



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

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Frequently Asked Questions - Silencers

Q1: What part of a silencer must be marked?

A: The silencer must be marked in accordance with 27 C.F.R. §§ 478.92 and 479.102. The regulations require that the markings be conspicuous and legible, meaning that the markings may be placed on any external part, such as the outer tube or end cap.

ATF strongly recommends that manufacturers place all required markings on the outer tube of the silencer, as this is the accepted industry standard. Moreover, this practice eliminates the need to remark in the event an end cap bearing the markings is damaged and requires replacement.

Q2: May a Federal firearms licensee repair a silencer by replacing worn or damaged components?

A: A person who is licensed under the Gun Control Act (GCA) to manufacture firearms and who has paid the special (occupational) tax to manufacture National Firearms Act (NFA) firearms may replace a component part or parts of a silencer. Repairs may not be done if they result in removal, obliteration, or alteration of the serial number, as this would violate 18 U.S.C. § 922(k). If a silencer part bearing the serial number, other than the outer tube, must be replaced, the new part must be marked with the same serial number as the replacement part.

The term "repair" does not include replacement of the outer tube of the silencer. The outer tube is the largest single part of the silencer, the main structural component of the silencer, and is the part to which all other component parts are attached. The replacement of the outer tube is so significant an event that it amounts to the "making" of a new silencer. As such, the new silencer must be marked, registered and transferred in accordance with the NFA and GCA.

In the event that identical replacement parts for a silencer are not available, new and different component parts may be used as long as the silencer retains the same dimensions and caliber. In addition, the repair may result in a minimal reduction in the length of the outer tube due to rethreading, but repair may not increase the length of the outer tube. Increasing the length of the outer tube significantly affects the performance of the silencer and results in the "making" of a new silencer. As stated above, a new silencer must be marked, registered and transferred in accordance with the NFA and GCA. Reducing the length of the tube by a minimal amount in order to repair a silencer is often necessary to replace damaged end caps, as the tube must be rethreaded. Such minimal reduction of the length of the tube uses all of the original parts, does

not significantly affect performance of the silencer, and may be done as part of a repair process without making a new silencer.

Q3: May the outer tube of a registered silencer be repaired due to damage? If so, may the repair be done by someone other than the original manufacturer?

A damaged outer tube may be repaired by any Federal firearms licensee qualified to perform gunsmithing or by the registered owner. The repair may not alter the dimensions or caliber of the silencer, except that the length of the outer tube may be reduced, as set forth above. The repair may not be performed if it results in the removal, obliteration, or alteration of the serial number, as this would violate 18 U.S.C. § 922(k). In that case, the silencer may be returned to the registered owner in its original, damaged condition or destroyed. A replacement silencer must be registered and transferred to the registrant of the damaged silencer in the same manner as a new silencer, subject to the registration and transfer procedures of the NFA and GCA.

Q4: If the outer tube is destroyed or damaged beyond repair, may it be replaced?

A: Unless the outer tube is replaced by the manufacturer prior to its removal from the manufacturing premises for purposes of sale or distribution (see **Q6**), the replacement of the outer tube amounts to the making of a new silencer. For the registered owner to fabricate a new outer tube, he or she must submit an ATF Form 1, Application to Make and Register a Firearm, pay the making tax of \$200, and receive ATF approval. The application to make should indicate that the new tube is being fabricated for use in replacing a damaged outer tube on a registered silencer, and the application should indicate the make, model and serial number of the registered silencer. It would be helpful for the applicant to include a copy of the approved registration for the silencer. Assembly of the newly fabricated tube with the other parts of the registered silencer does not require an additional application to make nor payment of another making tax, as the one Form 1 will provide permission to fabricate the new tube and to assemble it with the old silencer parts. The replacement tube must be marked in accordance with 27 C.F.R. § 479.102. The registrant may use the same serial number that appeared on the damaged tube.

If the registered owner wishes to acquire a replacement tube from a person other than a qualified manufacturer, the replacement tube must be registered as a new silencer by the other person and transferred to the registered owner in accordance with the NFA and GCA. The other person must submit an ATF Form 1, pay the \$200 making tax, and receive ATF approval to make the replacement tube. The replacement tube must be marked in accordance with 27 C.F.R. §§ 478.92 and 479.102. The other person would then transfer the replacement tube to the owner of the damaged silencer, subject to the transfer tax, in accordance with the NFA and GCA. The new tube may be then be assembled with the other parts. The original damaged silencer should be reported to the NFA Branch as destroyed.

Alternatively, a qualified manufacturer may replace the tube, report the manufacture on ATF Form 2, Notice of Firearms Manufactured or Imported, and transfer the replacement tube to the owner in accordance with the NFA and GCA. The transfer must comply with the \$200 transfer tax and all other provisions of the NFA, as it would be a new silencer. The replacement tube must also be marked in accordance with 27 C.F.R. §§ 478.92 and 479.102. The required

markings include an individual serial number and the name, city, and State of the manufacturer who replaced the tube. The replacement tube may not be marked with the name, city, and State of the original manufacturer of the silencer, as this would be a false marking. Although the new tube is a new silencer for purposes of the NFA, it would be a replacement firearm of the same type as the original silencer, and it may be returned directly to the registrant in interstate commerce in accordance with 18 U.S.C. § 922(a)(2). The original damaged silencer should be reported to the NFA Branch as destroyed.

Q5: May a repair change the dimensions or caliber of a silencer?

A: If alterations to a silencer would increase the overall length or change the diameter or caliber of a silencer, this is the making of a new silencer, as opposed to a repair. The new silencer must be registered and transferred in accordance with the NFA and the GCA. Alterations to a registered silencer that result in a minimal reduction in the overall length for purposes of rethreading are permissible as repairs. However, the reduction in length may not result in the removal, obliteration, or alteration of the existing serial number, as this would violate 18 U.S.C. § 922(k). If such a repair is necessary, the damaged silencer should be destroyed or returned to the registrant. If it is destroyed, destruction should be reported to the NFA Branch. Any replacement silencer must be registered and transferred in accordance with the NFA and the GCA. See Q2 and Q3 for further information on repairs.

Q6: If a silencer is found to be defective due to the manufacturing process, may it be replaced?

A: A silencer may be replaced only under the following circumstances:

- (1) A manufacturer of silencers licensed as a manufacturer under the GCA who has paid special (occupational) tax under the NFA;
- (2) prior to the time the silencer has left the manufacturer's premises;
- (3) determines that a silencer of its own manufacture is defective.

If all the above criteria are satisfied, the manufacturer may destroy the defective silencer and replace it with another silencer. If the silencer has already been registered, the replacement silencer may be marked with the same serial number and markings as the original silencer. If the destruction is prior to registration on Form 2, the replacement silencer may be marked with the same serial number or another serial number. See also **Q2**, **Q3**, and **Q4**.