a records check reveals that the purchasing officer has no convictions for misdemeanor crimes of domestic violence. If these conditions are met, the purchasing officer is not required to complete a Form 4473 or undergo a NICS check. However, the licensee must record the transaction in his or her permanent records and retain a copy of the certification letter.

[27 CFR 478.134]

**(P27) Do the requirements of the Brady law apply to the sale of a firearm to a law enforcement official for his or her personal use?**

Yes. In such transactions, the law enforcement official is treated no differently from any other unlicensed transferee, and a NICS check must be conducted.

[18 U.S.C. 922(t) and 925(a) (1)]

**(P28) Are there exceptions to the Brady law's requirement for a NICS check prior to a licensee's transfer of a firearm to an unlicensed individual?**

Firearm transfers are exempt from the requirement for a NICS check in 3 situations. These include transfers: (1) to buyers having a State permit that has been recognized by ATF as an alternative to a NICS check; (2) of National Firearms Act weapons approved by ATF; and (3) certified by ATF as exempt because compliance with the NICS check requirement is impracticable.

[18 U.S.C. 922(t), 27 CFR 478.102(d)]

**(P29) What steps must be followed by an FFL prior to transferring a firearm subject to the requirements of the Brady law?**

The following steps must be followed prior to transferring a firearm:

1. The licensee must have the transferee complete and sign ATF Form 4473, Firearms Transaction Record.
2. The licensee must verify the identity of the transferee through a government-issued photo identification.
3. The licensee must contact NICS through either the FBI or a State point of contact (POC). The licensee initially will get either a "proceed" or "delayed" response from NICS. If the licensee gets a "proceed" response, the firearm may be transferred if there is no additional State waiting period. If the licensee gets a "delayed response" it indicates the transaction is in "open" status and that more research is required prior to a NICS "proceed" or "denied" response. If the licensee gets a "delayed" response and there is no additional response from the FBI or POC, the

licensee may transfer the firearm after 3 business days have elapsed. Of course, the licensee must still comply with any waiting period requirements under State law. FFLs contacting the FBI directly will receive information from the FBI indicating when the 3 business days time period elapses on "delayed" transactions.

If the licensee gets a "denied" response prior to the 3 business days elapsing, the firearm cannot be transferred.

In addition, after conducting additional research, the FBI may provide the FFL with a "cancelled" response. Transactions will be cancelled if the FBI discovers that the NICS check was not initiated in accordance with ATF or FBI regulations, e.g., information received from the Bureau of Immigration and Customs Enforcement demonstrates an alien cannot meet the requirement of 90 days of continuous state residence, or a NICS check was initiated for a non-authorized purpose or by a non-authorized individual. A licensee cannot transfer a firearm when he gets a "cancelled" response.

**(P30) What form of identification must a dealer obtain from a purchaser under the Brady law?**

The identification document presented by the purchaser must have a photograph of the purchaser, as well as the purchaser's name, address, and date of birth. The identification document must also have been issued by a governmental entity for the purpose of identification of individuals. An example of an acceptable identification document is a driver's license.

[18 U.S.C. 922(t), 27 CFR 478.124]

**(P31) Under the Brady law, may a licensee transfer a firearm to a nonlicensed individual who does not appear in person at the licensed premises?**

In any transaction that is subject to the requirement for a NICS check, the firearm may only be sold over-the-counter. Unless the purchaser appears in person at the licensed premises, the licensee cannot comply with the requirement in the Brady law that the identity of the purchaser be verified by means of a government-issued photo identification document.

**(P32) If no NICS check is required, may a licensee transfer a firearm to**



**a nonlicensed individual who does not appear in person at the licensed premises?**

Yes, assuming the transaction otherwise complies with Federal and State law. For example, a licensee may still ship firearms to out-of-state law enforcement officials for official use, as long as the transaction complies with the alternate procedure set forth in the regulations at 27 CFR 478.134. Furthermore, licensees may ship firearms intrastate to State residents who have valid permits that have been recognized as alternatives to the NICS check requirements, in compliance with the procedures set forth in 18 U.S.C. 922(c) and 27 CFR 478.96(b).

**(P33) Is the transferee required to provide his or her social security number on the ATF Form 4473?**

No. This information is solicited on an optional basis. However, providing this information will help ensure the lawfulness of the sale and avoid the possibility that the transferee will be incorrectly identified as a felon or other prohibited person.

[27 CFR 478.124]

**(P34) Will NICS provide an instant response?**

NICS will not always provide an instant response. Licensees will receive either a "proceed," "denied," "delayed," or "cancelled" response from NICS. If a "proceed" response is received, the transfer may proceed. If a "denied" response is received, the transfer may not proceed. If a "delayed" response is received, the transfer must be delayed until a "proceed" response is received from NICS or until the lapse of 3 business days, whichever occurs first. Of course, the licensee must still comply with any waiting period requirements under State law. See Question **P29** for a discussion of cancelled transactions.

**(P35) For purposes of the Brady law, what is meant by a "business day?"**

A business day is defined as any day on which State offices are open.

**(P36) If a licensee contacts NICS on Thursday, December 2, and gets a "delayed" response, when may the licensee transfer the firearm if no further response is received from NICS?**

The firearm may be transferred on Wednesday, December 8. Assuming State offices are open on Friday, Monday, and Tuesday, and closed on Saturday and Sunday, 3 business days would have elapsed at the end of Tuesday, December 7. Therefore, the licensee may transfer the firearm at the start of business on Wednesday, December 8. The 3 business days do not include the day the NICS check is initiated.

**(P37) What should a licensee do if he or she gets a "denied" response from NICS or a State point of contact after 3 business days have elapsed, but prior to the transfer of the firearm?**

If the licensee receives a "denied" response at any time prior to the transfer of the firearm, he or she may not transfer the firearm.

[18 U.S.C. 922(d)]

**(P38) What should an FFL tell a transferee who is denied by NICS?**

The FFL should inform the transferee that the NICS check indicates that the transfer of the firearm should not be made, but that it does not provide a reason for the denial. The FFL should provide the transferee with the NICS or State transaction number and an appeals brochure. The FBI has provided FFLs with brochures that outline the transferee's appeal rights and responsibilities. If you do not have any, the FBI can provide them.

**(P39) If a transferee receives a "denied" response from NICS, can the transferee find out why he or she was denied?**

Yes. Although the FFL will not know the reason for the denial, the transferee may contact the FBI or the State point of contact in writing to request the reason for denial.

**(P40) What information do FFLs have to record on ATF Form 4473 once they hear back from NICS or the State point of contact?**

FFLs must record any initial "proceed," "delayed," or "denied" response received, as well as any transaction number provided. If the initial NICS response was "delayed," FFLs also must record the date a later "proceed" or "denied" response was received, or that no resolution was provided within 3 business days if they transfer the firearm after the 3

days. In addition, if an FFL receives a response from NICS after a firearm has been transferred, he or she must record this information.

[27 CFR 478.124(c) (3) (iii)]

**(P41) What should licensees do if no transaction number is provided?**

The FBI's NICS Operations Center will always provide a transaction number at the time of the initial inquiry. Some State points of contact (POC) may not provide a transaction number for denied transactions. If a State POC does not provide a transaction number for a denied transaction, then the licensee should just record the response without a transaction number. Licensees should note, however, that a transaction number is required if a "proceed" response is issued and the firearm is being transferred within 3 business days of the initiation of a NICS check.

**(P42) Do FFLs have to keep a copy of ATF Form 4473 if the transaction is denied or for some other reason is not completed?**

FFLs must keep a copy of each ATF Form 4473 for which a NICS check has been initiated, regardless of whether the transfer of the firearm was made. If the transfer is not made, the FFL must keep the Form 4473 for 5 years after the date of the NICS inquiry. If the transfer is made, the FFL must keep the Form 4473 for 20 years after the date of the sale or disposition. Forms 4473 with respect to a transfer that did not take place must be separately maintained.

[27 CFR 478.129(b)]

**(P43) When should FFLs contact NICS?**

FFLs should contact NICS after the transferee has completed Section A of the ATF Form 4473.

**(P44) For what period of time is a NICS check valid?**

A NICS check is valid for 30 calendar days, as long as it applies to a single transaction. An FFL may not rely on a NICS check that was conducted more than 30 calendar days prior to the transfer of the firearm.

**Example:** A NICS check is initiated on December 15, 2004. The FFL receives a "proceed" from NICS. The purchaser does not return to

pick up the firearm until January 22, 2005. The FFL must conduct another NICS check before transferring the firearm to the purchaser, and must record the results of the check on the Form 4473.

[27 CFR 478.124(c)]

**(P45) Is a NICS check valid for 30 days from when the check was initiated, or from when a “proceed” is issued?**

The NICS check is valid for 30 days from when the check was initiated.

**Example:** A NICS check is initiated on December 15, 2004. The FFL receives a “proceed” response from NICS on December 17, 2004. The purchaser does not return to pick up the firearm until January 16, 2005. The FFL must conduct another NICS check before transferring the firearm to the purchaser.

**Example:** A NICS check is initiated on December 15, 2004. The FFL receives a “delayed” response from NICS; no further response is received. The purchaser does not return to pick up the firearm until January 16, 2005. The FFL must conduct another NICS check before transferring the firearm to the purchaser.

[27 CFR 478.124(c)]

**(P46) A purchaser places an order for a custom-made firearm, which will not be ready for at least 60 days. Should the NICS check be initiated on the date the order is placed or the day the firearm is ready for delivery?**

**The issue raised by this question also applies to lay-away purchases.**

If the licensee knows that it will be more than 30 days before the firearm is ready, the licensee may want to wait until the firearm is ready for delivery (or in the case of a lay-away purchase, until full payment can be made) to have the purchaser complete Section A of the Form 4473 and contact NICS for a background check. This is because if the purchaser completes Section A of the Form 4473 on the date the order is placed, and a NICS check is initiated on that day, the licensee will have to conduct a second NICS check prior to transferring the firearm and the purchaser will have to complete section C of ATF Form 4473 at the time of deliv-

ery.

**(P47) Can one NICS check cover two or more separate firearms transactions?**

No. An FFL must initiate separate NICS checks for separate transactions. However, an individual may purchase several firearms in one transaction.

**Example:** A purchaser completes an ATF Form 4473 for a single firearm on February 15. The FFL receives a “proceed” from NICS that day. The FFL signs the form, and the firearm is transferred. On February 20, the purchaser returns to the FFL’s premises and wishes to purchase a second firearm. The purchase of the second firearm is a separate transaction. Therefore, a new NICS check must be initiated by the FFL.

**Example:** A purchaser completes ATF Form 4473 for a single firearm on February 15. The FFL receives a “proceed” from NICS that day. The purchaser does not return to pick up the firearm until February 20. Before the FFL signs the Form 4473 for the first firearm, the purchaser decides to purchase an additional firearm. The second firearm may be recorded on the same Form 4473. The purchase of the 2 firearms is considered a single transaction. Therefore, the licensee is not required to conduct a new NICS check prior to transferring the second firearm.

**Example:** A purchaser wishes to purchase 1 rifle and 1 handgun. State law requires that a background check be conducted on the sale of all handguns. The State is acting as a point of contact (POC) for NICS checks for handgun sales, while the FBI is conducting NICS checks for long gun transactions in that State. To comply with State law, the dealer initiates a background check through the State POC. There is no need to initiate a separate background check through the FBI for the sale of the rifle, since the 2 firearms are being transferred in one transaction.

**(P48) If no exceptions to the NICS check apply, must an FFL always wait 3 business days before transferring a firearm to a transferee?**

No. An FFL may transfer a firearm to a transferee as soon as he or she receives a “proceed” from NICS (as-

suming that the transaction would be in compliance with State law). However, if the FFL does not receive a final “proceed” or “denied” response from NICS, he or she must wait until 3 business days have elapsed prior to transferring the firearm.

**(P49) Will a State “instant check” or “point of sale check” system qualify as an alternative to a NICS check?**

No. However, it should be noted that many States with their own background check requirements are also acting as points of contact for NICS checks.

**(P50) What happens if the transferee successfully appeals the NICS denial but more than 30 calendar days have elapsed since the initial background check was initiated?**

The FFL must initiate another NICS check before the firearm may be transferred.

**(P51) How does a licensee know whether a permit may be accepted as an alternative to a NICS check?**

Prior to November 30, 1998, ATF sent an open letter to licensees in each State, advising them what, if any, permits in that State qualified as alternatives to a NICS check at the time of transfer. Since that time, ATF has informed licensees when a State permit stopped qualifying and when a State permit became a qualifying NICS alternative. Licensees with questions about whether particular State permits are acceptable alternatives to NICS checks should contact their local ATF office, or check online at [www.ATF.gov](http://www.ATF.gov).

**(P52) Does a permit qualify as an alternative to a NICS check if the purchaser is using it to purchase a type of firearm that is not covered by the permit?**

Yes, assuming the transaction complies with State law.

**Example:** ATF recognizes the permit to purchase a handgun and the concealed weapons permit as alternatives to a NICS check in State A. Any purchaser who displays a permit to purchase a handgun or a concealed weapons permit in State A is not required to undergo a NICS check prior to purchasing a rifle, assuming the

transaction complies with State law.

**Example:** In that same State, a person with a concealed weapons permit wants to purchase a handgun. State law prohibits the sale of any handgun to a person unless he or she has a permit to purchase a handgun. Accordingly, the licensee cannot lawfully sell the handgun (with or without a NICS check) unless the purchaser has a permit to purchase a handgun.

**(P53) ATF has recognized the concealed weapons permits in State A and State B as valid alternatives to a NICS check. Can a resident of State A use a concealed weapons permit issued by State A to purchase a longgun in State B without undergoing a NICS check?**

No. A permit qualifies as a NICS alternative only if it was issued by the State in which the transfer is to take place.

[18 U.S.C. 922(t), 27 CFR 478.102(d)]

**(P54) If State law provides that permits are only valid for 2 years, can a licensee accept as a NICS alternative a permit that was issued 4 years ago?**

No. The permit must be valid under State law in order to qualify as an alternative to a NICS check.

[18 U.S.C. 922(t), 27 CFR 478.102(d)]

**(P55) If the State has its own instant check system, must the licensee comply with State requirements for a background check as well as the Brady law?**

Yes. If the State is not acting as a point of contact for NICS checks, the licensee may have to initiate 2 background checks by contacting (1) the FBI's NICS Operations Center, and (2) the State system.

**(P56) If a licensee gets a "proceed" response from NICS, does he or she still have to wait until the expiration of the State waiting period before transferring the firearm?**

Yes. Compliance with the Brady law does not excuse a licensee from compliance with State law.

**(P57) If a State is acting as a NICS point of contact (POC) and State law has requirements regarding the amount of time that a licensee must wait before transferring a**

**firearm after contacting the State, should the licensee comply with the State requirements, the Federal requirements, or both?**

The licensee must comply with both State and Federal requirements.

**Example:** State D is acting as a POC for NICS checks. State law requires a background check prior to the transfer of any firearm. State law also requires the licensee to wait 10 days to get a response from the State. The licensee must contact the State POC for a NICS check and a State background check. The licensee must comply with both Federal and State law by waiting 10 days for a response prior to transferring the firearm. If the licensee has not received a response from the State after 10 days, he or she may transfer the firearm.

**Example:** State E is acting as a POC for NICS checks. State law requires a background check prior to the transfer of any firearm. Under State law, the licensee may transfer the firearm if he or she gets no final response from the State by the next day. The licensee contacts the State POC for a NICS check, and gets a "delayed" response. Assuming that the licensee gets no further response from the State POC, the licensee must comply with both Federal and State law by waiting until 3 business days have elapsed prior to transferring the firearm.

**(P58) Does an individual (not a corporation or partnership) licensee have to conduct a NICS check on himself or herself prior to transferring a firearm to his or her own personal collection?**

No. The regulations do not require a licensee to complete a Form 4473 prior to transferring a firearm to his or her own personal collection. A NICS check is not required either. Such transfers must be recorded in the manner prescribed by the regulations at 27 CFR 478.125a.

**(P59) Is a NICS check required for the sale of firearms registered under the National Firearms Act (NFA)?**

No, assuming all NFA requirements have been satisfied.

[18 U.S.C. 922(t), 27 CFR 478.102(d)]

**(P60) An organization without a**

**firearms license wishes to acquire a firearm from a licensee for the purpose of raffling the firearm at an event. How does the licensee comply with the Brady law?**

The licensee must comply with the Brady law by conducting a NICS check on the transferee. If the licensee wishes to transfer the firearm to the organization, a representative of the organization must complete a Form 4473 and a NICS check must be conducted on that representative prior to the transfer of the firearm. Alternatively, if the licensee transfers the firearm directly to the winner of the raffle, the winner must complete a Form 4473 and a NICS check must be conducted on the raffle winner prior to the transfer.

Please note, if the organization's practice of raffling firearms rises to the level of being engaged in the business of dealing in firearms, the organization must get its own Federal firearms license (and the examples below would not apply).

**Example 1:** A licensee transfers a firearm to the organization sponsoring the raffle. The licensee must comply with the Brady Law by requiring a representative of the organization to complete the Form 4473 and undergo a NICS check. As indicated in the instructions on the Form 4473, when the buyer of a firearm is a corporation, association, or other organization, an officer or other representative authorized to act on behalf of the organization must complete the form with his or her personal information and attach a written statement, executed under penalties of perjury, stating that the firearm is being acquired for the use of the organization and the name and address of the organization. Once the firearm had been transferred to the organization, the organization can subsequently transfer the firearm to the raffle winner without a Form 4473 being completed or a NICS check being conducted. This is because the organization is not an FFL. However, the organization cannot transfer the firearm to a person who is not a resident of the State where the raffle occurs and cannot knowingly transfer the firearm to a prohibited person.

**Example 2:** The licensee or his or her representative brings a firearm to the raffle so that the firearm can be displayed. After the raffle, the

firearm is returned to the licensee's premises. The licensee must complete a Form 4473 for the transaction and must comply with the Brady Law prior to transferring the firearm to the winner of the raffle. If the firearm is a handgun, the winner of the raffle must be a resident of the State where the transfer takes place, or the firearm must be transferred through another FFL in the winner's State of residence. If the firearm is a rifle or shotgun, the FFL can lawfully transfer the firearm to the winner of the raffle as long as the transaction is over-the-counter and complies with the laws applicable at the place of sale and the State where the transferee resides.

**Example 3:** If the raffle meets the definition of an "event" at which the licensee is allowed to conduct business pursuant to 27 CFR 478.100, the licensee may attend the event and transfer the firearm at the event to the winner of the raffle. As in Example 2, the FFL must complete a Form 4473 and comply with the Brady law and the interstate controls in transferring the firearm.

Please note, procedures used in Examples 2 and 3 ensure that the winner is not a prohibited person and that there is a record of the final recipient of the firearm in the raffle.

[18 U.S.C. 922(t) and 922(a)(1)(A)]

**Q. MISDEMEANOR CRIME OF DOMESTIC VIOLENCE**

**(Q1) What is a "misdemeanor crime of domestic violence"?**

A "misdemeanor crime of domestic violence" means an offense that:

- (1) is a misdemeanor under Federal or State law;
- (2) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon; and
- (3) was committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.

However, a person is not considered to have been convicted of a misdemeanor crime of domestic violence unless:

- (1) the person was represented by counsel in the case, or knowingly and intelligently waived the right of counsel in the case; and
- (2) in the case of a prosecution for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either –
  - (a) the case was tried by a jury, or
  - (b) the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise.

In addition, a conviction would not be disabling if it has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the jurisdiction in which the proceedings were held provides for the loss of civil rights upon conviction for such an offense) unless the pardon, expunction, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms, and the person is not otherwise prohibited by the law of the jurisdiction in which the proceedings were held from receiving or possessing firearms.

[18 U.S.C. 921(a)(33), 27 CFR 478.11]

**(Q2) What is the effective date of this disability?**

The law was effective September 30, 1996. However, the prohibition applies to persons convicted of such misdemeanors at any time, even if the conviction occurred prior to the law's effective date.

**(Q3) Does application of the law to persons convicted prior to the law's effective date violate constitutional rights?**

No. This provision is not being applied retroactively or in violation of the Ex Post Facto clause of the Constitution. This is because the law does not impose additional punishment upon persons convicted prior to the effective date, but merely regulates the future possession and receipt of firearms on or after the effective date. The provision is not retroactive merely because the person's conviction occurred prior to the effective date.

**(Q4) X was convicted of misdemeanor assault on October 10, 1996 for beating his wife. Assault has as an element the use of physical force, but is not specifically a domestic violence offense. May X lawfully possess firearms or ammunition?**

No. X may not legally possess firearms or ammunition.

[18 U.S.C. 922(g)(9), 27 CFR 478.32(a)(9)]

**(Q5) X was convicted of a misdemeanor crime of domestic violence on September 20, 1996, 10 days before the effective date of the statute. He possesses a firearm on October 10, 2004. Does X lawfully possess the firearm?**

No. If a person was convicted of a misdemeanor crime of domestic violence at any time, he or she may not lawfully possess firearms or ammunition on or after September 30, 1996.

[18 U.S.C. 922(g)(9), 27 CFR 478.32(a)(9)]

**(Q6) In determining whether a conviction in a State court is a "conviction" of a misdemeanor crime of domestic violence, does Federal or State law apply?**

State law applies. Therefore, if the State does not consider the person to be convicted, the person would not have the Federal disability.

[18 U.S.C. 921(a)(33), 27 CFR 478.11]

**(Q7) What State and local offenses are "misdemeanors" for purposes of 18 U.S.C. 922(d)(9) and (g)(9)?**

The definition of misdemeanor crime of domestic violence in the GCA includes any offense classified as a "misdemeanor" under Federal or State law. In States that do not classify offenses as misdemeanors, the definition includes any State or local offense punishable by imprisonment for a term of 1 year or less or punishable by a fine. For example, if State A has an offense classified as a "domestic violence misdemeanor" that is punishable by up to 5 years imprisonment, it would be a misdemeanor crime of domestic violence. If State B does not characterize offenses as misdemeanors, but has a domestic violence offense that is punishable by no more than 1 year imprisonment, this offense would be a misdemeanor crime of domestic violence.

[18 U.S.C. 921(a)(33), 27 CFR 478.11]

**(Q8) Are local criminal ordinances “misdemeanors under State law” for purposes of sections 922(d)(9) and (g)(9)?**

Yes, assuming a violation of the ordinance meets the definition of “misdemeanor crime of domestic violence” in all other respects.

**(Q9) In order for an offense to qualify as a “misdemeanor crime of domestic violence”, does it have to have as an element the relationship part of the definition (e.g., committed by a spouse, parent, or guardian)?**

No. The “as an element” language in the definition of “misdemeanor crime of domestic violence” only applies to the use of force provision of the statute and not the relationship provision. However, to be disabling, the offense must have been committed by one of the defined parties.

[18 U.S.C. 921(a)(33), 27 CFR 478.11]

**(Q10) Is a person who received “probation before judgment” or some other type of deferred adjudication subject to the disability?**

What is a conviction is determined by the law of the jurisdiction in which the proceedings were held. If the State law where the proceedings were held does not consider probation before judgment or deferred adjudication to be a conviction, the person would not be subject to the disability.

[18 U.S.C. 921(a)(33), 27 CFR 478.11]

**(Q11) What should a licensee do if he or she has been convicted of a misdemeanor crime of domestic violence?**

A licensee convicted of a disqualifying misdemeanor may not lawfully possess firearms or ammunition. In addition, a licensee who incurs firearms disabilities during the term of a license by reason of such a misdemeanor conviction may not continue operations under the license for more than 30 days after incurring the disability unless the licensee applies for relief from Federal firearms disabilities.

[18 U.S.C. 922(g)(9) and 925(c), 27 CFR 478.144 (i)]

**(Q12) What should an individual do if he or she has been convicted of a misdemeanor crime of domestic**

**violence?**

Individuals subject to this disability should immediately dispose of their firearms and ammunition. ATF recommends that such persons transfer their firearms and ammunition to a third party who may lawfully receive and possess them, such as their attorney, a local police agency, or a Federal firearms dealer. The continued possession of firearms and ammunition by persons under this disability is a violation of law and may subject the possessor to criminal penalties. In addition, such firearms and ammunition are subject to seizure and forfeiture.

[18 U.S.C. 922(g)(9) and 924(d)(1), 27 CFR 478.152]

**(Q13) Does the disability apply to law enforcement officers?**

Yes. The Gun Control Act was amended so that employees of government agencies convicted of misdemeanor crimes of domestic violence would not be exempt from disabilities with respect to their receipt or possession of firearms or ammunition. Thus, law enforcement officers and other government officials who have been convicted of a disqualifying misdemeanor may not lawfully possess or receive firearms or ammunition for any purpose, including performance of their official duties. The disability applies to firearms and ammunition issued by government agencies, purchased by government employees for use in performing their official duties, and personal firearms and ammunition possessed by such employees.

[18 U.S.C. 922(g)(9) and 925(a)(1), 27 CFR 478.32(a)(9) and 478.141]

**(Q14) Is an individual who has been pardoned, or whose conviction was expunged or set aside, or whose civil rights have been restored, considered convicted of a misdemeanor crime of domestic violence?**

No, as long as the pardon, expungement, or restoration does not expressly provide that the person may not ship, transport, possess, or receive firearms.

**R. NONIMMIGRANT ALIENS**

**(R1) May nonimmigrant aliens legally in the United States purchase or possess firearms and ammuni-**

**tion while in the United States?**

Nonimmigrant aliens generally are prohibited from possessing or receiving (purchasing) firearms and ammunition in the United States.

There are exceptions to this general prohibition. The exceptions are as follows:

1. nonimmigrant aliens who possess a valid (unexpired) hunting license or permit lawfully issued by a State in the United States;
2. nonimmigrant aliens entering the United States to participate in a competitive target shooting event or to display firearms at a sports or hunting trade show sponsored by a national, State, or local firearms trade organization devoted to the collection, competitive use or other sporting use of firearms;
3. certain diplomats, if the firearms are for official duties;
4. officials of foreign governments, if the firearms are for official duties, or distinguished foreign visitors so designated by the U.S. State Department;
5. foreign law enforcement officers of friendly foreign governments entering the United States on official law enforcement business; and
6. persons who have received a waiver from the prohibition from the U.S. Attorney General.

Significantly, even if a nonimmigrant alien falls within one of these exceptions, the nonimmigrant alien CANNOT purchase a firearm from a Federal firearms licensee (FFL) unless he or she (1) has an alien number or admission number from the Department of Homeland Security (formerly the Immigration and Naturalization Service) AND (2) can provide the FFL with documentation showing that he or she has resided in a State within the United States for 90 consecutive days immediately prior to the firearms transaction.

[18 U.S.C. 922(g)(5)(b) and 922(y), 27 CFR 478.124, ATF Rul. 2004-1]

**(R2) Typically, who are "nonimmigrant aliens?"**

In large part, nonimmigrant aliens

are persons traveling temporarily in the United States for business or pleasure, persons studying in the United States who maintain a foreign residence abroad, and certain foreign workers. Permanent resident aliens are NOT nonimmigrant aliens. Permanent resident aliens often are referred to as people with "green cards."

**(R3) How do I obtain a waiver from the Attorney General?**

You should contact ATF's Firearms Programs Division for information on that procedure. However, in order to apply for the waiver you must have resided in the United States continuously for at least 180 days prior to submitting your application.

**(R4) I'm a nonimmigrant alien. I have a State concealed weapons permit. Does this exempt me from the prohibition on nonimmigrant aliens possessing or receiving firearms and ammunition?**

No. A State concealed weapons license/permit does NOT satisfy the hunting license or permit exception to the prohibition.

**(R5) What is an alien number or admission number?**

These are 2 different types of numbers. An admission number is the number on an INS Form I-94 or INS Form I-94W, the arrival/departure form Customs and Border Protection (CBP) gives most nonimmigrant aliens when they arrive in the U.S. While most nonimmigrant aliens will automatically receive an admission number when they enter the U.S., Canadians will not. However, if a Canadian asks a CBP official for an admission number when he/she enters the United States, he/she will be given an admission number.

Most nonimmigrant aliens will not have an alien number. An alien number is a Department of Homeland Security file number. It is issued in a variety of limited situations, such as to nonimmigrant aliens with employment authorization documents.

**(R6) I am a nonimmigrant alien. I purchased a firearm in Maine in early 1998 after providing the Federal firearms dealer with documentation showing I had resided in the**

**State for more than 90 days. I was told that this transaction was legal then. Am I entitled to keep that firearm and any ammunition I have on hand? Is there a "grandfather" clause that would protect me from criminal liability?**

Since October 21, 1998, when the Gun Control Act was amended to make nonimmigrant aliens a new category of prohibited persons, nonimmigrant aliens generally have not been able to possess firearms and ammunition in the United States. The law does not contain a "grandfather clause." Therefore, unless you obtain a valid State hunting license or permit (or fall within one of the other exceptions), your possession of the firearm and ammunition is NOT legal.

**(R7) I have a "green card" and have lived in Texas for several years. Am I prohibited from purchasing firearms and ammunition from an FFL in Texas?**

As long as you are not otherwise prohibited from purchasing or possessing firearms and ammunition (for example, a felon), Federal law does not prohibit you from purchasing or possessing firearms or ammunition. However, you will need to put your alien number or admission number on the Form 4473 and provide the FFL with documentation establishing you have resided in Texas for more than 90 consecutive days preceding the transaction. Moreover, you must make sure there are no State or local restrictions on such a purchase.

**(R8) I am a nonimmigrant alien who has resided in Idaho for 1 year. I have a valid Montana hunting license. Can I use the Montana license as evidence that I fall within an exception to the nonimmigrant alien prohibition when I go to buy a gun from a dealer in Idaho?**

Yes. A valid hunting license or permit from any State within the United States satisfies the hunting license exception to the nonimmigrant alien prohibition. The license does not have to be from the State where the nonimmigrant alien is purchasing the firearm. Please note, the transaction must comply with State and local laws.

**(R9) I am a nonimmigrant alien who is on a month-long vacation in the United States. I have a hunting**

**license and an admission number. Can I legally buy a firearm from a Federal firearms licensee (FFL) in the United States and take possession of it in the United States?**

No. You cannot legally buy a firearm from an FFL and take possession of it in the U.S. because you have not resided in a State within the United States for 90 days.

**(R10) I am a nonimmigrant alien. I'm coming to the United States for 2 weeks. I do not have a hunting license or any alien or admission number. Can I buy a firearm from a Federal firearms licensee (FFL) to take back to my home country?**

You may not buy a firearm and take possession of it in the United States. However, the FFL may directly export the firearm to your home country. If the FFL directly exports it, you do not need a hunting license, alien number or admission number or 90 days of State residency. However, the FFL first must obtain an export license from the Department of State or, if the firearm is a sporting shotgun, from the Department of Commerce.

**(R11) I am a nonimmigrant alien from Canada and am planning to reside in Florida for 6 months. Do I need an alien number or admission number if I plan to buy a gun after living in Florida for 90 days? If so, how do I get such a number?**

All non-U.S. citizens need an alien number or admission number to purchase a firearm from a Federal firearms licensee (FFL). The FFL will not complete the sale if you do not have such a number. This is the case even if you have a State permit that ATF has determined qualifies as a "NICS alternative" and therefore do not need to have a National Instant Criminal Background Check System Check. Most nonimmigrant aliens will automatically receive an admission number when they enter the United States. However, Canadians will not automatically receive this number and therefore should specifically ask for this number when they enter the United States. These numbers only can be issued at a port of entry, so it is important that you request the number when you enter the United States. Please note, most nonimmigrant aliens will not receive alien numbers.

**(R12) I am a nonimmigrant alien**

**and have been residing in Florida for 4 months. I do not have an alien number or admission number. Is there any way I can get a number?**

Yes. However, because Customs and Border Protection (CBP) only issues admission numbers at ports of entry, you generally will have to leave the United States and return to the United States to get such a number. One way to accomplish this is to go to either the Canadian border or Mexican border, leave the United States, and then reenter the United States. Upon reentering the United States, you can ask a CBP inspector for an admission number. You do not have to stay in Canada or Mexico for any length of time to do this. You can simply drive over the border, turn around, and reenter at a Customs and Border Protection point of entry. You also could request an admission number at a U.S. airport or seaport if you left the United States and returned by plane or ship. Please note, however, that it will take several weeks for the admission number to be entered into the government records system. You likely will receive a "denied" response from NICS or the State POC if you try to purchase a firearm before the number is entered into the government records system. Most nonimmigrant aliens will not be able to obtain alien numbers.

**(R13) ATF regulations give the Attorney General or his delegate (the ATF Director) the authority to require nonresidents temporarily bringing firearms and ammunition into the United States for hunting or other lawful sporting purposes to first obtain an approved import permit. Do all such importations now require an ATF-approved permit?**

All nonimmigrant aliens (with a few exceptions which are listed below) must obtain an import permit from ATF to temporarily import firearms and ammunition for hunting or other lawful sporting purposes. Please note this requirement applies to all nonimmigrant aliens, not all nonresidents (e.g., it does not apply to U.S. citizens residing abroad). The exceptions to this permit requirement are for certain foreign military personnel, official representatives of foreign governments, distinguished foreign visitors, and foreign law enforcement officers of friendly foreign governments entering the U.S. on official law enforcement business.

[27 CFR 478.115(d) and (e)]

**(R14) What type of form do I, as a nonimmigrant alien, need to file with ATF to temporarily import a firearm or ammunition for hunting or other lawful sporting purposes?**

You need to file ATF Form 6 NIA (Application and Permit for Importation of Firearms, Ammunition and Implements of War by Nonimmigrant Aliens). The Form is both the application and, once approved, the permit you present to the U.S. Customs and Border Protection when you enter the United States. The Form 6 NIA can be obtained by calling ATF's Firearms and Explosives Imports Branch or ATF's Distribution Center. It also can be downloaded from ATF's Web site at [www.ATF.gov](http://www.ATF.gov).

**(R15). Why is the submission of a Form 6 NIA for every importation now necessary?**

After the events of September 11th, it was determined that national security and public safety required ATF to know when nonimmigrant aliens are bringing firearms and ammunition into the country and the numbers and types of firearms and ammunition they are bringing in. Moreover, because nonimmigrant aliens generally cannot possess firearms and ammunition in the United States, the permit process is necessary to ensure any nonimmigrant alien bringing firearms or ammunition into the country falls within an exception to the prohibition.

**(R16) Do I need to attach any particular documentation to the Form 6 NIA application I submit to ATF?**

Yes. When you file your Form 6 NIA application, you must provide ATF with appropriate documentation demonstrating you fall within an exception to the nonimmigrant alien prohibition.

Appropriate documentation includes a valid hunting license/permit from a State of the United States. In order to be valid, the license cannot have expired at the time of submission. An application for a hunting license/permit does not qualify for the exception. A Canadian hunting license/permit also does not qualify.

Appropriate documentation also includes an invitation/registration to

attend a target shooting competition or sports or hunting trade show sponsored by a national, State, or local firearms trade organization devoted to the collection, competitive use, or other sporting use of firearms. Invitations/registrations only will qualify for the exception if they are addressed to/filled out by the Form 6 NIA applicant.

If a hunting license/permit or an invitation/registration is faxed to ATF, all information must be legible on the faxed copy.

**(R17) Do I need to show anything other than the approved Form 6 NIA permit to U.S. Customs and Border Protection (CBP) when I enter the United States?**

When you enter the United States, you must show CBP both your approved Form 6 NIA permit and appropriate documentation demonstrating you fall within an exception to the nonimmigrant alien prohibition.

**(R18) I'm a nonimmigrant alien. I provided ATF with a copy of a hunting license when I filed my Form 6 NIA import application. Can I provide Customs and Border Protection (CBP) with a copy of the same hunting license when I enter the United States?**

It depends. If the hunting license is still valid (meaning it has not expired) at the time you enter the United States, you may present CBP with a copy of the same license. However, if the hunting license has expired, you must get a new hunting license to present to CBP, or CBP will not allow you to import the firearm or ammunition. Please note, you must have a valid hunting license the entire time you possess firearms or ammunition in the United States or your possession will be illegal.

Similarly, if you provided ATF with a copy of an invitation/registration to attend a target shooting competition or sports or hunting trade show, you may present CBP with a copy of the same invitation/registration, as long as it is for a future event.

**(R19) How long does it usually take for ATF to approve a Form 6 NIA permit application?**

6 to 8 weeks. Please note, this time

frame begins to run once ATF receives a correctly completed application. The time frame is the same whether the application is submitted to ATF by U.S. mail, FedEx, fax, or hand delivery.

**(R20) Can I list more than one firearm on a Form 6 NIA application? Can I also list ammunition on the same form?**

You may list more than one firearm on a Form 6 NIA application and may include ammunition on the same form.

**(R21) I am a nonimmigrant alien who wants to bring firearms into the U.S. for a hunting trip. Can I fill out and submit the Form 6 NIA myself? Or must I have a Federally licensed importer or dealer complete it and submit it for me?**

You may complete the form yourself and submit it yourself.

**(R22) May I submit my Form 6 NIA application by fax?**

Yes. You may fax your application documents to the Firearms and Explosives Imports Branch. If you would like the permit faxed back to you once it is processed, please include a return fax number, as well as a daytime telephone number so that we can follow-up if necessary.

**(R23) I am a nonimmigrant alien. I have obtained an approved ATF Form 6 NIA import permit. Someone mentioned that I have to give Customs and Border Protection (CBP) both the approved Form 6 NIA permit and something called "ATF Form 6A." Is this correct?**

No. Because you are only importing the firearms temporarily, you do not need to complete ATF Form 6A or provide it to CBP.

**(R24) I am a nonimmigrant alien and come to the United States at least 6 times a year to go hunting. Do I need to file a new Form 6 NIA application for each trip?**

No. The import permit you receive authorizes you to bring in the firearms and ammunition listed on the permit repeatedly for 12 months after the date the permit is approved, as long

as you have a valid State hunting license to present to the Customs and Border Protection Inspector at the time of entry.

**(R25) I am a nonimmigrant alien and come to the United States for multiple competitive target shooting events each year. Do I need to file a new Form 6 NIA application for each event?**

No. When you apply for your import permit, you should attach your invitations/registrations to all the events you will be attending during the next 12 months. These will be attached to your approved permit. The import permit you receive will authorize you to bring in the firearms and ammunition listed on the permit repeatedly for 12 months after the date the permit is approved, as long as the invitations/registrations attached to the permit are for future events. If you do not expect to have invitations/registrations for future competitions until shortly before the competitions, you may want to rely on the hunting license exception to the nonimmigrant alien prohibition. If you attach a hunting license to your application, you will be able to bring in the firearms and ammunition listed on the permit repeatedly for 12 months after the date the permit is approved, as long as you have a valid State hunting license to present to the Customs and Border Protection Inspector at the time of entry. You may rely on this exception even though you are coming to the United States for competitive shooting events, and not to hunt.

**(R26) I am a nonimmigrant alien coming to the U.S. for a two-week hunting trip with 10 other nonimmigrant aliens. Do we all have to file separate Form 6 NIA applications?**

Yes. Each person must file a separate Form 6 NIA application. Each applicant also must provide his or her own hunting license/permit as part of his/her application. Similarly, if a group of nonimmigrant aliens is coming to the U.S. to compete in a qualifying competitive target shooting event or to attend a sports or hunting trade show, each person must file a separate Form 6 NIA application and provide his/her own invitation/registration as part of the application.

**(R27) I'm attending a shooting event in the United States and am**

**not sure if it qualifies for the exception. What should I do?**

We suggest that before filing your Form 6 NIA application, you call the Firearms and Explosives Imports Branch and ask if the event qualifies. If it does not qualify, you may obtain a hunting license as an alternative way of meeting one of the exceptions. Checking if the event qualifies before you submit your application will speed up the processing time of your application.

**(R28) I am a nonimmigrant alien. Do I need a Form 6 NIA import permit to import a muzzle loading gun that is considered an antique firearm under the Gun Control Act?**

No. Because antique firearms are not considered firearms for purposes of the Gun Control Act, none of the import regulations apply to the importation of antique firearms. Moreover, a nonimmigrant alien may possess antique firearms, even if the alien does not fall within an exception to the nonimmigrant alien prohibition. If you are not sure if your firearm is an antique firearm as defined by the Gun Control Act, contact ATF's Firearms Technology Branch.

**(R29) I am a nonimmigrant alien. Are there any restrictions on the types of guns I can temporarily bring into the United States for hunting or for a shooting competition?**

Yes. Unregistered National Firearms Act weapons (which include machineguns, short-barreled rifles and shotguns, and silencers); U.S. government origin firearms or firearms that contain U.S. government origin manufactured parts or components; and firearms from certain proscribed countries may not be temporarily imported. If you think the firearm(s) you wish to import may be affected by these restrictions, please contact the Firearms and Explosives Imports Branch.

[26 U.S.C. 5844, 27 CFR 447.52 and 447.57]

**(R30) If I import a firearm temporarily for hunting or match shooting, do I have to take it out of the United States at all? My brother-in-law is a United States citizen and a U.S. resident. Can I just import the firearm, and leave it in the United States with him until I come back**



**to the U.S. and need the gun again?**

You may not leave the firearm with your brother-in-law. The regulations only allow you to temporarily import firearms. Therefore, you must take the firearms you import back out with you when you complete your sporting activity. In fact, the import permit you receive will have a stamp on it stating that the firearm must be taken out of the United States at the conclusion of the hunting or sporting event, as well as a stamp saying the firearm may not be transferred to another person. Therefore leaving the firearm in the United States with your brother will result in an unlawful importation.

**(R31) If I can't leave the gun with a friend or relative, could I leave it in the custody of a Federal Firearms Licensee in the United States?**

No. Because the regulations require you to take the firearms you import back out with you when you complete the sporting activity, you cannot leave them with anyone in the United States, even a Federal firearms licensee. Also, leaving it with an FFL will violate the stamps on your permit that state the firearm must be taken out of the United States at the conclusion of the hunting or sporting event and may not be transferred to another person.

**(R32) If I receive a Form 6 NIA import permit, do I need to obtain an export permit to take the guns and/or any remaining ammunition back out of the United States?**

No.

**(R33) I'm a nonimmigrant alien who is coming to the United States for two weeks to go hunting. Can I rent a firearm in the United States to use on this trip? What about if I want to go to a shooting range one day - can I rent a firearm there as well?**

As long as you possess a valid hunting license from a State within the United States, you may rent firearms to hunt and to use at a shooting range. If you do not have the hunting license, your possession of the firearms and ammunition will be unlawful. The hunting license does NOT have to be from the State where you will be possessing the guns and ammunition.

[18 U.S.C. 922(a)(5) and (9), 922(g)(5)(B) and 922(y)]

**(R34) I am a U.S. citizen living in Canada with no State of residency in the United States. Do I need an import permit to temporarily bring my gun to the U.S. to hunt or to attend target shooting events?**

No. You are not required to obtain an import permit. The import permit requirement only applies to nonimmigrant aliens.

**(R35) I'm Canadian and am going to be driving through the United States as a short cut to get from one part of Canada to another part of Canada. I'm going to have a rifle with me. What documentation will I need at the U.S. borders?**

You do not need a Form 6 NIA import permit from ATF because you are not temporarily bringing your gun in for hunting or other lawful sporting purposes. You also do not need a DSP-61 import license from the State Department because there is an exception to their license requirement that applies in this situation. However, you do need to have a valid hunting license from a State within the United States to make your possession of firearm legal while you are in the United States.

**(R36) I'm a nonimmigrant alien and have been living in the United States for several years. I have a firearm that I legally purchased in the United States and legally possess (I have a valid State hunting license). I'm going to bring my gun**

**with me on a hunting trip to Canada. Will I need to obtain a Form 6 NIA permit to bring the gun back into the United States with me?**

You will not need to obtain a Form 6 NIA permit if, when you return to the U.S., you can satisfy the U.S. Customs and Border Protection (CBP) official that you previously took the firearm out of the United States with you. The easiest way to do this is to complete Customs Form 4457 when you leave the U.S. with the gun. Please note that when you return to the U.S. you will have to present the CBP official with documentation (for example, a hunting license/permit) demonstrating you are exempt from the general non-immigrant alien prohibition on possessing firearms.

**(R37) I am a Canadian law enforcement officer planning to attend a qualifying competitive target shooting event in the United States. Do I need an import permit?**

If you are attending the event in your official capacity as a law enforcement officer and all the firearms you are bringing are for use in that event, you do not need a permit. This is because of a regulatory exception in 27 CFR 478.115(d)(5). You will need to show Customs and Border Protection documentation (such as a letter on agency letterhead) demonstrating that you are a law enforcement officer and need to use these firearms for official purposes.

If, however, you are attending the event as a private individual, the non-immigrant alien import permit requirements will apply to you.

Please note that even if you are exempt from the permit requirements as a law enforcement officer on official business, you may not bring in unregistered National Firearms Act (NFA) weapons (e.g., short-barreled rifles and shotguns, machineguns, silencers).