



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

www.atf.gov

November 17, 2016

REFER TO: 2016-0549 / 1:15-cv-01649

Mr. Stephen D. Stamboulieh
Stamboulieh Law, PLLC
P.O. Box 4008
Madison, MS 39130

Dear Mr. Stamboulieh:

This is in response to your May 7, 2016, Freedom of Information Act (FOIA) request to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) on behalf of your client Mr. Len Savage, which is now part of an ongoing litigation.

In response to the FOIA request, we have processed 467 pages of potentially responsive material. Of the 467 pages, 41 pages are being released to you in full and 221 pages in part. 205 pages of non-responsive material have been withheld in full. Individual redactions identify the exemption pursuant to which the redacted material has been withheld, and each page indicates whether it is being released in full ("RIF") or released in part ("RIP"). Pages withheld in their entirety are denoted by a deletion sheet identifying the reason for the withholding.

Please note that certain information contained in the 221 pages noted above, has been withheld pursuant to 5 U.S.C. § 552(b)(6) or 5 U.S.C. § 552(b)(5) under the Deliberative Process Privilege.

Sincerely,

Stephanie M. Boucher

Stephanie M. Boucher
Chief, Disclosure Division

Enclosure

From: (b)(6)
To: (b)(6)
Subject: Copy of July 12 2010 ltr to NFATCA
Date: Tuesday, April 08, 2014 11:21:33 AM
Attachments: SKMBT_50114040810130.pdf

All -

Here is a copy of the July 12, 2010, letter to NFATCA in which ATF requests additional information.

(b)(6)



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Assistant Director

Washington, DC 20226

JUL 12 2010

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(b)(6) President
National Firearms Act Trade and
Collectors Association (NFATCA)
4455 Brookfield Corp. Dr.
Suite 100
Chantilly, VA 20151

Dear (b)(6)

This is in reference to the letter dated April 27, 2008, filed on behalf of the National Firearms Act Trade and Collectors Association (NFATCA), concerning markings on firearm silencers. Among other things, the NFATCA requested that the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) initiate a rulemaking proceeding to prohibit marking a silencer in a location other than the outer tube.

In its letter, the NFATCA stated that “[a]llowing end caps to be the possible marking location for silencers does constitute a serious public safety issue in the areas of diversion, tracing and evasion of other NFA rules.” However, no supporting documentation or information was provided to support this contention. Accordingly, we are asking the NFATCA to provide us with additional information, data, etc., to support its position that an amendment of the regulations is necessary. Please forward the requested information to (b)(6) at the address below by August 20, 2010.

(b)(6)
Office of Regulations – Mailstop 6N-602
Bureau of Alcohol, Tobacco, Firearms and Explosives
99 New York Avenue, NE.
Washington, DC 20226

If you have any questions or concerns, please contact (b)(6) at (b)(6)

Sincerely yours,

Arthur Herbert
Assistant Director
Office of Enforcement Programs and Services



U.S. Department of Justice

**Bureau of Alcohol, Tobacco,
Firearms and Explosives**

Washington, DC 20226

www.atf.gov

903010 (b)(6)
801056

18 U.S.C. 921(a)(24)
27 CFR 479.11, 479.68,
479.102, 479.103

5300

(b)(6)
Executive Director
National Firearms Act Trade & Collectors Association
20603 Big Wells Drive
Katy, TX 77449

Re: Marking and Registration of Silencers

Dear (b)(6) :

This is in response to your letter to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), National Firearms Act (NFA). This letter has been forwarded to ATF's Firearms Industry Programs Branch for a response.

Specifically, your letter states; "historically, FFL/SOT manufacturers have prepared silencer components in anticipation of future builds and have done so under the proviso that licensed manufacturers who are also SOTs may possess spare silencer components in conjunction with their manufacturing operations. This preparation includes the sizing of outer tubes of silencers which, by definition are NFA items, which are then properly marked and registered on ATF Form 2 within 24 hours of manufacture." You want a confirmation that the above process meets all lawful requirements of manufacturing, marking and record keeping.

Licensed manufacturers who hold a SOT may possess spare silencer components in conjunction with their manufacturing operations. The silencer must be marked in accordance with 27 C.F.R. § 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 re-mark in

(b)(6)
National Firearms Act Trade & Collectors Association

the event an end cap bearing the markings is damaged and requires replacement. In accordance with 27 C.F.R. §479.103, a manufacturer must prepare an ATF Form 2, Notice of Firearms Manufactured Or Imported and file it with ATF's National Firearms Act Branch no later than the next business day. In addition, the licensed manufacturer must comply with all provisions in the Gun Control Act including recording/recordkeeping requirements.

If the manufacturer completes and submits ATF Form 2 not later than the next business day after sizing and serializing the outer tubes, then this would be a correct procedure. There is no regulation regarding a time frame for the manufacturer to have produced a completed product/silencer. The process that you have described does continue to meet all lawful requirements of manufacturing, marking and record keeping.

We trust that the foregoing has been responsive to your request. Please feel free to contact the Firearms Industry Programs Branch at fipb@atf.gov if you have any additional questions.

Sincerely,



Ed Courtney
Chief, Firearms Industry Programs Branch

Enclosure: Original request

PAGE(S) WITHHELD IN FULL (WIF)
OR REFERRED TO ANOTHER AGENCY

WIF

REFERRED TO:

Page Number 5 - 20

Exemption (b)(1)

Exemption (b)(2)

Exemption (b)(3)

Applicable Statute

Exemption (b)(4)

Exemption (b)(5)

Applicable Privilege:

Deliberative Process Privilege

Attorney Client Privilege

Attorney Work Product

Exemption (b)(6)

Exemption (b)(7)(A)

Exemption (b)(7)(B)

Exemption (b)(7)(C)

Exemption (b)(7)(D)

Exemption (b)(7)(E)

Exemption (b)(7)(F)

Duplicate **Of Pages**

Non-Responsive

Outside of Scope of Request

String E-Mail

Located in Document

Questions on NFATCA sponsored "White Paper": Defining Small Arms Ammunition

Thank you for the opportunity to provide comments on the NFATCA sponsored "White Paper": Defining Small Arms Ammunition posted on your website at http://www.nfatca.org/pubs/saa_whitepaper_v1.32.pdf. ATF acknowledges the value of a cooperative relationship with the firearms industry and appreciates your efforts to keep us informed of your understanding regarding this issue. We are, therefore, concerned about certain statements in the aforementioned document that are inconsistent with official discussions we have had with the NFATCA. Specifically, we ask the following questions:

Q. 1. What is the basis for the statement on page 3, paragraph 2, that "*regulation writers at ATF have determined a need to define the term "small arms ammunition" for the first time to exclude "large bore" ammunition designed for small arms from the historic exemption*"? ATF has undertaken no sole effort to define small arms ammunition. In fact, resultant from your letter to us and your meeting with Acting Director Nelson last year, we initiated an Advanced Notice of Proposed Rulemaking to solicit comments from the regulated industries, law enforcement, and the general public as to whether or not ATF should change its longstanding and consistent policy that sets the threshold at .50 caliber for small arms ammunition in accordance with other relevant statutes (GCA, NFA, AECA). (As an aside, the decision to initiate a regulation revision project is made by Bureau management officials in order to provide guidance or clarification of an existing law or regulation. These projects are managed by subject matter experts, not by regulation writers).

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Q. 2. Page 3, paragraph 4 of the document states that ATF "*should follow the rulemaking process with precision.*" Does the NFATCA believe that ATF has been remiss in this area despite our having drafted an Advanced Notice of Proposed Rulemaking to solicit comments on this topic?

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an explosive is primarily dependent on its behavior when subject to certain conditions. (Use and intent are factors sometimes used to determine whether or not an item is classified as a destructive device.) Also, while ATF regulates ANFO, regardless of its intended use, we do not regulate fertilizer in any circumstances.

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ATF's longstanding position is reasonable and effectively balances the effective administration and intent of the purpose of the law and is in accordance with its mission. We are open to considering ideas that enhance these operating principles and seek constructive information to this end, so that we can evaluate any merit in changing ATF's well-established position. Further, we are concerned that the opinion of the author of the document may be misconstrued as a direct quote from ATF management. Does the NFATCA maintain that the phrase "*all ammunition above .50 caliber is now considered an explosive*" is a direct quote from ATF?

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Q. 7. Regarding page 5, bullet Set 2 (Small Arms Ammunition), ATF would like additional supporting documents to further understand the purpose and background from which these definitions were derived. Also, we are aware of several definitions with a .50 caliber cutoff. We are concerned that your list contains none of these. We would like to see a broader spectrum of definition sources used to provide a more balanced picture.

Q. 8. Page 6, paragraph 2 of the document states that, "*ATF Firearms Technology Branch (FTB) has regularly held via opinion letters that many types of ammunition in excess of .50 caliber are, in fact, neither explosives nor destructive devices.*" Is NFATCA aware that ATF's Firearms Technology Branch determines only whether ammunition is sporting or non-sporting with respect to importation standards? The Explosives Industry Programs Branch bears sole responsibility in determining whether an explosive is subject to the Federal explosives laws. (The Explosives Technology Branch determines whether certain ammunition is a destructive device.)

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portrayed as fact without any reference support of scientific merit. ATF would like to review any associated documents that would discuss the scientific methods employed in carrying out these tests. Additionally, does NFATCA have access to information concerning ammunition depots that have produced uncontrollable effects? ATF would welcome an opportunity to discuss any mitigating practices suggested to reduce or eliminate injury to people.

Q. 10.5 Further, on pages 6 and 7, you listed two incidents in which certain ammunition was involved in fires, and there were no catastrophic consequences. Is it your intention to correlate the lack of injury and death to persons near these incidents are supportive of the contention that this ammunition does not pose a public safety hazard? Would it be reasonable to conclude that if there HAVE been incidents when persons near such an incident were injured or killed, the ammunition can post a public safety hazard?

Q. 11. Regarding the Proposed Solution on page 8 of the document, ATF asks that NFATCA expand upon how this proposal would not hinder the purpose of the Organized Crime Control Act, and how amending the definition of small arms ammunition, as proposed in the document, would be consistent with ATF's mission.

Q. 12 In our meeting, we received significant pullback from NFATCA regarding the proposal to pursue rulemaking. However, the white paper, in addition to the above references to rulemaking, clearly indicates on page 11, under "Implementation," that ATF should pursue rulemaking. Again, we would greatly appreciate clarification by NFATCA on whether it is interested in participating in the rulemaking process.

Comment: Under "Implementation," Page 9, NFATCA is recommending that a work group be formed, to include FTB, industry associations, leaders and subject matter experts. It is noted that as an explosives issue, EIPB will take the lead on the small arms ammunition definition. Other ATF components, such as FTB, ETB and Counsel will participate.

Request: Please expand list of "Large Calibers in Current Use" to be inclusive of those ammunitions of which NFATCA would like us to be aware. Additionally, it would be beneficial if the list included manufacturer data on powder/propellant weight in each ammunition.

Questions on NFATCA sponsored "White Paper": Defining Small Arms Ammunition

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Comment: Under "Implementation," Page 9, NFATCA is recommending that a work group be formed, to include FTB, industry associations, leaders and subject matter experts. It is noted that as an explosives issue, EIPB will take the lead on the small arms ammunition definition. Other ATF components, such as FTB, ETB and Counsel will participate.

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(b)(6) President
National Firearms Act Trade and
Collectors Association (NFATCA)
4455 Brookfield Corp. Dr.
Suite 100
Chantilly, VA 20151

Dear (b)(6)

This is in reference to the letter dated April 27, 2008, filed on behalf of the National Firearms Act Trade and Collectors Association (NFATCA), concerning markings on firearm silencers. Among other things, the NFATCA requested that the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) initiate a rulemaking proceeding to prohibit marking a silencer in a location other than the outer tube.

In its letter, the NFATCA stated that “[a]llowing end caps to be the possible marking location for silencers does constitute a serious public safety issue in the areas of diversion, tracing and evasion of other NFA rules.” However, no supporting documentation or information was provided to support this contention. Accordingly, we are asking the NFATCA to provide us with additional information, data, etc., to support its position that an amendment of the regulations is necessary. Please forward the requested information to (b)(6) at the address below by August 20, 2010.

(b)(6)
Office of Regulations – Mailstop 6N-602
Bureau of Alcohol, Tobacco, Firearms and Explosives
99 New York Avenue, NE.
Washington, DC 20226

If you have any questions or concerns, please contact (b)(6) at (b)(6)

Sincerely yours,

Arthur Herbert
Assistant Director
Office of Enforcement Programs and Services

3 **PAGE(S) WITHHELD IN FULL (WIF)**
OR REFERRED TO ANOTHER AGENCY

WIF

REFERRED TO:

Page Number 31 - 33

Exemption (b)(1)

Exemption (b)(2)

Exemption (b)(3)

Applicable Statute

Exemption (b)(4)

Exemption (b)(5)

Applicable Privilege:

Deliberative Process Privilege

Attorney Client Privilege

Attorney Work Product

Exemption (b)(6)

Exemption (b)(7)(A)

Exemption (b)(7)(B)

Exemption (b)(7)(C)

Exemption (b)(7)(D)

Exemption (b)(7)(E)

Exemption (b)(7)(F)

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String E-Mail

Located in Document

**National Firearms Act
Trade & Collectors Association®**



September 18, 2014

Alphonso Hughes, Chief, F&E Services Division
Bureau of Alcohol, Tobacco, Firearms & Explosives
244 Needy Rd
Martinsburg WV 25405

Mr. Hughes,

John K. Brown, III
President
Jeffrey E. Follower
Executive Director, Sec/Tres

Board of Directors

Robert Landies,
Ohio Ordnance, Inc.
Curt Wolf,
US Ordnance Research
Wayne Weber,
Heckler & Koch USA
Robert Segel,
Small Arms Review

"Power Through Experience"

ATF Ruling 2014-1 has established guidelines for the proper processes and procedures for lawfully sub-contracting the manufacture of "post sample" machine guns. Many required procedures for specific scenarios were clarified and documented. Unfortunately, 2014-1 has also created a significant amount of confusion and concern in regard to the practical application of the guidance. 2014-1 does not specifically address repair of lawfully owned "post sample" machine guns and implies that it is now nearly impossible to send these guns out for repair without chaperoning or obtaining written LE/Military consent for a transaction that said agency is not involved in.

As an example: An FFL/SOT is in lawful possession of a "post sample" machine gun. It breaks. The FFL/SOT wants to get it repaired. The February 18, 2000 open letter from ATF states that "The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) does not consider the temporary conveyance of an NFA firearm to a gunsmith for repair to be a "transfer" under the terms of the NFA. Thus, an ATF Form 5 application is not required." So he would obtain a Form 5 (although not absolutely necessary, it is ATF recommended), create a repair order, box the gun up, send it off to an O7/SOT, have it repaired and get it back. Is this procedure still valid or has 2014-1 superseded it? If the February, 2000 guidance is no longer valid, ATF has now made it virtually impossible for FFL/SOT's to obtain repairs, even from the original manufacturer, for their lawfully owned weapons. Surely this was not the intention of the 2014-1 ruling!

20603 Big Wells Drive • Katy, Texas • 77449
Phone: 281.492.8288 • Web: www.nfatca.org • Email: info@nfatca.org
The NFATCA® is a 501(c)(6) organization, EIN 20-2820282
The NFATCA® Foundation is a 501(c)(3) organization, EIN 27-4349349
The NFATCA® logo is a registered trademark

Our membership is quite alarmed by the implications of this ruling and would like to be assured that they will continue to be able to conduct lawful commerce with their lawfully obtained weapons without undue and unnecessary burden. Further, many concerns have been raised by member FFL/SOT's who secured ATF recommended Form 5 approval to obtain repairs under the February, 2000 guidance. Will NFA Branch approve the return of these weapons on a new Form 5, as they had in the past, or will 2014-1 render these weapons "frozen" in place, thus depriving the original owners of their property? In most cases, the original agency letters requesting demonstration of the weapons are no longer valid (ATF only recognizes them as valid for six months) and securing a second, valid letter would be practically impossible.

This serious matter needs to be clarified and resolved quickly. I look forward to your helpful response.

Sincerely,

(b)(6)

(b)(6)
Executive Director

cc: Michael Fronczak
Marvin Richardson
(b)(6)



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Office of Enforcement Programs and Services

Martinsburg, WV 25405

www.atf.gov

901000: (b)(6)
5320

OCT 10 2014

(b)(6)
Executive Director
NFATCA
20603 Big Wells Drive
Katy TX 77449-6269

Mr. (b)(6)

This responds to your request for clarification of ATF Ruling 2014-1 as it applies to machineguns possessed by Federally licensed firearms dealers pursuant to 18 U.S.C. § 922(o) and implementing regulations, 27 CFR 479.105. Specifically, in light of Ruling 2014-1, you seek further explanation regarding the transfer of both post-86 "dealer sales sample" machineguns received by Federally licensed firearm dealers and "post-86" machineguns manufactured and stockpiled by Federally licensed firearm manufacturers. Pursuant to the following analysis, licensees possessing machinegun sales samples may lawfully transfer those machineguns if they possess that firearm with a valid government authorization as outlined in 27 CFR 479.105(d)--a letter from a government entity expressing a need for that particular model or interest in seeing a demonstration of that particular weapon. However, any transfer without such authorization, including machineguns stockpiled by manufacturers, cannot be considered a transfer "to or by" the government and are therefore unlawful under section 922(o).

Federally licensed firearms dealers are permitted to receive transfer of and possess "post-86" machineguns pursuant to 27 CFR 479.105(d), the regulations implementing section 922(o). This permits licensed dealers to obtain sample firearms for use in demonstrations to government agencies in order to gain future government business. Once a demonstration is complete however, licensed dealers may keep these machineguns in inventory until such time they go out of business. This eliminates the need to dispose of the firearm and obtain a new sample for a subsequent demonstration to a government agency. Following demonstration however, these dealer sales samples sometimes require repair and must be transferred to the original manufacturer or other licensee capable of providing the necessary service. You have inquired whether ATF Ruling 2014-1 prohibits licensed dealers from transferring these firearms for repair.

Further, you note that Federally licensed manufacturers who are special (occupational) taxpayers often produce and stockpile machineguns for future sale to government entities. These licensees are

(b)(6)

permitted to stockpile these machineguns pursuant to 27 CFR 479.105(c) but are not required to possess authorization similar to that required by 27 CFR 479.105(d).

The Gun Control Act (GCA), 18, U.S.C. § 922(o), generally makes it unlawful for any person to transfer or possess a machinegun. Pursuant to a statutory exception, machineguns may legally be possessed and transferred if that machinegun was lawfully possessed prior to May 19, 1986—the effective date of that section. Machineguns produced or registered after that period are known as "post-86" machineguns. However, section 922(o)(2)(A) also exempts transfer[s] "to or by, or possession by or under the authority of" a Federal, State, or local government agency. In recognizing that government agencies may seek a demonstration of a particular machinegun prior to purchase, ATF published implementing regulations permitting licensed manufacturers to stockpile machineguns and licensed dealers to obtain sample machineguns pursuant to the request of a government agency, 27 CFR 479.105(c) and 27 CFR 479.105(d), respectively. Pursuant to 27 CFR 479.105(d), licensed dealers may receive "post-86" machineguns "if it is established by specific information the expected governmental customers who would require a demonstration of the weapon...and letters from government entities expressing a need for a particular model or interest is seeing a demonstration of a particular weapon."

ATF Ruling 2014-1 addressed the transfer of post-86 machineguns, holding that although a person licensed and qualified under the GCA and National Firearms Act (NFA) would normally be prohibited from transferring a machinegun, such licensee could lawfully transfer a machinegun to another licensee if acting as an "agent" of the government. That is, by providing sufficient documentation that the licensee was an agent of the government, such transfer might be considered a "transfer by" the "interested government department or agency."

As stated, the transfer of "post-86" dealer sales samples to licensed dealers is legally permissible when that dealer is acting on behalf of a government agency as evidenced by the government authorization provided in the required documentation. Further, as noted above, licensed dealers may continue to possess the firearm under that authority. Based upon this analysis, ATF advises that licensed dealers maintaining these dealer sales samples in inventory may lawfully transfer these firearms to other licensees for repair purposes. The authority to receive initial transfer and continued possession of these firearms is sufficient to consider such activity a transfer "by" the government, as required by section 922(o) of the GCA, in relation to that particular post-86 dealer sales sample. Therefore, Federal licensees possessing "post-86" machinegun "dealer sales samples" may lawfully transfer those machineguns if they possess that firearm with a valid authorization as outlined in 27 CFR 479.105(d)-a letter from a government entity expressing a need for that particular model or interest in seeing a demonstration of that particular weapon.

However, it should be noted that Federal licensees possessing post-86 machineguns pursuant to 27 CFR 479.105(f) do not have similar government "agency" authority as they possess no documentation, such as that outlined in 27 CFR 479.105(d), reflecting government authorization as to a particular firearm. Therefore, there is no authority on which to support the proposition that these licensees are acting as agents of the government and therefore that any "transfer" is a transfer "by" the government.

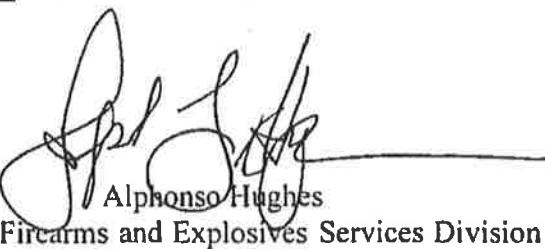
(b)(6)

Similarly, those manufacturers stockpiling machineguns as inventory for possible future sale to government entities possess no such authorization. A manufacturer possessing these machineguns cannot be said to be an "agent" of the government simply by possessing

machineguns for the potential future sale of these machineguns. Therefore any transfer of these machineguns is not a transfer "by" the government and is therefore prohibited by 18 U.S.C. § 922(o).

Finally, please note that ATF has *not* changed its long-held position that a "conveyance" for repair is not a "transfer" under the NFA. Machineguns are unique in that they are NFA firearms that are also subject to specific transfer provisions under section 922(o) of the GCA. Therefore, to lawfully transfer a machinegun, a possessor must comply with the transfer provision of both the NFA and the GCA. Because "transfer" has different meanings under the CGA and NFA, an action may constitute merely a "conveyance" under the NFA while it is a "transfer" under the GCA. This is the case when a post-86 machinegun is sent out for repair. Such transaction will be continue to be considered only a conveyance under the NFA and may be effected on a Form 5. However, such transactions will be unlawful under the GCA unless the transfer is "to or by" the government or an agent thereof.

Please contact me at (b)(6) if you have any questions.



Alphonso Hughes
Chief, Firearms and Explosives Services Division

Carlson, Krissy Y.

From: Carlson, Krissy Y.
Sent: Monday, May 02, 2016 4:40 PM
To: (b)(6)
Cc: Richardson, Marvin G.; (b)(6)
Subject: Re: Information Request

Hi (b)(6) I'm so sorry I didn't get back to you. I spoke to (b)(6) about this last week when we saw him at LWRCI.

Krissy Carlson
(b)(6)

On May 2, 2016, at 4:32 PM, (b)(6) wrote:

On 4/2/2016 12:48 PM, (b)(6) wrote:

I misunderstood you request a bit. Let me get with criminal enforcement and see if they can find any we can share.

Krissy,

Touching base again. Would like to have this information, if possible, in the next week. It's been a month since we last touched base and I am certain that this will still be a topic to discuss at the NRA Annual Meeting.

--

(b)(6) <nfatcalogo.png>
Phone: 281.492.8288
Website: www.nfatca.org
Forums: www.nfatcaforsm.org

Carlson, Krissy Y.

From: Carlson, Krissy Y.
Sent: Thursday, July 07, 2016 10:40 AM
To: (b)(6)
Subject: RE: Prosecutorial action

Hi (b)(6) I am not aware of these 16 active cases. Let me see what I can find out and I will share with you what I can.

Krissy Y. Carlson
Division Chief, Firearms and Explosives Industry Division

(b)(6)

-----Original Message-----

From: (b)(6)
Sent: Thursday, July 07, 2016 10:37 AM
To: Carlson, Krissy Y. <(b)(6)>
Subject: Prosecutorial action

Krissy,

Hope you're doing well. I know that (b)(6) is already pursuing this action so I apologize for the duplication of effort. While I was attending the Orchid Advisors conference in Atlanta someone from ATF, can't remember who, mentioned that ATF had about 16 active cases involving prohibited persons acquiring NFA weapons through a trust.

As you probably know I have personally known that this was one of the primary reasons that ATF had been in a panic about trusts. Everyone, including ATF, needed to find a way to clean this up. I knew three years ago ATF had at least one case but was looking for more information on this type of problem.

The NFATCA has been hammered for saying that we needed to prove that trusts and prohibited persons were a problem resulting in 41F. I need a little help either directly or indirectly to prove to everyone that trusts, were in fact, being abused. I don't care about names as much as numbers that are worth mentioning to all of the naysayers who say we screwed this whole thing up.

Thanks for your help.

(b)(6)

Carlson, Krissy Y.

From: Carlson, Krissy Y.
Sent: Saturday, April 02, 2016 1:48 PM
To: (b)(6)
Cc: Richardson, Marvin G.; (b)(6)
Subject: Re: Information Request

I misunderstood your request a bit. Let me get in touch with criminal enforcement and see if they can find anything we can share.

Krissy Carlson
(b)(6)

On Apr 2, 2016, at 12:25 PM, (b)(6) > wrote:

On 4/1/2016 12:36 PM, (b)(6) wrote:

Hi (b)(6) I apologize I am just getting back to you now. I have been out of the Country. I am still on leave but wanted to get you this information.

These are the examples that were in the Federal Register. The first example is from page 3 and the next two examples are from page 10.

ATF recently encountered a situation where an application for a transfer of a silencer was denied because the transferee was determined to be prohibited from possessing an NFA firearm. The transferor subsequently applied to transfer the same silencer to a trust whose name contained the same last name as the prior transferee. ATF reviewed the trust documents and found that the prohibited person was a settlor of the trust and, thus, would have access to the firearm. ATF denied the transfer. However, if the trust name had been different from that of the prior transferee, or if the transferor sought to transfer a different firearm, ATF employees may not have realized that the prior transferee was a settlor of the trust and so may have approved the transfer.

In Texas, ATF became aware of a situation in which the member of an LLC was an illegal alien, living in the United States under an assumed name, and had a felony warrant outstanding. At that time, the LLC had 19 firearms registered to it and ATF lacked the necessary information to conduct any background checks to determine whether the member was a prohibited person.

In Tennessee, as a result of information provided by a Federal firearms licensee, ATF became aware of applications submitted to transfer two NFA firearms to a trust in which one of the trustees was a convicted felon. If there had been no referral, ATF would not have known of the need to conduct any background checks for the trust members to determine if any were prohibited persons.

Krissy Carlson

(b)(6)

Krissy,

Thank you for pointing me to the Federal Register. I already had those examples, though. As I mentioned in my original outreach to Marvin: "Would it be possible for you to point me to a few cases, adjudicated or in process, where anyone was charged with 922(g) (prohibited person in possession) via a trust or other entity?"

I understand the foundational elements that led to our petition and support of leveling the playing field for all applicants by way of background checks. Prohibited persons should not possess firearms because that is the law! The examples in the Federal Register do not reference any specific adjudication process. And it is the adjudication process that I am looking to in order to silence our critics that declare "ATF has never prosecuted a prohibited person in a trust because it just doesn't happen!" Without being able to reference something along the lines of *United States versus John Doe* and a charge of 922(g) by way of trust or other entity, the "shall not be infringed" crowd will continue to dismiss this as an overreach without justification.

For that reason, I am asking for some case titles/numbers to offer up. I am happy to pull the data from PACER and I do not wish to interfere with any ongoing investigation. I look forward to hearing from you.

--

(b)(6)
Executive Director
Phone: 281.492.8288
Website: www.nfatca.org
Forums: www.nfatcaforsums.org

<nfatcalogo.png>

Carlson, Krissy Y.

From: [REDACTED] (b)(6)
Sent: Thursday, July 07, 2016 11:02 AM
To: Carlson, Krissy Y.
Subject: Re: Prosecutorial action

Krissy,

I wish I could remember who mentioned this but I do not remember. I know that this is an active situation in ATF and I am looking for some high level information that we can use as a defense.

Thanks

(b)(6)

> On Jul 7, 2016, at 10:37 AM, [REDACTED] (b)(6) wrote:
>
> Hi (b)(6) I am not aware of these 16 active cases. Let me see what I can find out and I will share with you what I can.
>
> Krissy Y. Carlson
> Division Chief, Firearms and Explosives Industry Division
> (b)(6)
>
>
> -----Original Message-----
> From: [REDACTED] (b)(6)
> Sent: Thursday, July 07, 2016 10:37 AM
> To: Carlson, Krissy Y. [REDACTED] (b)(6)
> Subject: Prosecutorial action
>
> Krissy,
> Hope you're doing well. I know that (b)(6) is already pursuing this action so I apologize for the duplication of effort.
> While I was attending the Orchid Advisors conference in Atlanta someone from ATF, can't remember who, mentioned that ATF had about 16 active cases involving prohibited persons acquiring NFA weapons through a trust.
> As you probably know I have personally known that this was one of the primary reasons that ATF had been in a panic about trusts. Everyone, including ATF, needed to find a way to clean this up. I knew three years ago ATF had at least one case but was looking for more information on this type of problem.
> The NFATCA has been hammered for saying that we needed to prove that trusts and prohibited persons were a problem resulting in 41F. I need a little help either directly or indirectly to prove to everyone that trusts, were in fact, being abused. I don't care about names as much as numbers that are worth mentioning to all of the naysayers who say we screwed this whole thing up.
> Thanks for your help.
> (b)(6)

Carlson, Krissy Y.

From: [REDACTED] (b)(6)
Sent: Thursday, July 07, 2016 10:37 AM
To: Carlson, Krissy Y.
Subject: Prosecutorial action

Krissy,

Hope you're doing well. I know that [REDACTED] (b)(6) is already pursuing this action so I apologize for the duplication of effort. While I was attending the Orchid Advisors conference in Atlanta someone from ATF, can't remember who, mentioned that ATF had about 16 active cases involving prohibited persons acquiring NFA weapons through a trust. As you probably know I have personally know that this was one of the primary reasons that ATF had been in a panic about trusts. Everyone, including ATF, needed to find a way to clean this up. I knew three years ago ATF had at least one case but was looking for more information on this type of problem.

The NFATCA has been hammered for saying that we needed to prove that trusts and prohibited persons were a problem resulting in 41F. I need a little help either directly or indirectly to prove to everyone that trusts, were in fact, being abused. I don't care about names as much as numbers that are worth mentioning to all of the naysayers who say we screwed this whole thing up.

Thanks for your help.

[REDACTED] (b)(6)

Carlson, Krissy Y.

From: (b)(6)
Sent: Wednesday, September 25, 2013 11:08 AM
To: (b)(6) Gilbert, Curtis W.; Turk, Ronald B.
Cc: (b)(6) Lowrey, Stuart L.
Subject: Fwd: NFATCA presentation on October 10
Attachments: GUN TRUSTS vKB.docx; ATT00001.htm

Gentleman, please see e mail below received by DIO (b)(6) from the President of NFATCA (b)(6). (b)(6) dis-inviting ATF from speaking at Knob Creek on Oct.10. While obviously there is disagreement within NFATCA, (b)(6) is the President and the person who invited ATF to speak at their forum. While some others (like (b)(6)) may say they want ATF there, they have no formal meeting set up where they can invite us to speak. Given the e mail below and continued unrest within NFATCA, I have to agree with Stuart and (b)(6) that we probably ought to give this one a pass.

Begin forwarded message:

From: (b)(6)
Date: September 25, 2013, 10:49:26 AM EDT
To: (b)(6)
Subject: FW: NFATCA presentation on October 10

(b)(6)

From: (b)(6)
Sent: Tuesday, September 24, 2013 8:06 AM
To: (b)(6)
Subject: Re: NFATCA presentation on October 10

(b)(6)

I had called (b)(6) and uninvited ATF from Knob Creek for any guest speaking arrangements. Nothing personal as you are one of the people I like and have learned to depend on. This entire debacle with ATF and the Executive Branch has heated up within the industry ranks where I don't think it is a good idea for you to speak. Both (b)(6) and myself have received numerous threats for "cavorting with the enemy" and the environment has grown very hostile. As I told (b)(6) I can't believe that this is happening. Just so you know personally, I have a lot of good friends inside and we have worked well together, but the Executive Branch and ATF have put the NFATCA in a bad position with the new position on the CLEO signature and the Trust and Corporate transfers. We are getting blamed for the entire thing flipping on us. I told (b)(6) over a week ago that it was a no go on having you speak. I had been told that he called or emailed you and you knew this already. If not, my apologies, but ATF is officially uninvited to speak at our dealer meeting. I attached a short article you might enjoy to try and recover from some of this BS. Hope you enjoy and hope to see you at the Creek on a social basis.

(b)(6)

On Sep 23, 2013, at 4:05 PM, <(b)(6)> wrote:

Good afternoon (b)(6) I've been speaking with (b)(6) about my presentation on October 10 at Knob Creek. Will you call me or send me an email of the presentation length and topics you would like me to cover?

I am attaching my Bio for your reference. It hasn't changed since the last time I spoke to NFATCA at knob Creek in April 2011.

Thanks.

(b)(6)

***** NOTICE: This e-mail message and any attached files are intended solely for the use of the addressee(s) named above in connection with official business. This communication may contain Sensitive But Unclassified information that may be statutorily or otherwise prohibited from being released without appropriate approval. Any review, use, or dissemination of this e-mail message and any attached file(s) in any form outside of the Bureau of Alcohol, Tobacco, Firearms & Explosives or the Department of Justice without express authorization is strictly prohibited.

<(b)(6)> DIO Biography - 11mar.docx>

5 **PAGE(S) WITHHELD IN FULL (WIF)**
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WIF

REFERRED TO:

Page Number 47 - 51

Exemption (b)(1)

Exemption (b)(2)

Exemption (b)(3)

Applicable Statute

Exemption (b)(4)

Exemption (b)(5)

Applicable Privilege:

Deliberative Process Privilege

Attorney Client Privilege

Attorney Work Product

Exemption (b)(6)

Exemption (b)(7)(A)

Exemption (b)(7)(B)

Exemption (b)(7)(C)

Exemption (b)(7)(D)

Exemption (b)(7)(E)

Exemption (b)(7)(F)

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(b)(6)

From: (b)(6)
Sent: Monday, March 21, 2011 8:01 PM
To: (b)(6)
Subject: Fw: www.NFATCA.org; message about Small Arms Ammunition meeting

(b)(6)

From: Herbert, Arthur W.
To: (b)(6)
Cc: (b)(6)
Sent: Mon Mar 21 18:28:34 2011
Subject: www.NFATCA.org; message about Small Arms Ammunition meeting
(b)(6)

In case you did not have the opportunity to review, the NFATCA web-site contained the following message about the meeting –

important The NFATCA *White Paper* challenging the effort of regulation writers at ATF that seeks to redefine large caliber ammunition as explosives is being presented today, March 21, 2011 at ATF headquarters. Clearly, some in ATF have sought to expand the scope of regulation with a burden that neither addresses a valid public safety concern nor accounts for the dramatic increases in resources required to administer such a frivolous endeavor.

The NFATCA strongly opposes this initiative and has led the charge to prevent it from happening. We have been joined by NRA, NSSF, SAAMI, SCI and others in this effort and we are all optimistic that our efforts will be successful. Feel free to review the White Paper by [clicking here](#).

NOTICE: This e-mail message and any attached files are intended solely for the use of the addressee(s) named above in connection with official business. This communication may contain Sensitive But Unclassified information that may be statutorily or otherwise prohibited from being released without appropriate approval. Any review, use, or dissemination of this e-mail message and any attached file(s) in any form outside of the Bureau of Alcohol, Tobacco, Firearms & Explosives or the Department of Justice without express authorization is strictly prohibited.

(b)(6)

From: Hughes, Alphonso J.
Sent: Friday, October 10, 2014 4:50 PM
To: (b)(6)
Cc: Fronczak, Michael F.; Richardson, Marvin G.; (b)(6)
Subject: 2014-1: Clarification Requested (NFATCA)
Attachments: 2014-1_clarification_091814.pdf; NFATCA - 2014-1 - Reply.pdf

Dear NFATCA Reps:

Please find response to your clarification request re: ATF Ruling 2014-1 dated 9/18/2014. Should you have any questions or concerns please contact me at the below contact number.

Alphonso J. Hughes

Division Chief, FESD
Bureau of ATF, F & E Services Division
Office: (b)(6)

From: (b)(6)
Sent: Thursday, September 18, 2014 11:22 AM
To: Hughes, Alphonso J.
Cc: Fronczak, Michael F.; Richardson, Marvin G.; (b)(6)
Subject: Clarification Requested

Please see the attached letter regarding ATF's recent ruling, 2014-1.

--

(b)(6)

Phone: 281.492.8288
Website: www.nfatca.org
Forums: www.nfatcaforsmms.org





U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Assistant Director

Washington, DC 20226

JUL 12 2010

90000 ((b)(6))
5300

(b)(6) President
National Firearms Act Trade and
Collectors Association (NFATCA)
4455 Brookfield Corp. Dr.
Suite 100
Chantilly, VA 20151

Dear (b)(6)

This is in reference to the letter dated April 27, 2008, filed on behalf of the National Firearms Act Trade and Collectors Association (NFATCA), concerning markings on firearm silencers. Among other things, the NFATCA requested that the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) initiate a rulemaking proceeding to prohibit marking a silencer in a location other than the outer tube.

In its letter, the NFATCA stated that “[a]llowing end caps to be the possible marking location for silencers does constitute a serious public safety issue in the areas of diversion, tracing and evasion of other NFA rules.” However, no supporting documentation or information was provided to support this contention. Accordingly, we are asking the NFATCA to provide us with additional information, data, etc., to support its position that an amendment of the regulations is necessary. Please forward the requested information to (b)(6) at the address below by August 20, 2010.

(b)(6)
Office of Regulations – Mailstop 6N-602
Bureau of Alcohol, Tobacco, Firearms and Explosives
99 New York Avenue, NE.
Washington, DC 20226

If you have any questions or concerns, please contact (b)(6) at (b)(6)

Sincerely yours,

Arthur Herbert
Assistant Director

Office of Enforcement Programs and Services

From: (b)(6)
To: (b)(6)
Subject: Copy of July 12 2010 ltr to NFATCA
Date: Tuesday, April 08, 2014 11:21:33 AM
Attachments: SKMBT_50114040810130.pdf

All -

Here is a copy of the July 12, 2010, letter to NFATCA in which ATF requests additional information.

(b)(6)



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Assistant Director

Washington, DC 20226

JUL 12 2010

900000(b)(6)
5300

(b)(6) President
National Firearms Act Trade and
Collectors Association (NFATCA)
4455 Brookfield Corp. Dr.
Suite 100
Chantilly, VA 20151

Dear (b)(6)

This is in reference to the letter dated April 27, 2008, filed on behalf of the National Firearms Act Trade and Collectors Association (NFATCA), concerning markings on firearm silencers. Among other things, the NFATCA requested that the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) initiate a rulemaking proceeding to prohibit marking a silencer in a location other than the outer tube.

In its letter, the NFATCA stated that “[a]llowing end caps to be the possible marking location for silencers does constitute a serious public safety issue in the areas of diversion, tracing and evasion of other NFA rules.” However, no supporting documentation or information was provided to support this contention. Accordingly, we are asking the NFATCA to provide us with additional information, data, etc., to support its position that an amendment of the regulations is necessary. Please forward the requested information to (b)(6) at the address below by August 20, 2010.

(b)(6)
Office of Regulations - Mailstop 6N-602
Bureau of Alcohol, Tobacco, Firearms and Explosives
99 New York Avenue, NE.
Washington, DC 20226

If you have any questions or concerns, please contact (b)(6) at (b)(6)

Sincerely yours,

Arthur Herbert
Assistant Director
Office of Enforcement Programs and Services



U.S. Department of Justice

**Bureau of Alcohol, Tobacco,
Firearms and Explosives**

Washington, DC 20526

www.atf.gov

903010-(b)(6)
801056

18 U.S.C. 921(a)(24)
27 CFR 479.11, 479.68,
479.102, 479.103

5300

(b)(6)
Executive Director
National Firearms Act Trade & Collectors Association
20603 Big Wells Drive
Katy, TX 77449

Re: Marking and Registration of Silencers

Dear (b)(6):

This is in response to your letter to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), National Firearms Act (NFA). This letter has been forwarded to ATF's Firearms Industry Programs Branch for a response.

Specifically, your letter states; "historically, FFL/SOT manufacturers have prepared silencer components in anticipation of future builds and have done so under the proviso that licensed manufacturers who are also SOTs may possess spare silencer components in conjunction with their manufacturing operations. This preparation includes the sizing of outer tubes of silencers which, by definition are NFA items, which are then properly marked and registered on ATF Form 2 within 24 hours of manufacture." You want a confirmation that the above process meets all lawful requirements of manufacturing, marking and record keeping.

Licensed manufacturers who hold a SOT may possess spare silencer components in conjunction with their manufacturing operations. The silencer must be marked in accordance with 27 C.F.R. § 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 re-mark in

(b)(6)
National Firearms Act Trade & Collectors Association

the event an end cap bearing the markings is damaged and requires replacement. In accordance with 27 C.F.R. §479.103, a manufacturer must prepare an ATF Form 2, Notice of Firearms Manufactured Or Imported and file it with ATF's National Firearms Act Branch no later than the next business day. In addition, the licensed manufacturer must comply with all provisions in the Gun Control Act including recording/recordkeeping requirements.

If the manufacturer completes and submits ATF Form 2 not later than the next business day after sizing and serializing the outer tubes, then this would be a correct procedure. There is no regulation regarding a time frame for the manufacturer to have produced a completed product/silencer. The process that you have described does continue to meet all lawful requirements of manufacturing, marking and record keeping.

We trust that the foregoing has been responsive to your request. Please feel free to contact the Firearms Industry Programs Branch at fipb@atf.gov if you have any additional questions.

Sincerely,



Ed Courtney
Chief, Firearms Industry Programs Branch

Enclosure: Original request

16 **PAGE(S) WITHHELD IN FULL (WIF)**
OR REFERRED TO ANOTHER AGENCY

WIF

REFERRED TO:

Page Number 59 - 74

Exemption (b)(1)

Exemption (b)(2)

Exemption (b)(3)

Applicable Statute

Exemption (b)(4)

Exemption (b)(5)

Applicable Privilege:

Deliberative Process Privilege

Attorney Client Privilege

Attorney Work Product

Exemption (b)(6)

Exemption (b)(7)(A)

Exemption (b)(7)(B)

Exemption (b)(7)(C)

Exemption (b)(7)(D)

Exemption (b)(7)(E)

Exemption (b)(7)(F)

Duplicate **Of Pages**

Non-Responsive

Outside of Scope of Request

String E-Mail

Located in Document

Questions on NFATCA sponsored "White Paper": Defining Small Arms Ammunition

Thank you for the opportunity to provide comments on the NFATCA sponsored "White Paper": Defining Small Arms Ammunition posted on your website at http://www.nfatca.org/pubs/saa_whitepaper_v1.32.pdf. ATF acknowledges the value of a cooperative relationship with the firearms industry and appreciates your efforts to keep us informed of your understanding regarding this issue. We are, therefore, concerned about certain statements in the aforementioned document that are inconsistent with official discussions we have had with the NFATCA. Specifically, we ask the following questions:

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ATF's longstanding position is reasonable and effectively balances the effective administration and intent of the purpose of the law and is in accordance with its mission. We are open to considering ideas that enhance these operating principles and seek constructive information to this end, so that we can evaluate any merit in changing ATF's well-established position. Further, we are concerned that the opinion of the author of the document may be misconstrued as a direct quote from ATF management. Does the NFATCA maintain that the phrase "*all ammunition above .50 caliber is now considered an explosive*" is a direct quote from ATF?

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Comment: Under "Implementation," Page 9, NFATCA is recommending that a work group be formed, to include FTB, industry associations, leaders and subject matter experts. It is noted that as an explosives issue, EIPB will take the lead on the small arms ammunition definition. Other ATF components, such as FTB, ETB and Counsel will participate.

Request: Please expand list of "Large Calibers in Current Use" to be inclusive of those ammunitions of which NFATCA would like us to be aware. Additionally, it would be beneficial if the list included manufacturer data on powder/propellant weight in each ammunition.

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U.S. Department of Justice

**Bureau of Alcohol, Tobacco,
Firearms and Explosives**

Martinsburg, WV 25401
www.atf.gov

903050:[(b)(6)]
3311/2006-783

APR 03 2007

(b)(6)

NFATCA

c/o

Mark Barnes & Associates
1350 Eye Street, Suite 1255
Washington, DC 20005

Dear [redacted] (b)(6) :

This refers to your letter of May 18, 2006, to the Firearms Technology Branch (FTB), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), regarding FTB's classification of the BM3000. Specifically, you state that you are concerned about the positions taken in our letter to Len Savage dated April 20, 2006, and the method by which the original classification of the BM-3000 was overturned. We apologize for the delay in our response.

We regret to inform you that we will not be able to specifically address your letter. As you know, we are prohibited from disclosing tax information under 26 U.S.C. § 6103. You indicated that you were contacted by Mr. Savage and given a copy of the classification letter. However, without a written waiver from Mr. Savage, we are unable to deal with the specifics of the BM-3000 and any letter that we may have written.

You also posed several hypothetical questions pertaining to how classifications are made and how we would classify different combinations of firearms. It is FTB's policy not to respond to hypothetical questions. If you have a sample of a firearm that you want to have classified, please send it to us and we will evaluate it expeditiously.

Sincerely yours,

[redacted]
(b)(6)

Assistant Chief, Firearms Technology Branch



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Office of the Director

Washington, DC 20226

JUN 16 2008

(b)(6)
Attorney at Law
Mark Barnes & Associates
1350 Eye Street, N.W., Suite 1255
Washington, D.C. 20005

Dear (b)(6) :

This is in response to your letter dated April 27, 2008, in which you request a teleconference with representatives of your client, the National Firearms Act Trade and Collectors Association (NFATCA), and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).

As I understand it, the agenda of the proposed teleconference is to review the Questions and Answers (Q&As) that ATF recently distributed to the NFATCA community. In your letter, you noted that a matter of particular concern to industry members was the Q&A's authorization to mark a silencer on either the tube or the end cap. Your client suggests that pursuant to Title 5, United States Code, Section 553 (b)(3)(B), ATF initiate emergency rule making to make it unlawful to mark a silencer on any location other than the silencer tube. To initiate such action requires a finding of good cause that the rule making process is impracticable, unnecessary, or contrary to the public interest. While we will make every effort to move this rulemaking project along, we do not believe it meets the criteria of an emergency rule.

The Bureau would be happy to hold a teleconference of the type you have outlined. To better assist the NFATCA and to assure that the agenda can move forward with minimal obstacles, we ask that any questions be submitted to (b)(6) at least 5 business days prior to the teleconference. (b)(6) will work with you to coordinate the teleconference. Further, and perhaps in response to the meeting request, we are aware of and understand the concerns expressed by individual NFATCA members regarding silencer markings. To that end, we are initiating a process to amend 27 CFR Parts 478 and 479 to address certain concerns related to the marking of silencers.

We trust this reply will assist you and the NFATCA in resolving any remaining difficulties. Please let me know if we may be of further assistance.

Sincerely yours,


Michael J. Sullivan
Acting Director

ROUTING AND TRANSMITTAL SLIP

Date: May 22, 2008

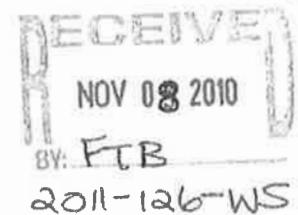
	Action	File		Note and Return
X	Approval	For Clearance		Per Conversation
	As Requested	For Correction		Prepare Reply
	Circulate	For Your Information		See Me
	Comment	Investigate	X	Signature
	Coordination	Justify		

Note caught by

Note change
OK

(b)(6) - Could it please get
a photo of the signed / dated
letter. Thanks. (b)(6)

(b)(6)



NFATCA
4455 Brookfield Corp. Dr.
Suite 100
Chantilly, Virginia 20151

Bureau of Alcohol, Tobacco, Firearms and Explosives
Disclosure Division
Averill P. Graham (Division Chief)
99 New York Avenue, NE, Room 1E-400
Washington, DC 20226 USA

October 20, 2010

Ms. Graham,

The National Firearms Act Trade and Collectors Association (NFATCA) is requesting that ATF provide to our organization certain information via the Freedom of Information Act (FOIA). We are currently assisting several ATF Branches in an assessment of the available information related to the subject of small arms ammunition, its legal definition and its application to the firearms industry, community and regulatory efforts.

The NFATCA would like to formally request delivery of all correspondence and documentation, electronic or written, related to small arms ammunition definition and regulation in order to assist in the research of this subject. All correspondence and documentation, electronic or otherwise, which addresses information or data relative to interpreting or defining what is small arms ammunition, should be included in this FOIA request.

Please advise as to when delivery of requested information will be made.

Thank you for your help.

FTB

10 Hours
by Brad C/GS

(b)(6)

From: (b)(6)
Sent: Monday, November 08, 2010 7:36 AM
To: Spencer, John R.
Cc: (b)(6)
Subject: RE: FOIA Request
Attachments: foia request.pdf

I was out of the office on Friday.

Here is the request. I need to get this to (b)(6) today! Sorry for the short notice.

Thanks.

(b)(6)
ATF PROGRAM MANAGER
EXPLOSIVES INDUSTRY PROGRAMS BRANCH
(b)(6)

From: Spencer, John R.
Sent: Thursday, November 04, 2010 4:51 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: FOIA Request

(b)(6)

We will start on this tomorrow, but this might take a while.

Can you scan or fax me a copy of the request.

Thanks,

John R. Spencer
Firearms Technology Branch

From: (b)(6)
Sent: Thursday, November 04, 2010 4:48 PM
To: Spencer, John R.
Subject: FOIA Request

John,

I have a FOIA request for all correspondence (letters, emails, memos, etc.) relating to small arms ammunition. Can you and your group provide me with whatever you have? I need it by Monday.

Thank you so much and sorry for the short notice.

(b)(6)
ATF PROGRAM MANAGER
EXPLOSIVES INDUSTRY PROGRAMS BRANCH
(b)(6)

162 PAGE(S) WITHHELD IN FULL (WIF)
OR REFERRED TO ANOTHER AGENCY

WIF

REFERRED TO:

Page Number 89 - 250

Exemption (b)(1)

Exemption (b)(2)

Exemption (b)(3)

Applicable Statute

Exemption (b)(4)

Exemption (b)(5)

Applicable Privilege:

Deliberative Process Privilege

Attorney Client Privilege

Attorney Work Product

Exemption (b)(6)

Exemption (b)(7)(A)

Exemption (b)(7)(B)

Exemption (b)(7)(C)

Exemption (b)(7)(D)

Exemption (b)(7)(E)

Exemption (b)(7)(F)

Duplicate Of Pages

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U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, West Virginia 25405
www.atf.gov

903050 (b)(6)
3311/2011-359

FEB 11 2011

(b)(6)

NFATCA
20603 Big Wells Drive
Katy, Texas 77449

Dear (b)(6) :

This is in response to your letter to the Firearms Technology Branch (FTB), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), in which you asked about the legality of removing a weapon from the controls of the National Firearms Act (NFA). Specifically, you proposed removal of the short barrel (less than 16 inches) from a SIG 551 SP semiautomatic-only rifle and installing a barrel of 16 inches or permanently attaching a barrel extension while remaining in compliance with the amended Gun Control Act of 1968 (GCA), 18 U.S.C. Section 922(r). You also asked if a SIG 551 SP type could have a short-barrel installed and the weapon returned to short-barreled rifle (SBR) configuration without violating 922(r).

We should point out, as background to your inquiry, that the NFA, 26 U.S.C. 5845(a) (3), defines "firearm," in part, as ...*a rifle having a barrel or barrels of less than 16 inches in length*.... Also, 27 CFR Section 478.39 states—

...*(a) No person shall assemble a semiautomatic rifle or any shotgun using more than 10 of the imported parts listed in paragraph (c) of this section if the assembled firearm is prohibited from importation under section 925(d)(3) as not being particularly suitable for or readily adaptable to sporting purpose.....*

(c) For purposes of this section, the term imported parts are:

1. *Frames, receivers, receiver castings, forgings, or castings.*
2. *Barrels.*
3. *Barrel extensions.*
4. *Mounting blocks (trunnions).*
5. *Muzzle attachments.*
6. *Bolts.*
7. *Bolt carriers.*
8. *Operating rods.*
9. *Gas pistons.*
10. *Trigger housings.*
11. *Triggers.*
12. *Hammers.*
13. *Sears.*
14. *Disconnectors.*
15. *Buttstocks.*
16. *Pistol grips.*
17. *Forearms, handguards.*
18. *Magazine bodies.*
19. *Followers.*
20. *Floor plates.*

(b)(6)

In addition, the GCA, 18 U.S.C. Section 922(r), specifically states the following:

It shall be unlawful for any person to assemble from imported parts any semi automatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under Section 925(d)(3) ...as not being particularly suitable for or readily adaptable to sporting purposes...

With respect to your question concerning the lawfulness of assembling a registered SBR, SIG 551 SP semiautomatic-only, with a barrel of 16 inches or greater length, ATF has determined that if the replacement of the barrel is the only modification made to the rifle to remove it from NFA controls, you would not be in violation of 922(r). When a barrel of 16 inches or more is installed, the weapon is not under NFA controls as long as the short barrel is removed, destroyed, or is no longer controlled by the weapon's owner. However, as long as you are in control of the short barrel, the corresponding receiver must remain a registered SBR.

With regard to permanently attaching a barrel extension, ATF only considers a muzzle attachment or barrel extension "permanently attached" when an item of this type is attached by means of welding or high-temperature silver solder having a melting point of at least 1,100 degrees Fahrenheit; it then becomes part of the barrel for purposes of measurement. A seam weld extending at least one-half the circumference of the barrel or four equidistant tack welds around the circumference of the barrel are adequate for this purpose.

Concerning your second question, assembling an SBR is the act of making a firearm. A rifle having a barrel less than 16 inches in length is subject to NFA provisions. We caution that ATF Form 1 (5320.1) must be used by any person interested in making an SBR to apply for the required permission to make and register an NFA weapon and to pay the required making tax. An NFA firearm cannot be made until the Form 1 is approved.

The exception to this requirement is that a federally licensed manufacturer who has paid the special (occupational) tax (SOT) to manufacture NFA firearms does not need prior permission in order to manufacture. However, the manufacturer must file ATF Form 2 (5320.2), Notice of Firearm Manufactured or Imported. The Form 2 is used by a federally licensed manufacturer (who has paid the SOT) to manufacture NFA firearms and to register any that the licensee has manufactured. A manufacturer must submit the Form 2 by the close of the next business day after each firearm is manufactured. The ATF Form 2 is also used by a SOT-paying federally licensed importer to import NFA firearms after receiving an approved ATF Form 6 permit. If the applicant is a private individual, he or she must include their fingerprints and photographs, as well as a completed Law Enforcement Certificate.

Also, in order to perform "non-sporting" modifications to a SIG 551 SP semiautomatic-only type rifle, and avoid any 922(r) violations, *you must replace foreign parts with U.S.-made parts until the resulting firearm contains no more than 10 of the "imported parts" from the list above.* Please note that a SIG 551 SP semiautomatic-only, in its original configuration, consists of 17 of the 20 parts from the list in 27 CFR Section 478.39.

(b)(6)

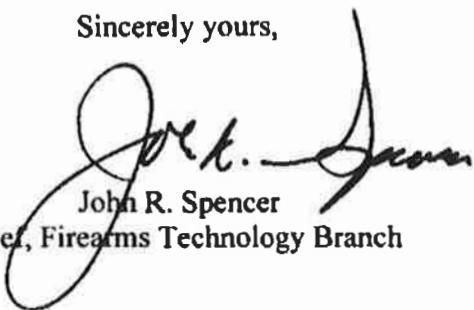
These seventeen "478.39 parts" are listed below:

- | | |
|--------------------------------------|----------------------------------|
| 1. Receiver. | 10. Sear. |
| 2. Barrel. | 11. Disconnector. |
| 3. Mounting block (Trunions). | 12. Buttstock. |
| 4. Bolt. | 13. Pistol grip. |
| 5. Bolt carrier. | 14. Forearms, Handguards. |
| 6. Gas piston. | 15. Magazine bodies. |
| 7. Trigger housing. | 16. Followers. |
| 8. Trigger. | 17. Floorplates. |
| 9. Hammers. | |

Finally, prior to possessing an SBR, FTB recommends that you contact your State or local law enforcement representatives to ensure that you are in compliance with State or local laws and ordinances.

We thank you for your inquiry and trust that the foregoing has been responsive.

Sincerely yours,



John R. Spencer
Chief, Firearms Technology Branch



RECEIVED
JAN 05 2011
BY: FTB/
2011-359-WS

National Firearms Act
Trade & Collectors Association

January 3, 2011

Mr. John Spencer
Firearms Technology Branch
Bureau of Alcohol, Tobacco, Firearms and Explosives
244 Needy Rd
Martinsburg WV 25405

Dear John,

John K. Brown, III
President
Teresa Starnes
Vice President
Jeffrey E. Poldader
Executive Director, Sec/Tres

Board of Directors

Dan Shea,
Long Mountain Outfitters
Robert Landis,
Ohio Ordnance, Inc.
Curt Wolf,
US Ordnance Research
John Tibbets,
Ex-Officio
Robert Segal (Advisor),
Small Arms Review
Mark Mann (Advisor),
The Rifleman

"Power Through Experience"

I regularly get inquiries from our members on issues pertaining to FTB and NFA Branch Issues. Most of the time I feel fairly confident in offering guidance and direction that is consistent with what I have learned from you and your associates. That said, I sometimes do get a scenario dropped on my plate that makes me think that I know the answer(s), but still requires me to "just make sure". This is one of those times. I've got a couple issues going on here with one of our members. I think that I understand the dynamics, but I want to run it past you to confirm (or destroy) my take and obtain an official FTB/NFA written response.

The member is an 07/SOT and will be purchasing a large quantity of SIG 551 semi auto SBR's. These weapons currently have the status of "pre-86 dealer sample" (which I know is usually for MG's) because they were NFA items imported to the USA by a police department. So far, so good. After purchasing the weapons, the member wants to remove them from the NFRTR by removing the NFA feature. I know that this physically *can* be done. His desire is to either replace the barrel (with a Title I length) or permanently affix a barrel extension. That seems fairly straightforward. Now for the question. Since he is not *making* a new weapon, does 992(r) apply to these guns? Based upon conversations that I have had with FTB, the answer is no, because the act of making has not. Am I right? Further, would these weapons now be eligible for resale as a "normal" Title I rifle?

Now for part two. Let's say that at some point either the 07/SOT listed above or a subsequent owner of one of these "de-listed" weapons wants to turn it back into an SBR. As I understand it, since creating an SBR is an act of making, the imported parts count of these weapons could be no more than 10 since a weapon is being made. In other words, 922(r) would apply at this point. Please confirm this part, as well!

Sincerely,

(b)(6)

Executive Director

20603 Big Wells Drive • Katy, Texas • 77449
Phone: 281.492.8288 • Web: www.nfatca.org • Email: info@nfatca.org
The NFATCA is a 501(c)(6) organization, EIN 20-2820282
The NFATCA Foundation is a 501(c)(3) organization, EIN 27-4349349

From: (b)(6)
To: (b)(6)
Subject: Copy of July 12 2010 ltr to NFATCA
Date: Tuesday, April 08, 2014 11:21:33 AM
Attachments: SKMBT_S0114040810130.pdf

All –

Here is a copy of the July 12, 2010, letter to NFATCA in which ATF requests additional information.

(b)(6)



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Assistant Director

Washington, DC 20226

JUL 12 2010

900000:(b)(6)
5300

(b)(6) President
National Firearms Act Trade and
Collectors Association (NFATCA)
4455 Brookfield Corp. Dr.
Suite 100
Chantilly, VA 20151

Dear (b)(6) :

This is in reference to the letter dated April 27, 2008, filed on behalf of the National Firearms Act Trade and Collectors Association (NFATCA), concerning markings on firearm silencers. Among other things, the NFATCA requested that the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) initiate a rulemaking proceeding to prohibit marking a silencer in a location other than the outer tube.

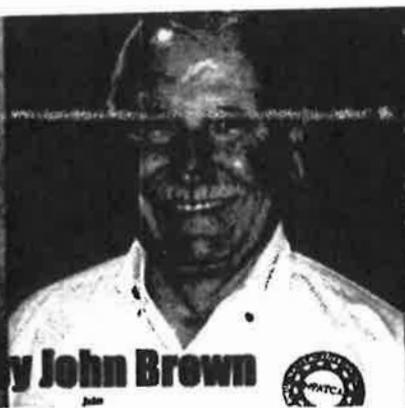
In its letter, the NFATCA stated that “[a]llowing end caps to be the possible marking location for silencers does constitute a serious public safety issue in the areas of diversion, tracing and evasion of other NFA rules.” However, no supporting documentation or information was provided to support this contention. Accordingly, we are asking the NFATCA to provide us with additional information, data, etc., to support its position that an amendment of the regulations is necessary. Please forward the requested information to (b)(6) at the address below by August 20, 2010.

(b)(6)
Office of Regulations - Mailstop 6N-602
Bureau of Alcohol, Tobacco, Firearms and Explosives
99 New York Avenue, NE.
Washington, DC 20226

If you have any questions or concerns, please contact (b)(6) at (b)(6)

Sincerely yours,

Arthur Herbert
Assistant Director
Office of Enforcement Programs and Services



NFATCA REPORT

by John Brown



The NFATCA "Big Boys Club?"

This month marks the sixth year of formal organization as a 501(C) for the NFATCA which was formed with one goal and objective in mind: formal representation of NFA owners by NFA owners at a level never before achieved by any other organization. And that my friends is exactly what has been accomplished in six years of blood, sweat and tears. This organization was initially formed by more senior members of the NFA community, all of whom had been in the NFA business long before the Firearm Owners' Protection Act (FOPA), Public Law No. 99-308, 100 Stat. 449 (May 19, 1986), to include the Hughes amendment, was passed by Congress in May of 1986.

Every original board member had been in the NFA community, individually, a minimum of 30 years. It took that kind of strength, experience, maturity, and stamina to build something that would truly

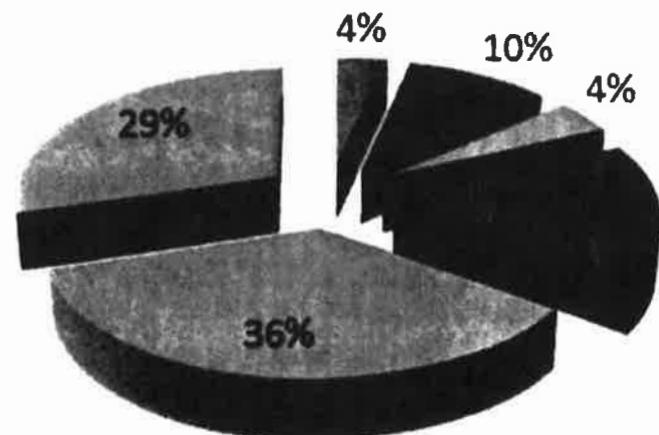
Most of you have read a blog here or there that accuses the NFATCA of being an exclusive Big Boys Club. We supposedly have membership dues that are for the rich that no one can afford except an anointed few. We supposedly have private club meetings and are double agents for ATF. It is about time that someone set the record straight and told the truth, for a change.

represent the community in a fashion never before accomplished. We formed the original board of directors at Knob Creek in April of 2006 and at that meeting each individual founding (Plankholder) member wrote a check to the organization for \$5,000, to help get that organization off the ground. It took experience, time, and yes, a lot of money to accomplish what was necessary to move the NFATCA to the forefront of the ATF agenda. Hav-

ing worked at every level of the executive leadership at ATF we took a completely different approach to working with the government, working together, instead of working against each other. We worked in the interests of the NFA community and in the best interests of public safety.

For six years now the NFATCA has held a consistent board with an agenda working for the benefit of NFA owners nationwide. We initially needed a lot of operating capital to move ahead with the strength necessary to make a difference. Membership levels ran from a life membership of \$25,000 to an entry level of \$250. This past year we introduced a \$50 membership that has given the organization a tremendous boost in its ranks. We have now formed a formal steering committee that drives many of our initiatives from a working agenda to the best utilization of our top resource, our individual members.

NFATCA Membership Type



- Lifetime
- Plankholder
- Patron
- Benefactor
- Supporting
- Associate

Our representation spans the entire agenda of NFA owners.

So if you still believe in the rumor that this organization is a special rich boys club, then take a look at the numbers. The majority of our membership is made up of regular NFA owners, like yourself, from all over the United States.

We have, and continue to take on, Benefactor Members, like The Freedom Group, to help us reach our goals. We have and will continue to work with groups like the National Rifle Association, Safari Club International, The Sporting Arms and Ammunition Manufacturers' Institute (SAAMI), and The National Shooting Sports Foundation, to do one important thing: represent your interests as NFA owners and collectors. That initiative requires time, money, and the right kind of experience to make a difference in a world that is, many times, not so friendly. What we do isn't cheap and it takes more time and energy than you could ever imagine. We have managed and continue to maintain a presence at every single point of enforcement and legislative interest that can and will affect our NFA community. If you want to refer to what the NFATCA does as a

"Big Boys Club," then you simply don't understand what it takes to make a difference with the right of NFA ownership. Of course it doesn't take a rocket scientist to realize that if you personally are not at the forefront of someone else's success, it's easy to find fault in something you had absolutely nothing to do with.

I often refer members to the NFATCA's incorporation statement to remind them of what we are supposed to be all about:

The NFATCA Operating Charter

This corporation is organized as a non-profit corporation for the following purpose: To promote the interests of the general community comprised of collectors, manufacturers, importers and dealers of firearms and devices regulated by the National Firearms Act; to promote educational and cultural interest in the firearms and devices covered by the National Firearms Act; to address matters of public policy regarding firearms, in general; to encourage research, development and innovation in the firearms community; to encourage the lawful use of firearms; and to engage in any other lawful activity as

instructed by the corporation's Board of Directors.

You don't have to look far to see the results of our charter. Most have seen the *NFA Handbook*, now in its fourth iteration, or the working version of the *Firearms Technology Handbook*, or the no less than half dozen rulings that we have been responsible for working side by side with ATF in the making. We are often amazed at how fast some people forget that the NFATCA was the single organization that pulled the FNC ruling out of the fire and into a safe haven. But then too we can understand that if you didn't come forward and help you should feel left out and probably a little angry and jealous of a success story where you could have made a difference. It's not too late for you to step up.

I'm certain that the old expression on this particular topic is more than appropriate at this juncture, "Enough Said".

Why don't you come and join us today and lend your personal expertise to our endeavors. You too can make a difference with your time, your experience, and a mere fifty dollars. Come visit us at www.nfatca.org.



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- Two position folding forward grip.

ALL NFA RULES APPLY

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- Spare magazine holder on collapsible stock.
- Barrel shroud can be removed from the stock and replaced with a 1.3" suppressor.

Fits: Glock 17, 18, 19, 22, 23, 25, 31, 32, 34 & 35 (including C model). Coming Soon: Beretta 92, PX4 Storm, CZ75, Springfield XD, Sig Sauer 226, 228, 2022, Jericho, H&K USP, FNH 57, 1911, Beretta 9mm Thunder & Pro and more.



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Operator can view the visual indicator without losing the sight picture. A second window on the bottom of the magazine allows the operator to quickly check a loaded magazine from the pouch.

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- Interior of magazine is perfectly formed to the shape of the round preventing jams & misfeeds.
- Non-tilting follower.
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- Color coded visual indicator on back of magazine shows the number of remaining rounds.
- Second color coded visual indicator on bottom of magazine allows user to select fully loaded magazine.
- Counting system does not interfere with disassembly or reduce capacity.
- Color: Black, OD Green, Tan.



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U.S. Department of Justice

**Bureau of Alcohol, Tobacco,
Firearms and Explosives**

Washington, DC 20226

www.atf.gov

903010 (b)(6)

801056

18 U.S.C. 921(a)(24)

27 CFR 479.11, 479.68,
479.102, 479.103

5300

(b)(6)

Executive Director
National Firearms Act Trade & Collectors Association
20603 Big Wells Drive
Katy, TX 77449

Re: Marking and Registration of Silencers

Dear (b)(6):

This is in response to your letter to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), National Firearms Act (NFA). This letter has been forwarded to ATF's Firearms Industry Programs Branch for a response.

Specifically, your letter states; "historically, FFL/SOT manufacturers have prepared silencer components in anticipation of future builds and have done so under the proviso that licensed manufacturers who are also SOTs may possess spare silencer components in conjunction with their manufacturing operations. This preparation includes the sizing of outer tubes of silencers which, by definition are NFA items, which are then properly marked and registered on ATF Form 2 within 24 hours of manufacture." You want a confirmation that the above process meets all lawful requirements of manufacturing, marking and record keeping.

Licensed manufacturers who hold a SOT may possess spare silencer components in conjunction with their manufacturing operations. The silencer must be marked in accordance with 27 C.F.R. § 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 re-mark in

(b)(6)

National Firearms Act Trade & Collectors Association

the event an end cap bearing the markings is damaged and requires replacement. In accordance with 27 C.F.R. §479.103, a manufacturer must prepare an ATF Form 2, Notice of Firearms Manufactured Or Imported and file it with ATF's National Firearms Act Branch no later than the next business day. In addition, the licensed manufacturer must comply with all provisions in the Gun Control Act including recording/recordkeeping requirements.

If the manufacturer completes and submits ATF Form 2 not later than the next business day after sizing and serializing the outer tubes, then this would be a correct procedure. There is no regulation regarding a time frame for the manufacturer to have produced a completed product/silencer. The process that you have described does continue to meet all lawful requirements of manufacturing, marking and record keeping.

We trust that the foregoing has been responsive to your request. Please feel free to contact the Firearms Industry Programs Branch at fipb@atf.gov if you have any additional questions.

Sincerely,



Ed Courtney
Chief, Firearms Industry Programs Branch

Enclosure: Original request

3 **PAGE(S) WITHHELD IN FULL (WIF)**
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WIF

REFERRED TO:

Page Number 261 - 263

Exemption (b)(1)

Exemption (b)(2)

Exemption (b)(3)

Applicable Statute

Exemption (b)(4)

Exemption (b)(5)

Applicable Privilege:

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Attorney Client Privilege

Attorney Work Product

Exemption (b)(6)

Exemption (b)(7)(A)

Exemption (b)(7)(B)

Exemption (b)(7)(C)

Exemption (b)(7)(D)

Exemption (b)(7)(E)

Exemption (b)(7)(F)

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U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, West Virginia JFDI 903 050 (b)(6)
www.atf.gov 331 1/2011-39

FEB 11 2011

(b)(6)
NFATCA
20603 Big Wells Drive
Katy, Texas 77449

Dear (b)(6) :

This is in response to your letter to the Firearms Technology Branch (FTB), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), in which you asked about the legality of removing a weapon from the controls of the National Firearms Act (NFA). Specifically, you proposed removal of the short barrel (less than 16 inches) from a SIG 551 SP semiautomatic-only rifle and installing a barrel of 16 inches or permanently attaching a barrel extension while remaining in compliance with the amended Gun Control Act of 1968 (GCA), 18 U.S.C. Section 922(r). You also asked if a SIG 551 SP type could have a short-barrel installed and the weapon returned to short-barreled rifle (SBR) configuration without violating 922(r).

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(c) For purposes of this section, the term imported parts are:

- | | |
|---|---------------------------|
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| 5. Muzzle attachments. | 15. Butstocks. |
| 6. Bolts. | 16. Pistol grips. |
| 7. Bolt carriers. | 17. Forearms, handguards. |
| 8. Operating rods. | 18. Magazine bodies. |
| 9. Gas pistons. | 19. Followers. |
| 10. Trigger housings. | 20. Floor plates. |

(b)(6)

In addition, the GCA, 18 U.S.C. Section 922(r), specifically states the following:

It shall be unlawful for any person to assemble from imported parts any semi automatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under Section 925(d)(3)...as not being particularly suitable for or readily adaptable to sporting purposes...

With respect to your question concerning the lawfulness of assembling a registered SBR, SIG 551 SP semiautomatic-only, with a barrel of 16 inches or greater length, ATF has determined that if the replacement of the barrel is the only modification made to the rifle to remove it from NFA controls, you would not be in violation of 922(r). When a barrel of 16 inches or more is installed, the weapon is not under NFA controls as long as the short barrel is removed, destroyed, or is no longer controlled by the weapon's owner. However, as long as you are in control of the short barrel, the corresponding receiver must remain a registered SBR.

With regard to permanently attaching a barrel extension, ATF only considers a muzzle attachment or barrel extension "permanently attached" when an item of this type is attached by means of welding or high-temperature silver solder having a melting point of at least 1,100 degrees Fahrenheit; it then becomes part of the barrel for purposes of measurement. A seam weld extending at least one-half the circumference of the barrel or four equidistant tack welds around the circumference of the barrel are adequate for this purpose.

Concerning your second question, assembling an SBR is the act of making a firearm. A rifle having a barrel less than 16 inches in length is subject to NFA provisions. We caution that ATF Form 1 (5320.1) must be used by any person interested in making an SBR to apply for the required permission to make and register an NFA weapon and to pay the required making tax. An NFA firearm cannot be made until the Form 1 is approved.

The exception to this requirement is that a federally licensed manufacturer who has paid the special (occupational) tax (SOT) to manufacture NFA firearms does not need prior permission in order to manufacture. However, the manufacturer must file ATF Form 2 (5320.2), Notice of Firearms Manufactured or Imported. The Form 2 is used by a federally licensed manufacturer (who has paid the SOT) to manufacture NFA firearms and to register any that the licensee has manufactured. A manufacturer must submit the Form 2 by the close of the next business day after each firearm is manufactured. The ATF Form 2 is also used by a SOT-paying federally licensed importer to import NFA firearms after receiving an approved ATF Form 6 permit. If the applicant is a private individual, he or she must include their fingerprints and photographs, as well as a completed Law Enforcement Certificate.

Also, in order to perform "non-sporting" modifications to a SIG 551 SP semiautomatic-only type rifle, and avoid any 922(r) violations, you must replace foreign parts with U.S.-made parts until the resulting firearm contains no more than 10 of the "imported parts" from the list above. Please note that a SIG 551 SP semiautomatic-only, in its original configuration, consists of 17 of the 20 parts from the list in 27 CFR Section 478.39.

(b)(6)

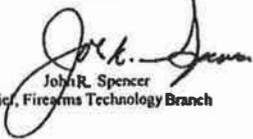
These seventeen "478.39 parts" are listed below:

- | | |
|-------------------------------|---------------------------|
| 1. Receiver. | 10. Sear. |
| 2. Barrel. | 11. Disconnector. |
| 3. Mounting block (Trunions). | 12. Buttstock. |
| 4. Bolt. | 13. Pistol grip. |
| 5. Bolt carrier. | 14. Forearms, Handguards. |
| 6. Gas piston. | 15. Magazine bodies. |
| 7. Trigger housing. | 16. Followers. |
| 8. Trigger. | 17. Floorplates. |
| 9. Hammers. | |

Finally, prior to possessing an SBR, FTB recommends that you contact your State or local law enforcement representatives to ensure that you are in compliance with State or local laws and ordinances.

We thank you for your inquiry and trust that the foregoing has been responsive.

Sincerely yours,


John R. Spencer
Chief, Firearms Technology Branch



RECEIVER
JAN 05 2011
Dr. PTB
201-359-WS

National Firearms Act
Trade & Collectors Association

January 3, 2011

Mr. John Spencer
Firearms Technology Branch
Bureau of Alcohol, Tobacco, Firearms and Explosives
244 Needy Rd
Martinsburg WV 25405

Dear John,

John R. Brooks, III
President
Larry Moulton
Vice President
Jeffrey S. Peltzman
Executive Director, Sec/Treas

Board of Directors

Don Shes,
Larry Moulton
Jeffrey S. Peltzman
John O'Donnell, Jr.
Dan West,
Mike Gandy, George
John Tidmarsh,
Asst.-Officer
Robert Segal (Adviser),
Joseph C. Schreiber
Ruth Horne (Adviser),
The Adjutant

"Power Through Experience"

I regularly get inquiries from our members on issues pertaining to PTB and NFA Branch issues. Most of the time I feel fairly confident in offering guidance and direction that is consistent with what I have learned from you and your associates. That said, I sometimes do get a scenario dropped on my plate that makes me think that I know the answer(s), but still requires me to "just make sure". This is one of those times. I've got a couple issues going on here with one of our members. I think that I understand the dynamics, but I want to run it past you to confirm (or destroy) my take and obtain an official FTB/NFA written response.

The member is an O7/SOT and will be purchasing a large quantity of SIG 551 semi auto SBR's. These weapons currently have the status of "pre-86 dealer sample" (which I know is usually for MG's) because they were NFA items imported to the USA by a police department. So far, so good. After purchasing the weapons, the member wants to remove them from the NFTR by removing the NFA feature. I know that this physically "can't" be done. His desire is to either replace the barrel (with a Title 1 length) or permanently affix a barrel extension. That seems fairly straightforward. Now for the question. Since he is not "making" a new weapon, does 922(r) apply to these guns? Based upon conversations that I have had with FTB, the answer is no, because the act of making has not. Am I right? Further, would these weapons now be eligible for resale as a "normal" Title 1 rifle?

Now for part two. Let's say that at some point either the O7/SOT listed above or a subsequent owner of one of these "de-listed" weapons wants to turn it back into an SBR. As I understand it, since creating an SBR is an act of making, the imported parts count of these weapons could be no more than 10 since a weapon is being made. In other words, 922(r) would apply at this point. Please confirm this part, as well!

Respectfully,
(b)(6)
Executive Director

20602 Big Wells Drive • Suite, Third • 27449
Phone: 251-492-8286 • Email: info@npatca.org
The NPATCA is a 501(c)(3) organization, EIN 20-3630323
The NPATCA Foundation is a 501(c)(3) organization, EIN 27-1546349

From: [REDACTED] (b)(6)
Sent: Friday, October 16, 2015 3:52 PM
To: Hughes, Alphonso J.
Subject: Re: Question

Thanks Alphonso. I am certain you can provide us guidance. Can we talk sometime I day?

On Oct 16, 2015, at 1:02 PM, <[REDACTED] (b)(6)> wrote:

(b)(6) just getting back in pocket. Let me call you on this to find out what we are talking about exactly. Law offices in general such as the one you mentioned writes our policy branches all the time but you should always feel free that you can always officially pose those questions to those branches. I know EPS has been really good lately about providing guidance.

Alphonso J. Hughes
Division Chief
ATF - FESD
(b)(6)

From: [REDACTED] (b)(6)
Sent: Thursday, October 15, 2015 2:35 PM
To: Hughes, Alphonso J. <(b)(6)>
Cc: [REDACTED] (b)(6)
Subject: Question

Alphonso,
For several weeks I have been talking to [REDACTED] (b)(6) about two subjects:

- 40 mm rounds
- Tracer ammunition

Rumors throughout the industry have it that both have been banned and that possession requires an explosive license and an appropriate magazine, approved by ATF. Among the other rumors are that IOI's have been rounding up the 40 mm chalk rounds based on those people that actually process 40 mm launchers.

I want to try to get to the bottom of this as soon as possible. I thought [REDACTED] (b)(6) was helping me as a board member, but now he tells me that [REDACTED] (b)(6) had written a letter to ATF, on his behalf, and had since received a response on both subjects. Now [REDACTED] (b)(6) tells me that [REDACTED] (b)(6) has asked that this information not be shared with anyone. That in itself sent me off the deep end. As far as I know this should be public information to enhance public safety and help keep people from breaking the law.

Since there are no regulations concerning this issue I am asking, on behalf of the NFATCA, for a response from the Bureau on what the status is on ownership of any type of 40mm round and what the specific status is on possessing tracer ammunition. I will be publishing this information

for our membership through our web site. If at all possible you can redact the information in your response to the (b)(6) letter and let us know how to proceed.

ATF has published a lot of opinion letters on both issues but the NFATCA has nothing to go on that could be shared with the rest of the industry. This entire letter debacle with (b)(6) makes me very angry. This tells me that letters of opinion are being sent to certain personnel and that industry has no access to that data. In short, I need your help.

Thanks

(b)(6)

From: [REDACTED] (b)(6)
Sent: Monday, October 13, 2014 8:27 AM
To: Hughes, Alphonso J.
Cc: [REDACTED] (b)(6) Fronczak, Michael F.; Richardson, Marvin G.;
[REDACTED] (b)(6)
Subject: Re: 2014-1: Clarification Requested (NFATCA)

Alphonso,

We would first of all like to thank you for working with the NFATCA to quickly and efficiently resolve this situation. Your timing for relaying the letter could not have been more perfect. We shared that information with the large contingent of NFATAC members in Louisville last week that attended Knob Creek. As always it is a pleasure to work with both you and Marvin and resolving issues that have a direct impact on commerce. When we do sit and work these things out, they always work in everyone's best interest.

My personal thanks for all that you do.

[REDACTED] (b)(6)

On Oct 10, 2014, at 4:49 PM, [REDACTED] (b)(6) wrote:

Dear NFATCA Reps:

Please find response to your clarification request re: ATF Ruling 2014-1 dated 9/18/2014. Should you have any questions or concerns please contact me at the below contact number.

Alphonso J. Hughes

Division Chief, FESD

Bureau of ATF, F & E Services Division

Office: [REDACTED] (b)(6)

From: [REDACTED] (b)(6)

Sent: Thursday, September 18, 2014 11:22 AM

To: Hughes, Alphonso J.

Cc: Fronczak, Michael F.; Richardson, Marvin G.; [REDACTED] (b)(6)

Subject: Clarification Requested

Please see the attached letter regarding ATF's recent ruling, 2014-1.

[REDACTED] (b)(6)

Executive Director

Phone: 281.492.8288

Website: www.nfatca.org

Forums: www.nfatcaforsmms.org

<image001.png>

<2014-1_clarification_091814.pdf><NFATCA - 2014-1 - Reply.pdf>

From: [REDACTED] (b)(6)
Sent: Monday, January 6, 2014 12:36 PM
To: [REDACTED] (b)(6)
Cc: Hughes, Alphonso J.; [REDACTED] (b)(6)
Subject: Re: FOIA

Gentlemen,
One of the collection activities that we have underway at the moment is to actually track all of this from the manufacturers perspective. I am working two of the largest ones now. Will let you know the actual results once we see the numbers.

All my best.

(b)(6)

On Jan 6, 2014, at 11:28 AM, Jeff Folloder wrote:

On 1/6/2014 10:24 AM [REDACTED] (b)(6) wrote:

No that was posted to the ATF website on Friday at the request of the executive staff after many received congressional and after such suggestions post the Importer's Conference. I don't have any knowledge of any request ever coming into ATF from the NSSF. So they (NSSF) must have set up an alert or have somebody monitoring the ATF website for changes daily. My recommendation is that, that information be refreshed every 2-3 months so the most accurate times are posted.

Let me pick your brain on this one >>>Have you seen situations where perfected application (those received without errors) being processed in longer than 9-10 months? If so I want to know about those and see what are the circumstances. I can tell you with eForms gaining momentum I expect average times to stay consistent on tax paid.

I will see if I can get you some specifics. I assume that you want names and serial numbers... But yes, we are regularly being told by folks that times are pushing an entire year.

--

[REDACTED] (b)(6)
Executive Director
Phone: 281.492.8288 <old_nfatcalogo.png>
Website: www.nfatca.org
Forums: www.nfatcaforsums.org

From: (b)(6)
Sent: Wednesday, September 24, 2014 9:51 AM
To: Hughes, Alphonso J.
Subject: Re: Morning!

Alphonso,

I am REALLY anxious for us to have lunch again similar to what we did two years ago and have some genuine family discussions and some fun.

At any rate I received this scary phone call from (b)(6) on Friday night about this ruling. I am hoping that the NFATCA and ATF can work this to some satisfactory resolution but I feel it prudent to share the information that (b)(6) relayed to me on Friday night and to get either confirmation to the truth or denial that this process is running amuck. I don't have your phone number but would like to speak with you privately and confidentially. WE WANT TO HELP. The real issue is.....what's really happening with this ruling and who is pulling the switches on this?

We just need to talk.

Thanks

(b)(6)

On Sep 24, 2014, at 8:02 AM, (b)(6) wrote:

(b)(6) understood, yes this is actively being discussed with the legal team within ATF. More to come.

Alphonso J. Hughes
Division Chief, FESD

On Sep 24, 2014, at 7:49 AM, (b)(6) wrote:

Alphonso,
I thought I'd check in on the 2014-1 situation. If you have not already spoken to (b)(6) about this, I suspect that you will, soon. The situation is rapidly beginning to boil and I am wary that this could get out of hand quickly. I am hopeful that we can short circuit any silliness by achieving a resolution in the near term that will satisfy all.

I look forward to hearing from you.

--

(b)(6)
Executive Director
Phone: 281.492.8288

<old_nfatcalogo.png>

Website: www.nfatca.org
Forums: www.nfatcaforgums.org

From: [REDACTED] (b)(6)
Sent: Tuesday, October 20, 2015 7:36 AM
To: Hughes, Alphonso J.
Cc: [REDACTED] (b)(6)
Subject: Re: Question

Alphonso,

Thanks for the rapid response. I will call Eddie today, however, I am very interested in what communication from ATF went to [REDACTED] (b)(6) through his council. As I mentioned earlier, this type of information is dangerous for all us without knowing its contents. [REDACTED] (b)(6) stood in front of a crowd of 250 dealers and said, "I have a letter that was generated by ATF that indicates that you can't own tracer and that the 40mm chalk rounds are taboo. Having either one requires one to have an explosives license and an approved magazine". Again, I would like to see that communication.

Probably the most important issue here however is the fact that I don't think that ATF wants 10,000 new explosive licenses anytime in the near future. We had this meeting two years ago with [REDACTED] (b)(6) and once she realized that the real public safety issue would be in what people would realize they could own once they got this type of license she withdrew the requirement. The NFATCA had investigated the dangerous opportunities, even a low level license would open, and we all decided we should re-think the REAL danger to public safety this type of movement would create.

The original requirement was dropped once the Bureau realized the danger this type of requirement would create to public safety. Well, now all of those players have retired from ATF and we are back at it again. This time unfortunately without any industry support or ideas. We warned early on that if you put this requirement on owning tracer or the 40mm chalk rounds, more people would comply than not. This would simply mean that more than a few new explosive licenses would be generated. Again, once people realized what they could purchase with this type of license, the unintended consequences would be catastrophic.

We should talk this one through.

All my best.

[REDACTED] (b)(6)

NFATCA

On Oct 19, 2015, at 12:55 PM, [REDACTED] (b)(6) wrote:

[REDACTED] (b)(6) not sure what is stirring up in the industry but I want you to talk to William "Eddie" Frye. He is the actual Chief of Explosives Industry Programs and would have been the author of any policy guidance on ammo as explosives. He is expecting your call. I am also in and around later this afternoon.

Here is his contact info.....

Eddie Frye

Chief, Explosives Industry Programs Branch

[REDACTED] (b)(6) Direct

From: [REDACTED] (b)(6)
Sent: Thursday, October 15, 2015 2:35 PM
To: Hughes, Alphonso J. <[REDACTED] (b)(6)>
Cc: [REDACTED] (b)(6)
Subject: Question

Alphonso,

For several weeks I have been talking to [REDACTED] (b)(6) about two subjects:

- 40 mm rounds
- Tracer ammunition

Rumors throughout the industry have it that both have been banned and that possession requires an explosive license and an appropriate magazine, approved by ATF. Among the other rumors are that IOI's have been rounding up the 40 mm chalk rounds based on those people that actually process 40 mm launchers.

I want to try to get to the bottom of this as soon as possible. I thought (b)(6) (b)(6) was helping me as a board member, but now he tells me that (b)(6) (b)(6) had written a letter to ATF, on his behalf, and had since received a response on both subjects. Now (b)(6) tells me that (b)(6) has asked that this information not be shared with anyone. That in itself sent me off the deep end. As far as I know this should be public information to enhance public safety and help keep people from breaking the law.

Since there are no regulations concerning this issue I am asking, on behalf of the NFATCA, for a response from the Bureau on what the status is on ownership of any type of 40mm round and what the specific status is on possessing tracer ammunition. I will be publishing this information for our membership through our web site. If at all possible you can redact the information in your response to the (b)(6) letter and let us know how to proceed.

ATF has published a lot of opinion letters on both issues but the NFATCA has nothing to go on that could be shared with the rest of the industry. This entire letter debacle with Barnes makes me very angry. This tells me that letters of opinion are being sent to certain personnel and that industry has no access to that data. In short, I need your help.

Thanks

[REDACTED] (b)(6)

From: Hughes, Alphonso J.
Sent: Tuesday, April 26, 2016 10:42 AM
To: (b)(6)
Subject: Re: Checking in

I think it is more the person but we will talk.

> On Apr 26, 2016, at 10:36 AM, (b)(6) wrote:
>
> Thanks. I don't think I have ever been so frustrated with a process in my life. (b)(6) is good people. I have known her for a long time.
>> On Apr 26, 2016, at 9:24 AM, (b)(6) wrote:
>>
>> 10-4, Orchid it is. Let's get this moving. (b)(6) is currently the NFA Asst Chief (b)(6)
>>
>>> On Apr 26, 2016, at 9:19 AM, (b)(6) wrote:
>>>
>>> I just spoke to (b)(6). I will be at the Orchid conference next week. We should try and have dinner or a drink while we are there. In terms of your question, non responsive is an understatement.
>>> Thanks for reaching out.
>>>(b)(6)
>>> On Apr 26, 2016, at 8:45 AM, (b)(6) wrote:
>>>
>>>(b)(6)
>>>
>>> I am getting a buzz that the NFA Chief has been less than responsive to some of your recent inquiries. At your convenience give me a call. I hope you are doing well otherwise.
>>>
>>> Alphonso,
>
>

From: Hughes, Alphonso J.
Sent: Monday, April 18, 2016 10:23 AM
To: (b)(6)
Subject: RE: New 4473

(b)(6)

That would be the crux of it. My Division wouldn't have a draft version of the 4473 as it is not a form owned by services. The one you identified and that is linked would be your reference copy for the public comment review. You can save that version as a PDF if you are doing mark ups for submission.

Alphonso J. Hughes
Division Chief
ATF - FESD
(b)(6)

From: (b)(6)
Sent: Monday, April 18, 2016 7:56 AM
To: Hughes, Alphonso J. <(b)(6)>
Subject: New 4473

Alphonso,
Can I get a look at the proposed new 4473 that is being reviewed? The attached link may be all that is available but I wanted to check with you to see if there is anything further.

Thanks
(b)(6)

Federal Register Notice:
<https://www.gpo.gov/fdsys/pkg/FR-2016-04-07/pdf/2016-07970.pdf>

Draft Document:
<https://www.atf.gov/resource-center/docs/form-example-firearms-transaction-record/download>

From: Hughes, Alphonso J.
Sent: Wednesday, April 13, 2016 10:31 AM
To: (b)(6)
Subject: RE: Proposed 4473

So let's say in the case of a corporation (unlicensed of course) is acquiring a NFA firearm and since that type of entity can legitimately have employees (may not necessarily be an RP but an employee on payroll), if an employee of the corporation picks up the firearm on behalf of the corp that person would be subject to NICS requirements. Makes sense??? The 4473 perjury statement regarding picking up on behalf of the entity would apply. Also the new form will have a list of all people that underwent a background check so that the FFL knows not to run a NICS check.

A trust would never have employees per say. That the only scenario I can think of..... Let me know your thought

From: (b)(6)
Sent: Wednesday, April 13, 2016 10:19 AM
To: Hughes, Alphonso J. (b)(6)
Subject: Proposed 4473

I know there are proposed language changes to the 4473. I would like to make certain that you take a look at what we have seen as a couple of potential issues.

Of importance to us:

Box 20 (the old Box 22) has changed a bit. It now reads "No NICS check was required because a background check was completed during the NFA approval process on the individual who will receive the NFA firearm(s), as reflected on the approved NFA application."

The instructions for this question shed a bit more light.

Questions 20 and 21. NICS EXCEPTIONS: A NICS check is not required if the transfer qualifies for any of the exceptions in 27 CFR 478.102(d). Generally these include: (a) transfers of National Firearms Act firearms to an individual who has undergone a background check during the NFA approval process; (b) transfers where the transferee/buyer has presented the licensee with a permit or license that allows the transferee/buyer to possess, acquire, or carry a firearm, and the permit has been recognized by ATF as a valid alternative to the NICS check requirement; or (c) transfers certified by ATF as exempt because compliance with the NICS check requirements is impracticable. If the transfer qualifies for one of these exceptions, the licensee must obtain the documentation required by 27 CFR 478.131. A firearm must not be transferred to any transferee/buyer who fails to provide such documentation.

A NICS check must be conducted if an NFA firearm has been approved for transfer to a trust, or to a legal entity such as a corporation, and no background check was conducted as part of the NFA approval process on the individual who will receive the firearm. Individuals who have undergone a background check during the NFA application process are listed on the approved NFA transfer form.

My question would be... Isn't a background check run on all responsible persons in a trust/legal entity after July 13th? That is why they are submitting fingerprints and photos and filling out the RP questionnaire, right? And only one of those RP's can pick up the NFA item. So there would never be a case where a NICS check would need to be run on an NFA item.

Your thoughts on this?

(b)(6)

From: (b)(6)
Sent: Tuesday, December 15, 2015 7:37 AM
To: Hughes, Alphonso J.
Cc: (b)(6)
Subject: As Promised
Attachments: 120915_FOIA_Appeal_Response.pdf

Here is the copy of the FOIA appeal that we received. Hopefully this will result in some usable information!

--
(b)(6)
Executive Director
Phone: 281.492.8288
Website: www.nfatca.org
Forums: www.nfatcaforsmorg





U.S. Department of Justice
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

December 9, 2015

(b)(6)

National Firearms Act Trade &
Collectors Association
20603 Big Wells Drive
Katy, TX 77449

Re: Appeal No. AP-2015-05939
Request No. 2015-0052
MWII:RNB

VIA: U.S. Mail

Dear (b)(6)

You appealed from the action of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) on your Freedom of Information Act request for access to records concerning the count of certain sub-classifications of registered machine guns.

After carefully considering your appeal, and as a result of discussions between ATF personnel and this Office, I am remanding your request to ATF for a search for responsive records. If ATF locates releasable records, it will send them to you directly, subject to any applicable fees. You may appeal any future adverse determination made by ATF. If you would like to inquire about the status of this remand, please contact ATF directly.

If you are dissatisfied with my action on your appeal, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

Sincerely,

12/9/2015

X (b)(6)

(b)(6) Senior Attorney, for
Sean O'Neill, Chief, Administrative Appeals Staff
Signed by: (b)(6) (OIP)

From: (b)(6)
Sent: Wednesday, July 27, 2016 9:03 AM
To: Hughes, Alphonso J.
Subject: Avoiding a Storm
Attachments: Page1.jpg; Page2.jpg

Alphonso,

As you are likely aware, there continues to be much confusion over what is and is not allowed as far as location for marking on various firearms, particularly those weapons made on a Form 1 or 2 from a preexisting weapon. Many makers have chosen the "tang" of a weapon for their marking location. The tang being a part that is covered by a part such as a trigger group or pistol grip. Said group or grip could be easily removed to reveal the markings.

Earl Griffith's August 25, 2014 letter (attached) appears to make clear that marking in this location is *not* allowed because easily removed does not equate to "simple manipulation" and is inconspicuous. However, the information in this letter has not been widely communicated. Some IOI's took issue with that location and others did not. Further, factory markings (ex: HK markings on the top rib of the 9X series weapons) which are wholly or partially concealed with the mounting of an optic have not been at issue, or at least not enough of an issue to have even been discussed in NFA circles.

Fast forward to today. Some 07's are reporting that they have been explicitly instructed to *not* mark on the tang. However, they have been told that they *can* mark on the barrel, even when the barrel marking would be concealed by an easily removed hand guard. Some 07's are being told to not worry about it. I am not sure what guidance to give our members. I do know that there is a lot of confusion out there and that there appears to be an inconsistent interpretation/application of the marking regulations and requirements. One would think that if the marking does not require significant effort to view, then all is well. This should not be causing this amount of confusion and internet arguing.

Thoughts?

--

(b)(6)
Executive Director
Phone: 281.492.8288
Website: www.nfatca.org
Forums: www.nfatcaforsums.org





U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg WV 25405

www.atf.gov

AUG 25 2014

This is in reference to your letter dated July 25th, 2014, to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), National Firearms Act Branch (NFA), in which you presented questions pertaining to engraving your Trust's name on your MKE AT-94 rifles, along with photos of two proposed locations for the engraving.

As background to your inquiry, a regulation implementing the NFA, § 27 CFR § 479.102 states the following:

- (a) *You, as a manufacturer, importer, or maker of a firearm, must legibly identify the firearm as follows:*
 - (1) *By engraving, casting, stamping (impressing), or otherwise conspicuously placing or causing to be engraved, cast, stamped (impressed) or placed on the frame or receiver thereof an individual serial number. The serial number must be placed in a manner not susceptible of being readily obliterated, altered, or removed, and must not duplicate any serial number placed by you on any other firearm. For firearms manufactured, imported, or imported, or made on and after January 30, 2002, the engraving, casting or stamping (impressing) of the serial number must be to a minimum depth of .003 inches and in a print size no smaller than 1/16 inch; and*
 - (2) *By engraving, casting, stamping (impressing), or otherwise conspicuously placing or causing to be engraved, cast, stamped (impressed), or placed on the frame, receiver, or barrel thereof certain additional information. This information must be placed in a manner not susceptible of being readily obliterated, altered or removed. For firearms manufactured, imported, or imported, or made on and after January 30, 2002, the engraving, casting, or stamping (impressing) of this information must be to a minimum depth of .003 inches. The additional information includes:*
 - (i) *The model, if such designation has been made;*

- (ii) *The caliber or gauge;*
 - (iii) *Your name (or recognized abbreviation) and also, when applicable, the name of the foreign manufacturer or maker;*
 - (iv) *In the case of a domestically made firearm, the city and State (or recognized abbreviation thereof) where you as the manufacturer maintain your place of business, or where you, as the maker, made the firearm; and*
 - (v) *In the case of an imported firearm, the name of the country in which it was manufactured and the city and State (or recognized abbreviation thereof) where you as the importer maintain your place of business. For additional requirements relating to imported firearms, see Customs regulations at 19 CFR part 134.*
- (b) *The depth of all markings required by this section will be measured from the flat surface of the metal and not the peaks or ridges. The height of serial numbers required by paragraph (a)(1) of this section will be measured as the distance between the latitudinal ends of the character impression bottoms (bases).*

Your specific question, consolidated and paraphrased below, is followed by FTB's comprehensive answer:

Question Am I in compliance if I engrave my trust's name, city and state on the pressed and pinned barrel or the receiver's tang, as indicated by red lines on the attached images, submitted with this letter?

Answer No, the placement of the markings under the hand guard or trigger group housing results in such information not being readily noticeable with simple manipulation of the firearm, and is inconspicuous. Therefore, markings in either of the proposed locations would not be in compliance with marking requirements of 27 CFR §§ 478.92 and 479.102. For your information, ATF Ruling 2002-6, held that an imported firearm with any part of the required marking partially or wholly obstructed from plain view is not marked in accordance with 27 CFR §§ 478.92 and 479.102. For your convenience a copy of ATF Ruling 2002-6 is enclosed.

We thank you for your inquiry and trust the foregoing has been responsive.

Sincerely yours,



Earl Griffith
Chief, Firearms Technology Branch

From: (b)(6)
Sent: Tuesday, January 5, 2016 4:30 PM
To: Hughes, Alphonso J.
Subject: doc
Attachments: NFA TRUSTS Final Rule TPs 01-3-16 FINAL.DOCX

--
(b)(6)
Executive Director
Phone: 281.492.8288
Website: www.nfatca.org
Forums: www.nfatcaforsums.org



NFA TRUSTS FINAL RULEMAKING

Talking Points:

- In this final rule, ATF is amending its regulations governing the application to make or transfer a National Firearms Act (NFA) item to help ensure that prohibited persons do not gain access to them. In this way, the rule will help enhance public safety.
 - The NFA imposes special rules on items such as machineguns, short barreled rifles, short barreled shotguns, and silencers.
- The final rule standardizes the requirements for making or transferring an NFA item by ensuring that responsible persons for a trust or legal entity are subject to the same identification and background check requirements as individuals.
 - This approach addresses the prior disparity – where individuals were required to submit photographs, fingerprint cards, and undergo a background check, while persons associated with a trust or legal entity did not.
 - By standardizing the requirements, the final rule helps to foreclose the possibility that prohibited persons could come into possession of NFA items simply by creating a trust or corporation to serve as the transferee.
- The final rule eliminates the Chief Law Enforcement Officer (CLEO) certification requirement for all applicants—individuals and legal entities—and replaces it with a CLEO notification requirement. This change will significantly reduce the burden on the public associated with making or transferring an NFA item.
- The CLEO notification requirement also ensures that CLEOs will be made aware that an application to register an NFA item has been made in their jurisdiction
- The final rule clarifies the definition of “responsible person” for trusts and legal entities to address concerns about the definition’s scope while maintaining the important objective of ensuring background checks for relevant parties associated with a trust or legal entity.
- This rule adds a new section to 27 CFR part 479 to address the possession and transfer of NFA items registered to a decedent.
- The rule is effective 180 days after the publication date.

Background:

- On September 9, 2013, ATF published a notice of proposed rulemaking (NPRM), in response to a petition for rulemaking, dated December 3, 2009, filed on behalf of the National Firearms Act Trade and Collectors Association (NFATCA).

- The NPRM included the following proposals: defining the term “responsible person” for a trust or legal entity; requiring each responsible person to submit photographs and fingerprints, as well as CLEO certification; modifying the CLEO certification to remove a statement from the CLEO about the use of the firearm for other than lawful purposes; and adding a new section to 27 CFR part 479 to address the possession and transfer of firearms registered to a decedent.
 - NOTE: Silencers are “firearms” under the NFA definition. That said, the “regular person” would not consider a silencer a firearm. As a result, the talking points speak in terms of “NFA items.” Where “firearm” is used in this background section, however, it is in the NFA definitional sense.
- ATF received approximately 9,500 comments to the proposed rule, most of which focused on concerns related to the CLEO certification requirement.
- This final rule has been revised from the NPRM to: 1) eliminate the requirement for CLEO certification and add a CLEO notification requirement instead; and 2) clarify that the term “responsible person” for a trust or legal entity includes those persons who have the power and authority to direct the management and policies of the trust or legal entity to receive, possess, ship, transport, deliver, transfer or otherwise dispose of a firearm for, or on behalf of, the trust or entity.
 - In the case of a trust, those with the power or authority to direct the management and policies of the trust includes any person who has the capability to exercise such power and possesses, directly or indirectly, the power or authority under any trust instrument, or under state law, to receive, possess, ship, transport, deliver, transfer, or otherwise dispose of a firearm for, or on behalf of the trust.
 - Examples of who may be considered a responsible person include settlors/grantors, trustees, partners, members, officers, directors, board members, or owners. An example of who may be excluded from this definition of responsible person is the beneficiary of a trust, if the beneficiary does not have the current capability to exercise the powers or authorities listed above.
- As a result of the increased use of trusts or legal entities to acquire NFA firearms the number of qualifying firearms being acquired without a background check has greatly increased. Between 2004 and 2014, the number of NFA applications received from trusts and legal entities increased from 1,938 to 90,726. In 2013 and 2014, ATF received a combined total of 162,759 applications from trusts and legal entities – none of which were subject to a background check.
- A primary objective of the Final Rule is to ensure that prohibited individuals are not able to use trusts and other legal entities to illegally acquire NFA firearms. For example, ATF encountered a situation in which a trustee of a trust applicant was determined to be prohibited from possessing a firearm. Although ATF denied the transfer, if the trust name had been different from that of the prohibited transferee or a different firearm was being transferred, ATF would not have had the information to

deduce that the trust included the prohibited transferee and the transfer would have been approved.

Q and A:

Q. Why did ATF prepare an NPRM (and final rule)?

A. The proposed regulations were in response to a petition for rulemaking, dated December 3, 2009, filed on behalf of NFATCA. The petitioner requested to amend 27 CFR 479.63 and 479.85, as well as corresponding ATF Forms 1 and 4. The proposed regulations were intended to make the requirements, relating to identification and background checks, the same for trusts and legal entities as they are now for individuals, thus providing important and public security benefits.

Q: Is this rule a solution in search of a problem? Can ATF identify any crimes that were committed by responsible persons of trusts or legal entities?

A: Although most individuals who apply to remake or acquire an NFA firearm are not prohibited from possessing or receiving firearms, there have been a significant number of instances in which prohibited persons have submitted NFA applications. From 2010 to 2014 there were approximately 270 NFA applications by individuals, out of 115,842 applications, that were disapproved due to background check denials. The NFA Branch also tracked the number of applications received from trusts and legal entities during the same period. The Department believes that the disapprovals would have been higher if background checks would have been conducted on responsible persons associated with the 217,996 applications received from trusts or legal entities during this time, as the FBI's denial rate on NICS background checks between November 30, 1998 and December 31, 2014, is approximately 1.24%.

Q: An individual representing a trust or legal entity must complete Form 4473 and pass a background check prior to receiving NFA firearms from a Federal firearms licensee (FFL). Why is the final rule necessary if these procedures apply?

A: Although individuals are subject to these requirements, only the individual receiving the firearm on behalf of the trust or legal entity is subject to these requirements. This means that the other individuals within the trust or legal entity are not subject to these requirements. Further, the requirement to complete Form 4473 and undergo a background check apply only when a firearm is received from an FFL--no individual is subject to these requirements when the trust or legal entity "makes" an NFA firearm. The final rule addresses this.

Q: How will CLEO notification be accomplished?

A: The Department has revised the regulations in 27 CFR 479.62 and 479.84 to require the applicant or responsible persons to mail a completed copy of the application (Form 1, 4, or 5) or a completed copy of Form 5320.23 (*National Firearms Act (NFA) Responsible Person Questionnaire*), respectively, to the chief law enforcement officer of the locality in

which the applicant or responsible person is located. In the case of a trust, it is considered located at the primary location where the firearm will be maintained. to the

Q: Will new responsible persons, added after the making or transfer, be subject to the same requirements?

A: The Department notes that it did not propose to make any changes on this issue in the proposed rule. Rather the Department requested input and guidance relative to identification of new responsible persons who receive, possess, ship, transport, deliver, transfer, or otherwise dispose of a firearm for, or on behalf of, an entity. The Department is not requiring new responsible persons to submit a Form 5320.23 within 30 days of any change of responsible persons in this final rule.

The Department further notes that nothing in this rulemaking has altered the requirement for trusts and legal entities to submit new applications to make or transfer (as applicable) if the trust or legal entity intends to possess additional NFA items, or if there is a sufficient change in control or ownership of the trust or legal entity that it is considered a new or different entity under relevant law. In either case, at the time of such application, the trust or legal entity will need to identify current responsible persons, who will submit photographs and fingerprints, and undergo a background check.

Q: ATF already has a significant backlog of NFA applications; won't this requirement just add delay to an already overburdened system?

A: Although there is a backlog of NFA applications, that backlog has decreased over the last year. ATF processes applications as quickly as its resources allow, and that will continue after the effective date of this final rule. Also, neither current backlogs nor the possibility of future backlogs should prevent ATF from ensuring that prohibited persons are denied firearms.

Q: Will trusts and corporate entities still be able to use the ATF eForms system to submit applications after this rule goes into effect?

A: No. The eForms system was not designed to allow the filing of forms where fingerprints and photographs were required. ATF will continue to work toward improving the eForms system and expanding its use.

Q: Were any new sections to 27 CFR part 479 added by the proposed rule (and final rule)?

A. Yes. The final rule adopts, unchanged from the proposed rule, a new section to address the possession and transfer of firearms registered to a decedent. The new section clarifies that the executor, administrator, personal representative, or other person authorized under state law to dispose of property in an estate may possess a firearm registered to a decedent during the term of probate without such possession being

treated as a “transfer” under the NFA. It also specifies that the transfer of the firearm to any beneficiary of the estate may be made on a tax-exempt basis.

Q. What are the estimated costs to applicants, legal entities, CLEOs, and ATF?

- A. ATF estimates a total additional cost of \$29.4 million annually for trusts and legal entities to gather, procure, and submit such information to ATF and for ATF to process the information and conduct a background check on responsible persons.

ATF estimates the total cost of the notification requirement is approximately \$5.8 million annually (\$0.5 million for individuals; \$5.3 million for trusts and legal entities). The costs of the current CLEO certification requirement are approximately \$2.26 million annually.

The final rule estimated cost increase is approximately \$1.6 million annually. However, the final rule estimated cost savings for individuals are approximately \$1.8 million annually. This rule is not an “economically significant” rulemaking as defined by Executive Order 12866.

Q. Are any forms being revised?

- A. Yes. A change from CLEO certification to CLEO notification will require a revision to Form 1 (*Application to Make and Register a Firearm*), Form 4 (*Application for Tax Paid Transfer and Registration of a Firearm*) and Form 5 (*Application for Tax Exempt Transfer and Registration of a Firearm*). There is also a new form, Form 5320.23 (*National Firearms Act (NFA) Responsible Person Questionnaire*), that will be required to be completed by responsible persons of a trust or legal entity.

Q. Are there specific requirements for the “responsible person?”

- A. Yes. Each responsible person will be required to complete ATF Form 5320.23 (*National Firearms Act (NFA) Responsible Person Questionnaire*), and submit photographs and fingerprints when the trust or legal entity files an application to make an NFA firearm or is listed as the transferee on an application to transfer an NFA firearm. In addition, each responsible person for the trust or legal entity is required to notify the CLEO of the locality in which the responsible person is located that an application is being submitted to ATF.

Q. How will ATF process applications that were received prior to the publication date?

- A. Applications postmarked prior to the effective date of the final rule will be processed under the current regulations. Only those applications postmarked on or after the effective date of the final rule will be subject to the new regulations.

Q. Where can I find the “Machineguns, Destructive Devices and Certain Other Firearms; Background Checks for Responsible Persons of a Trust or Corporation or Other Legal Entity With Respect to the Making or Transferring of a Firearm” final rule?

- A. The final rule was published in the Federal Register on [redacted] [date]. It can be found at <http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR>

From: (b)(6)
Sent: Thursday, September 17, 2015 6:36 AM
To: Boucher, Stephanie M.; Richardson, Marvin G.; (b)(6)
Subject: FOIA 2015-0052 Administrative Appeal
Attachments: FOIA_appeal_091615_copy.pdf; FOIA_mgcount.pdf; 082515_FOIA_response.pdf

Attached please find the administrative appeal of ATF's Disclosure Division decision to not provide any information in response to our September 5, 2014 FOIA request. For reference, you will also find a copy of the original FOIA request and the Disclosure Division written response.

The NFATCA is disappointed and frustrated with the current state of affairs and hopes that a reasonable resolution to the issue is obtained.

--

(b)(6)
Executive Director
Phone: 281.492.8288
Website: www.nfatca.org
Forums: www.nfatcaforyums.org





U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

www.atf.gov

August 25, 2015

REFER TO: 2015-0052

(b)(6)

National Firearms Act Trade & Collectors Association
20603 Big Wells Drive
Katy, TX 77449

Dear (b)(6)

This responds to your Freedom of Information Act request dated September 5, 2014, in which you requested records concerning the count of sub-classifications of registered machine guns. Your request has been assigned number 2015-0052. Please refer to this number on any future correspondence.

Please be advised that a search has been conducted in the National Firearms Registration and Transfer Record and, based on our search, we were not able to locate any responsive records subject to the Freedom of Information Act. Specifically, ATF utilizes customized Standard Query Language (SQL) to collect information from system databases. In the instant case, an SQL query may not capture all methods in which the requested information has been manually entered into system data fields. Thus, while each individual record is accurate, there is an inherent albeit wholly unintentional margin of error as to the aggregate statistical information requested.

If you are not satisfied with my response to your request, you may administratively appeal by writing to the Director, Office of Information Policy, United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's eFOIA portal at <http://www.justice.gov/oip/efoia-portal.html>. Your appeal must be postmarked or transmitted electronically within sixty days from the date of this letter. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

Stephanie M. Boucher

Stephanie M. Boucher
Chief, Disclosure Division

**National Firearms Act
Trade & Collectors Association®**

September 16, 2015



John K. Brown, III
President
Curt Wolf
Vice President
Jeffrey E. Folloder
Executive Director, Sec/Tres

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Small Arms Review

Tomas M. Garza
Steering Committee Chair

"Power Through Experience"

Melanie Ann Pustay
Director, Office of Information Policy
US Department of Justice
1425 New York Avenue NW, Ste 11050
Washington DC 20530-0001

Reference: 2015-0052

Ms. Pustay,

I am in receipt of Stephanie Boucher's letter dated August 25, 2015 in which she declines to provide the FOIA information requested by the National Firearms Act Trade & Collectors Association on September 5, 2014. This letter will serve as the **administrative appeal** of the BATF Disclosure Division's rejection of the FOIA request made by the National Firearms Act Trade & Collectors Association.

I am aware that the systems in which the requested data reside create a situation that would provide less than 100% accuracy in regard to delivery of the requested information. Such is the nature of migrating systems through hand written files to modern database storage systems. However, BATF has, in the past, provided this same information to our organization with the caveat that there is an inherent margin of error associated with aggregating the disparate systems. Indeed, Mr. Ken Houchens, in his role as NFA Branch Chief and [redacted] (b)(6) have given us these numbers on numerous occasions in the past in order to facilitate the needed communication and cooperation with industry and community.

The information requested is particularly useful in providing a reference framework for the NFA community and it is understood that the information that ATF provides in response to our FOIA request will have a built-in margin of error. As such, we respectfully request that you provide the information requested and provide us with a suitable margin of error statement that we will be happy to use when communicating the data points.

Sincerely,

COPY

(b)(6)
Executive Director

cc: Stephanie Boucher, ATF
Marvin Richardson, ATF
(b)(6), NFATCA

20603 Big Wells Drive • Katy, Texas • 77449
Phone: 281.492.8288 • Web: www.nfatca.org • Email: info@nfatca.org
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**National Firearms Act
Trade & Collectors Association®**



John K. Brown, III
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Wayne Weber,
Hedker & Koch USA
Robert Segel,
Small Arms Review

"Power Through Experience"

August 4, 2014

Bureau of Alcohol, Tobacco, Firearms and Explosives
ATTN: Disclosure Division, Room 1E400
99 New York Ave NE
Washington DC 20226

Re: Freedom of Information Act Request

The Bureau of Alcohol, Tobacco, Firearms and Explosives (BATF) publishes the *Firearms Commerce in the United States Annual Statistical Update*. The most recent publication, 2014 indicates that there are 512,790 registered machine guns in the United States. This figure is obtained from the National Firearms Act Registration and Transfer Record (NFRTR) which is maintained in ATF-009, Technical and Scientific Services Record System. Registered machine guns are sub-classified by BATF's National Firearms Act Branch as "transferable", "pre-May, 1986 dealer samples" and "post-May, 1986 weapons". I am requesting an exact count of the aforementioned sub-classifications utilizing the most current available information.

I am requesting this information as the Executive Director of the National Firearms Act Trade & Collectors Association, a registered 501(c)(6) non-profit institution, for publication in our quarterly newsletter, *The Partisan*. I request a waiver of all fees for this request. Disclosure of the requested information is in the public interest because it will contribute significantly to public understanding of the operations and activities of the government and does not serve any commercial interest.

Thank you for your consideration of this request.

Sincerely,

(b)(6)

(b)(6)
Executive Director

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From: (b)(6)
Sent: Wednesday, May 6, 2015 10:58 AM
To: (b)(6)
Cc: Hughes, Alphonso J.; (b)(6)
Subject: Following Up
Attachments: 2014-1_employee_inquiry_v1.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

William,

I am following up on a written inquiry that the NFATCA made to you in writing toward the end of February. I have attached an electronic copy of the inquiry for your convenience. I look forward to hearing from you on this matter!

--

(b)(6)
Executive Director
Phone: 281.492.8288
Website: www.nfatca.org
Forums: www.nfatcaforsums.org



National Firearms Act Trade & Collectors Association®

February 23, 2015



John K. Brown, III
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Curt Wolf
Vice President
Jeffrey E. Folloder
Executive Director, Sec/Tres

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Small Arms Review

Tomas M. Garza
Steering Committee Chair

"Power Through Experience"

Mr. William Boyle
NFA Branch - ATF
244 Needy Rd
Martinsburg WV 25405

Mr. Boyle,

The purpose of this inquiry is to determine if the below described proposal would meet ATF's requirements for maintaining control of a "post-sample" machine gun (manufactured/imported after 1986) during repair, refurbishment and restoration. The inquiry is written on behalf of our membership and the NFA community at large.

Manufacturer O is a fully licensed Type 07 Federal Firearms Licensee (FFL) that maintains Special Occupational Taxpayer (SOT) status. Manufacturer O regularly receives post-sample machine guns during the normal course of business for the purposes of performing repair, refurbishment and restoration on these weapons. In many cases, Manufacturer O performs these tasks. However, in some cases, it is necessary for Manufacturer O to utilize sub-contractors to complete the assigned tasks.

Manufacturer O conveys post-sample machine guns to its commissioned sales person who also works for Sub-Contractor X, a licensed 07 FFL/SOT. The post-sample machine guns remain under the "chaperoning" of this employee during the entire time the weapons are physically at Sub-Contractor X. Should it be necessary for the weapons to remain for more than one business day, the chaperoning employee is the only one with access to the secured post-sample machine guns. Work is performed on these post-sample machine guns by Sub-Contractor X exclusively under the supervision of the chaperoning employee.

Section 9.5.2 of the ATF publication *NFA Handbook* states "No 'transfer' under the NFA occurs when an FFL/SOT permits a bona fide employee to take custody of its registered NFA firearms for purposes within the scope of employment and for the business purposes of the FFL/SOT." Further, 9.5.2 goes on to state that "In addition, the interstate delivery of a firearm to the employee and the employee's receipt of the firearm would not violate the GCA."

Given the above description and support, the NFATCA believes that no transfer will take place and that the chaperoning provisions outlined in ATF's recent 2014-1 Ruling are observed. We await confirmation by ATF of our conclusion.

Sincerely,

(b)(6)

(b)(6)
President

cc: (b)(6)
Alphonso J. Hughes

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Phone: 281.492.8288 • Web: www.nfatca.org • Email: nfo@nfatca.org
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From: [REDACTED] (b)(6)
Sent: Wednesday, July 8, 2015 6:08 PM
To: Hughes, Alphonso J.
Subject: Following Up

Alphonso,

The 07 in question sent the following to their IOI and cc'd the supervisor:

As per the Report of Violations covering the inspection period of 4/28/15 through 6/10/15 for my licensed premises. Much is written and referenced in the report and I want you to know that it is my goal to be 100% in compliance with the law in regard to all facets of my operation. I have already taken corrective measures to address the concerns and deficiencies in the report and want you and your supervisors to know that I am sincere in my diligence to "get it right."

I am concerned about a few things that are not contained in the report, yet have been communicated by you to me in regard to compliance. Again, I want to make certain that I understand all of the laws and regulations surrounding my business processes so that I can clearly communicate the need for internal procedures. Please help me to understand the following:

You have instructed me to complete a separate Form 2 for each item that I manufacture. Section 3.2.4 of the ATF publication NFA Handbook states "All firearms manufactured during a single day must be listed on one Form 2." Your instructions appear to conflict with the direction in the NFA Handbook. Please advise as to the regulation you are citing.

You have instructed me to maintain a separate set of copies of my Form 2's and record on the Form 2's the recipient of the manufactured item (sale, transfer, etc.). I see no reference to this requirement in the NFA Handbook. It would appear that this process would duplicate the information already required by regulations regarding the maintenance of my A&D Book. Please advise as to the regulation that you are citing.

You have instructed me to maintain a list of the above mentioned Form 2's in transfer and to whom. Please advise as to the regulatory requirement for this activity.

I may have misunderstood your instructions, which is why I am asking for written clarification and specific citations. The record keeping requirements for this business are precise and required by law. I want to make certain that I am doing exactly what the law requires and nothing that might serve to confuse, complicate or burden the process.

Please respond in writing so that I may forward the information on to my employees so that we may all understand what is required to maintain compliance. I look forward to hearing from you.

Yes, I helped them with the language... I wanted there to be as much possible room for everyone to save face. The response:

I believe you may have misunderstood procedures that we discussed during your closing conference. I did not instruct you to do any of the procedures you have questioned in your email regarding Form 2's. We discussed suggestions to help you keep track of your serial numbers in an effort to not duplicate serial numbers or weapons in the future as you have done in the past;

however, none of those suggestions involved any of the procedures you are in question about. Let me know if you have any further questions.

The 07 has no reason to make up the instructions that they were given. But at least the IOI is now backing down. Sadly, the IOI is now quibbling over the language used in the text of the 07's automatically generated email signature. Seriously. This person seems to not be content unless they get in a final authoritative action. At the end of the day, I will help the 07 change their signature file because this is just not a fight worth waging.

I thank you for all of the attention you have expressed over this. It's above and beyond and I appreciate it.

--

(b)(6)

Executive Director

Phone: 281.492.8288

Website: www.nfatca.org

Forums: www.nfatcaforsums.org



From: [REDACTED] (b)(6)
Sent: Wednesday, September 9, 2015 8:07 AM
To: Hughes, Alphonso J.
Cc: [REDACTED] (b)(6)
Subject: Fwd: FOIA Fail

Alphonso,

I had not heard back from you on this so I thought I would resend. As you know, if a challenge to the FOIA determination is to be made, it must be done within a limited amount of time. I'd like to hear your thoughts.

[REDACTED] (b)(6)

----- Forwarded Message -----

Subject: FOIA Fail

Date: Tue, 1 Sep 2015 08:25:00 -0500

From: [REDACTED] (b)(6) >
To: Hughes, Alphonso J. [REDACTED] (b)(6)
CC: [REDACTED] (b)(6)

Alphonso,

I Got the response from disclosure division. "...we were not able to locate any responsive records subject to the Freedom of Information Act."

So basically, Disclosure doesn't want to tell me, even with a stated margin of error, how many machine guns of each class are on the books.

I am disappointed. Are there any next steps that you would advise?

--

[REDACTED] (b)(6)
Executive Director
Phone: 281.492.8288
Website: www.nfatca.org
Forums: www.nfatcaforsm.org



From: (b)(6)
Sent: Friday, September 12, 2014 1:16 PM
To: Hughes, Alphonso J.
Cc: (b)(6)
Subject: Fwd: NEW ATF RULING WILL IMPACT MANUFACTURE AND IMPORT OF MACHINEGUNS

Follow Up Flag: Follow up
Flag Status: Flagged

Specific Issue becomes apparent; how will the September 4 notice impact the following scenario:

I am an FFL/SOT in lawful possession of a "post sample" machine gun. It breaks. I want to get it repaired. The February 18, 2000 open letter from ATF states that "The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) does not consider the temporary conveyance of an NFA firearm to a gunsmith for repair to be a "transfer" under the terms of the NFA. Thus, an ATF Form 5 application is not required." So I would get a Form 5 (although not absolutely necessary), create a repair order, box the gun up, send it off to an O7/SOT, have it repaired and get it back.

Does 2014-1 negate the ability of FFL/SOT holders to send their weapons out for bona fide repair without physically accompanying the gun and maintaining control of the weapon at all times?

----- Original Message -----

Subject: NEW ATF RULING WILL IMPACT MANUFACTURE AND IMPORT OF MACHINEGUNS
Date: Fri, 12 Sep 2014 11:29:22 +0000
From: Johanna Reeves/F.A.I.R. Trade Group <Mailing@FairTradeGroup.org>
Reply-To: Johanna Reeves/F.A.I.R. Trade Group <Mailing@FairTradeGroup.org>
To: <(b)(6)>

F.A.I.R. Trade Group Member News Alert -
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News

The following article is provided courtesy Reeves & Dola, LLP, www.reevesdola.com (Teresa Ficareta, Esq., author).

NEW ATF RULING WILL IMPACT INDUSTRY ABILITY TO MANUFACTURE AND REPAIR MACHINEGUNS

On September 4, 2014, ATF posted to its website ATF Rul. 2014-1, addressing the transfer and possession of machineguns by qualified manufacturers and importers. The ruling addresses the restrictions of Section 922(o) of the Gun Control Act (18 U.S.C. 922(o)) and sets forth rules for qualified manufacturers and importers to lawfully transfer machineguns for further manufacturing or for repair. This new ruling will have a significant impact on the manufacture and import of machineguns, and will affect the ability of U.S. companies to service their foreign customers because of the transfer and possession restrictions presented in the ruling. The complete text of the ruling can be found [here](#).

I. Background

Section 922(o), Title 18, U.S.C., makes it unlawful for any person to transfer or possess a machinegun. The statute provides exemptions from its prohibitions for transfer[s] to or by, or possession by or under the authority of a Federal, State, or local government agency. Regulations implementing section 922(o) provide that qualified manufacturers may manufacture machineguns for sale or distribution to a Federal, State, or local government agency so long as they are registered in the National Firearms Registration and Transfer Record, and their transfer is restricted to the distribution for official use of Federal, State, or local government agencies. See 27 C.F.R. 478.36, 27 C.F.R. 479.103 and 479.105(c). Regulations also authorize specifically the manufacture of machineguns for purposes of exportation in compliance with regulations of the Department of State issued under the Arms Export Control Act. 27 C.F.R. 479.105(c).

ATF has consistently interpreted 18 U.S.C. § 922(o) to allow qualified manufacturers to stockpile machineguns they manufacture for sale to Federal, State, and local

government agencies. As stated in the regulations in 27 C.F.R. 479.105(c), ATF also has consistently interpreted the statute to allow the manufacture and stockpiling of machineguns for export. These positions are outlined in ATF's National Firearms Act Handbook (the "NFA Handbook"), E-Publication 5320.8, Section 7.5, and available [here](#).

ATF has been inconsistent, however, on whether qualified manufacturers and importers may transfer machineguns to other qualified licensees for purposes of further manufacture, repair, alteration, or integration into another defense article. Section 7.6.1 of the NFA Handbook states that qualified NFA manufacturers may contract with other qualified manufacturers to produce machineguns for sale to Federal, State, or local government agencies or for dealer sales samples. This section of the NFA Handbook goes on to state that a variance is required for these types of transfers, as the regulations in 27 C.F.R. 479.105 limit the number of machineguns that may be transferred. Accordingly, section 7.6.1 indicates that both manufacturers who participate in the production of the machineguns must obtain a variance authorizing the transfer from one manufacturer to the other pursuant to 27 C.F.R. 479.26.

A number of manufacturers have received variances from ATF authorizing the transfer of unlimited quantities of machineguns between licensed manufacturers during the manufacturing process pursuant to the provisions outlined in the NFA Handbook. However, in 2012, ATF officials began making statements at industry trade shows concerning the legality of such transfers under 18 U.S.C. § 922(o). For example, at the 2012 Sporting, Hunting, and Outdoor Trade Show (SHOT Show) held in Las Vegas, Nevada, ATF officials announced the agency's position that allowing licensed manufacturers to transfer machineguns to a second qualified manufacturer for additional manufacturing processes is inconsistent with the plain meaning of section 922(o). These officials announced that the agency would be providing written clarification at some point in the future. ATF Rul. 2014-1 appears to be this clarification.

II. Holdings of ATF Rul. 2014-1

The ruling has three separate holdings which we address below:

1. Stockpiling of machineguns for future sale. The first holding states that licensed manufacturers who are properly qualified under the National Firearms Act (NFA) may manufacture and stockpile machineguns for future sale to Federal, State, or local government agencies without first obtaining a specific contract or order from such government agency, provided the machineguns are properly registered under the NFA and are only distributed for the official use of such government agencies.
2. Delivery of machineguns to a second manufacturer-maintaining constructive possession. The ruling states that qualified manufacturers may deliver machineguns (including frames or receivers) to another qualified manufacturer but may not transfer such firearms to the second manufacturer without violating section 922(o). However, the ruling states that the delivery to a second manufacturer will not violate section 922(o) if the first manufacturer maintains continuous dominion or control over the machineguns.
3. Transfers of machineguns between manufacturers when the second manufacturer has a government contract or "official written request" from a government agency. The last holding in ATF Rul. 2014-1 states that a manufacturer may transfer machineguns it has manufactured to another qualified manufacturer if the first manufacturer has a government contract or official written request that meets the following requirements:
 - The document is from a Federal, State, or local government agency and is on official letterhead;
 - The document states that the first manufacturer is an agent of the government agency authorizing the transfer of the machineguns to the second manufacturer;
 - The document is signed and dated by an authorized government official and includes the official's title and position;

- The document states that the firearms to be transferred are machineguns as defined by Federal law.
- The document states that the machineguns to be transferred are particularly suitable for official use by the requesting Federal, State, or local government agency; and
- The document includes a statement that the Federal, State, or local government agency requests and authorizes the manufacturer to transfer the machineguns to and/or from other licensed manufacturers for assembly, repair, development, testing, other manufacturing processes, or storage, as the case may be, for that government agency.

The ruling states that manufacturers who wish to transfer machineguns under the third holding, as outlined above, must attach a copy of the government contract or other official written request to the transfer application submitted to ATF's NFA Branch.

III. CAUTION! ATF Rul. 2014-2 Modifies ATF Rul. 2004-2

In the last paragraph of ATF Rul. 2014-1 ATF states that ATF Rul. 2004-2 is "clarified" with respect to the documentation required under the GCA for qualified importers to transfer an imported machinegun to another qualified licensee for inspection, testing, calibration, repair, reconditioning, further manufacture, or incorporation into another defense article. We fear this "clarification" will significantly impact the ability of U.S. companies to service the repair needs of their foreign customers.

In ATF Rul. 2004-2, ATF used its variance authority under the Gun Control Act and National Firearms Act to establish a procedure for qualified importers to bring exported machineguns and other NFA firearms into the U.S. temporarily for purposes of inspection, testing, calibration, repair, or incorporation into another defense article. The ruling recognized the fact that many manufacturers have a legitimate need to import machineguns they exported to foreign law enforcement agencies for purposes of repairs under warranty, recalibration, or incorporation into

another defense article. Consequently, ATF Rul. 2004-2 notes that such importations are necessary for national defense. The ruling further indicates ATF was aware most of these temporary importations take place pursuant to the Department of States' International Traffic in Arms Regulations, 22 C.F.R. Part 120-130 (ITAR). However, ATF expressed concern in the ruling that importers utilizing such regulations were not complying with the registration provisions of the NFA, which help ensure the security and accountability of the firearms while within the U.S. Accordingly, ATF Rul. 2004-2 requires importers temporarily importing NFA firearms under State Department requirements to also register the firearms on ATF Form 2.

ATF Rul. 2004-2 also addresses transfers of machineguns following their temporary importation. The ruling states that conveyance of temporarily imported NFA firearms does not amount to a "transfer" as that term is used in the NFA. Accordingly, no transfer application must be submitted to ATF to lawfully accomplish such conveyances. The ruling does not specifically address the requirements of 18 U.S.C. § 922(o). However, the ruling clearly authorizes the conveyance of imported machineguns to a properly qualified manufacturer for repair, re-manufacture, or any of the other purposes outlined in the ruling.

It is important to highlight that the "clarification" of ATF Rul. 2004-2 by ATF Rul. 2014-1 effectively OVERRULES the transfer/conveyance language in the 2004 ruling. This is because the language in the 2014 ruling makes it clear ATF holds a conveyance of a machinegun is a transfer that violates section 922(o), absent a government contract or other document specifically authorizing the transfer of the imported machinegun to a manufacturer. Because the machineguns will be the property of foreign governments, obtaining a written authorization from a Federal, State, or local government agency may be difficult. It may be problematic for a Federal, State, or local government agency to provide a written authorization for the transfer of the machineguns on its behalf when the machineguns are the property of a foreign government. Accordingly, it will be challenging for importers to utilize the procedure authorized in ATF Rul. 2014-1 to lawfully transfer temporarily imported

machineguns to another manufacturer.

IV. CAUTION! Prior Inconsistent Rulings Modified

ATF Rul. 2014-1 also modifies any prior letter rulings or marking variances that are inconsistent with the positions outlined in the ruling. Consequently, businesses who operate under privately issued variances that authorize transfers of machineguns between qualified manufacturers ***may no longer rely upon that variance.*** We discuss this below.

V. Impact of ATF Rul. 2014-1

The practical impact of ATF Rul. 2014-1 on industry operations is as follows:

1. **Manufacture and stockpiling of machineguns.** Qualified manufacturers may continue to manufacture and stockpile machineguns for future sale to Federal, State, and local government agencies.
2. **Transfers of machineguns to a second manufacturer.** ATF marking variances or private letter rulings specifically authorizing the transfer of machineguns from one qualified manufacturer to another qualified manufacturer ***are no longer valid.*** Businesses who utilize the services of another qualified manufacturer to manufacture machineguns must have an employee accompany the registered machineguns to the premises of the second manufacturer and maintain continuous dominion and control over the machineguns while the manufacturing operations are conducted. Alternatively, the first manufacturer may obtain a government contract or other document specifically authorizing the transfer to the second manufacturer. Such a document must meet all requirements of ATF Rul. 2014-1 as set forth above and must be submitted to the NFA Branch with the Form 3 transfer application.

In the case of machineguns manufactured for export, transfers to another qualified manufacturer must meet all the requirements outlined above. However, we suspect it may be difficult to obtain a contract or other written authorization from a U.S.

Federal, State, or local government agency specifically authorizing the transfer to a second manufacturer when the machineguns are being made for export to a foreign customer. The only alternative to this requirement is for the first manufacturer to maintain continuous dominion and control over the machineguns while they are on the premises of the second manufacturer.

3. Transfers of machineguns temporarily imported under Department of State requirements. Persons and businesses properly qualified under the GCA and NFA may continue to temporarily import machineguns exported to foreign governments for purposes of repair, recalibration, and incorporation into another defense article. These temporary imports must comply with ITAR regulations in 22 C.F.R. Parts 120-130 and be registered on ATF Form 2 within 15 days of release from Customs custody. However, these machineguns may not be transferred to another qualified manufacturer absent a contract with a Federal, State, or local government agency specifically authorizing the transfer to the qualified manufacturer OR a written authorization that meets all the requirements set forth in ATF Rul. 2014-1. As with transfers of machineguns manufactured for export to foreign customers, it may be difficult to obtain such an authorization from a domestic agency when the machineguns are owned by a foreign customer. Alternatively, those who have a need for another qualified manufacturer to perform repair or manufacturing operations on temporarily imported machineguns must maintain continuous dominion and control over the weapons while on the premises of the qualified manufacturer to avoid both licensees violating 18 U.S.C. § 922(o).

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From: [REDACTED] (b)(6)
Sent: Thursday, May 28, 2015 8:51 AM
To: Hughes, Alphonso J.
Subject: Fwd: Really?

Even inquires such as this are being ignored. I *know* that [REDACTED] (b)(6) is a busy guy and that his email box and voice mail is overflowing... Still, one would think that this is kind of important to the process.

----- Forwarded Message -----

Subject: Really?

Date: Thu, 21 May 2015 16:04:57 -0500

From: [REDACTED] (b)(6)

To: [REDACTED] (b)(6)

(b)(6)

Saw this posted on one of the boards. I know that the form is not required on a trust/corp transfer, but....

Forgot to put the ATF 5330.20 when I sent in a Form 4. Called NFA Branch to see how I could send/fax to marry it up with my application. Was told that this form is no longer required. Being a "trust, but verify" person, I called back 2 days later and spoke with another person, who also confirmed that the form is no longer required. I don't see any notice on the ATF website that this has changed. In fact, I just put another Form 4 in the mail and my CL3 dealer had me fill one out.

Is this true?

--

(b)(6)
Executive Director
Phone: 281.492.8288
Website: www.nfatca.org
Forums: www.nfatcaforsums.org



From: (b)(6)
Sent: Wednesday, March 17, 2010 10:25 AM
To: Hughes, Alphonso J.
Subject: Keep (b)(6) In Line!

Alphonso,

Not sure if you remember me... we met at SHOT. Make sure that you keep (b)(6) working hard and away from Chik-Fil-A! We would love to have you address the crowd at this year's SAR East show in York. A more formal invitation will be coming to you soon...

--



(b)(6)
**NFA Trade and Collectors
Association**

Website: www.nfatca.org
Direct: 281.492.8288

Join the NFATCA Mailing List

Enter your name and email address below:

Name: []
Email: []

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From: (b)(6)
Sent: Wednesday, March 30, 2016 2:22 PM
To: Hughes, Alphonso J.
Subject: Knob Creek

Alphonso,
What are the chances that I could get some updated stats for NFA Forms processing for the Knob Creek show/meeting next week? The basics by form (received/processed), current volume (increasing, peak, etc.), current backlog, etc.?

Hope all is well in your world. I'm in the NE right now and I am just not used to 30 degree mornings in March/April!

--

(b)(6)
Direct: 281.492.8288
(This message sent from the road)

From: (b)(6)
Sent: Wednesday, September 24, 2014 7:49 AM
To: Hughes, Alphonso J.
Cc: (b)(6)
Subject: Morning!

Alphonso,
I thought I'd check in on the 2014-1 situation. If you have not already spoken to (b)(6) about this, I suspect that you will, soon. The situation is rapidly beginning to boil and I am wary that this could get out of hand quickly. I am hopeful that we can short circuit any silliness by achieving a resolution in the near term that will satisfy all.

I look forward to hearing from you.

--

(b)(6)
Executive Director
Phone: 281.492.8288
Website: www.nfatca.org
Forums: www.nfatcafumsg.org



From: (b)(6)
Sent: Friday, May 29, 2015 6:03 PM
To: Hughes, Alphonso J.
Subject: Re: Checking In

On 5/29/2015 4:38 PM, (b)(6) wrote:

(b)(6) I engaged (b)(6) first who had provided info and comment to the branch chief. (b)(6) I gave him a deadline to get his hands around the issues presented by NFATCA and give you a call sometime on or before COB Monday.

If you do not hear from him by Monday 3 PM please call his direct line (b)(6) (Bill Boyle). I will follow up with him again Tuesday morning to make sure he reached out to NFATCA reps on pending inquiries.

Thank you, sir. Enjoy your weekend. We are bracing for more rain here in the Houston area. Hopefully it will not be as bad as it has been...

--

(b)(6)
Executive Director
Phone: 281.492.8288
Website: www.nfatca.org
Forums: www.nfatcaforums.org



From: [REDACTED] (b)(6)
Sent: Thursday, February 6, 2014 7:59 AM
To: Hughes, Alphonso J. [REDACTED] (b)(6)
Subject: Re: FOIA Woes

On 2/5/2014 9:32 AM, [REDACTED] (b)(6) wrote:

[REDACTED] (b)(6),

I am absolutely saddened by the experience you are having with getting the information. Next step: At SHOT you were suppose to have a meeting with ATF but the schedules did not align. It may be plausible for [REDACTED] (b)(6) to possibly request a meeting with ATF with your agenda & data request you had for SHOT and push that to [REDACTED] (b)(6) for consideration/coordination. Just trying to think of all the options for you.

Alphonso,

I appreciate the candor and sincerity of your words. Not sure that your guidance is going to lead to an acceptable resolution, though. [REDACTED] (b)(6) originally offered us exactly one appointment time for the SHOT Show: during the one time that is more chaotic and untenable than any other for us ~ set up day. As a non-profit on a spartan budget with even more spartan personnel resources, there simply was no reasonable way for us to make it work. ATF severely curtailed their travel and availability as a result of budget constraints and left us no choice but to decline the meeting at SHOT.

My very frank question to you would be: would meeting there have made a difference? Clearly, ATF/DOJ are not moving with any alacrity toward fulfilling FOIA requests from *anyone*. Several industry organizations have been forced into the awkward position of having to file law suits to force Disclosure to turn over the requested FOIA information on a variety of fronts. And now other bureaus and agencies appear to be involved in similar stone wall activities related to basic information requests. This does not bode well.

The information that we requested was to obtain data that would assist ATF in making the roll out of eFoms more accurately understood by the very community it was deployed to help. We want to highlight the sheer volume of work involved and help develop a road map for success. Despite the fact that the industry feels that ATF continues to push them away, we believe there are still areas where we can work together toward mutual benefit. And with that said, I can assure you that the continued presence of a virtual cone of silence is not going to help industry's impression of ATF's lack of meaningful interaction. Take this example:

...the latest eForms notice from [REDACTED] (b)(6) ...

New eforms user registrations: 405

Form 1 submissions: 208

Form 3 submissions: 930

Form 4 submissions: 898

That is for a recent one week period. If you add up the Form 1 & 4 totals (the paying ones), assume they are an average number and that the average will not increase over time (a bad assumption) and do the math... It winds up being a little more than 57,500 apps for a 52 week period that translates into a little more than \$11.5 MILLION. Industry is going to shout "Now tell me again why we cannot pay to get the damn system fixed?"

You and I know that there is no budget assigned to eFoms, yet NFA Branch is going to take in \$11mm+ and

meekly claim no funds to fix it. That is not going to go over well. Our offers to sit down and discuss the situation have been met with FOIA Disclosure like silence. Alphonso, I am at a loss. I know how government works. I am familiar with the unique peculiarities of keeping the ball rolling in government. In this case, the ball isn't even rolling. Matter of fact, somebody came over, picked up the ball, took it off the court, put it in a closet and threw a padlock on the door.

The application flood is absolutely going to continue growing at an exponential rate. At some point, Congress is going to get involved because we are nearing the point that functionality will come to all but a screeching halt. That is not going to be a good look for any of us.

--

(b)(6)

Executive Director
Phone: 281.492.8288
Website: www.nfatca.org
Forums: www.nfatcaforsums.org



From: (b)(6)
Sent: Thursday, November 14, 2013 5:11 PM
To: Hughes, Alphonso J.
Cc: (b)(6)
Subject: Re: Information Request

Follow Up Flag: Follow up
Flag Status: Flagged

On 11/14/2013 3:23 PM, (b)(6) wrote:

(b)(6) hope you and the family are well.

What kind of timeframe are you looking at? I think the AFMER data is fairly easy and readily available. We are still trying to compile NFA data.

I am in Washington this week but I will get with the AFMER Analyst ASAP.

Don't stay in DC too long... It will do things to your mind!!!

As to the NFA data, the most current possible with a 5 year look back. Any actual spreadsheets from AFMER are helpful so that I can re-sort...

--

(b)(6)
Executive Director
Phone: 281.492.8288
Website: www.nfatca.org
Forums: www.nfatcaforsm.org



From: [REDACTED] (b)(6)
Sent: Thursday, November 21, 2013 7:55 AM
To: Hughes, Alphonso J.
Subject: Re: Information Request

On 11/18/2013 4:30 PM, [REDACTED] (b)(6) wrote:

(b)(6)

I will give you a call on the NFA work back tomorrow. Find attached request for excel version of exhibits.

Did not hear back from you, but I'm assuming that you have one or two other things on your plate! <ggg>. I'm also trying to get some stats for an article that I am doing. Have been in touch with [REDACTED] (b)(6) and [REDACTED] (b)(6) trying to get the following stats on the eForms roll out...

1. How many current system users?
2. Users by type (SOT v individual)?
3. How many forms processed?
4. Form totals by type?
5. How many failed form applications?
6. Most common reason for form application failure?
7. Exactly when did the system go live?
8. Up time percentage since start?
9. Number of unique sessions per month?
10. Number of hits per month?
11. Number of help desk inquiries per month?
12. Percent resolution on help desk requests?

FWIW, this appears to be the same platform that was rolled out for the DEA part of DOJ to submit some of their forms (agency, not user/public based). They seem to be experiencing some of the same growing pains...

--

(b)(6)
Executive Director
Phone: 281.492.8288
Website: www.nfatca.org
Forums: www.nfatcaforsums.org



From: (b)(6)
Sent: Friday, May 1, 2015 7:00 AM
To: Hughes, Alphonso J.
Subject: Re: More Story

On 5/1/2015 4:49 AM, (b)(6) wrote:

Jeff if they are now going to litigate the issue let it pan out. I am sure the FD will reach out to Firearms and Ammunition Technology Division for clarification on the definition.

I'm waiting on the name of the second person that showed up. From what I understand, this second person arrived as a white knight but then also went into the mode of stating that you cannot mark just a tube as a suppressor and register it. They even said that they had confirmed this with FTB. A few things about that statement strike me as odd:

- 1) There really is no FTB anymore. There is FATD, Firearms and Ammunition Technology Division, and FTCB, Firearms Technology Criminal Branch.
- 2) The actual Code reads: "(24) 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.**"

Clearly, something is wrong here. The lawyer has been retained to defend against this issue if the inspector and her support decide to make it one. At this stage there is nothing to litigate because no report or deficiency has been filed. I'd like to avoid that. It would seem that we could avoid a lot of this just by doing things right.

I will provide you the name so that you can be in the loop. Your call as to whether anything else should be done to avoid a bad trip.

--

(b)(6)
Executive Director
Phone: 281.492.8288
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Forums: www.nfatcaforsums.org



From: [REDACTED] (b)(6)
Sent: Wednesday, October 1, 2014 7:41 AM
To: Hughes, Alphonso J.
Cc: [REDACTED] (b)(6)
Subject: Re: Morning!

On 9/30/2014 3:46 PM, [REDACTED] (b)(6) wrote:

What number are you at?

Alphonso,

I hope we get to touch base today. I am very concerned that the clarifications to 2014-1 could become an ongoing thing if we do not make a concerted effort to get it right the first time. IMO, the guidance on subcontracting should remain in place, along with the "chaperoning" language. That has been needed for quite some time. There are folks who will be upset that this could potentially cause problems for some 07/SOT's who build post sample machine guns "on spec" for their stockpile, since that is not typically done with a specific department in mind.

The repair guidance is something we need to nail down. Most post sample weapons are owned by non 07's by way of "love letter." These letters were submitted with the original transaction and, ostensibly, ATF already has a copy of the letter. Requiring copies of copies that may or may not be retained since there was never a retention requirement duplicates unneeded effort. There are at least three lawfully owned post sample machine gun classes that do not require love letters:

1. Post samples that were acquired by a manufacturer or importer from a going out of business purchase.
2. Post samples that were manufactured by the 07
3. Post samples that were temporarily imported, etc.

In each of these cases, the weapons are lawfully and properly owned by the licensee. There is no practical way for the licensee to secure expert repairs of these weapons because there is likely no third party, non-involved LE/Mil agency that would create a love letter for such repair. By making this requirement, ATF is effectively depriving the licensee of the use and value of their property.

I recommend that the clarification letter for 2014-1 specifically address the February, 2000 open letter that clearly states that ATF does not consider the temporary conveyance of an NFA firearm for repair to be a transfer under the terms of the NFA. For purposes of specificity, ATF might wish to actually home in on the term "temporary conveyance" so as to prevent folks from engaging in the practice of open ended repairs.

--
[REDACTED] (b)(6)
Executive Director
Phone: 281.492.8288
Website: www.nfatca.org
Forums: www.nfatcaforums.org



From: [REDACTED] (b)(6)
Sent: Tuesday, September 30, 2014 4:40 PM
To: Hughes, Alphonso J.
Cc: [REDACTED] (b)(6)
Subject: Re: Morning!

On 9/30/2014 3:28 PM, [REDACTED] (b)(6) wrote:

I would say wait because we are going to address the letter to you and the NFATCA. I failed to mention below FFL SOT w/ a demo letter.....

From: [REDACTED] (b)(6)
Sent: Tuesday, September 30, 2014 4:12 PM
To: Hughes, Alphonso J.
Cc: [REDACTED] (b)(6)
Subject: Re: Morning!

On 9/30/2014 2:24 PM, [REDACTED] (b)(6) wrote:

Yes, I have a final draft in legal review. Hoping by end of week to you electronically.

In a nutshell – Post 86 dealer sample repairs – FFL SOT is an agent of the gov't so repairs as normal. Can be transferred for repair purposes.

May I share this information with the public or would you prefer that I wait? When you release it on an official level, feel free to mention that NFATCA was the catalyst that helped bring the clarification to light...

That is going to be problematic for some. ATF has never required retention of a demo letter and the original is sent to NFA Branch! One must assume that if an FFL/SOT is already in possession of a post sample, then there was a demo letter in the first place. Further, demo letters are not the only instrument used to lawfully obtain a post sample.

--

[REDACTED] (b)(6)
Executive Director
Phone: 281.492.8288
Website: www.nfatca.org
Forums: www.nfatcaforums.org



From: (b)(6)
Sent: Wednesday, October 1, 2014 11:39 AM
To: Hughes, Alphonso J.
Subject: Re: Morning!

On 10/1/2014 10:32 AM, (b)(6) wrote:

(b)(6)

Hey, got tied up this morning on some other pressing items. I will call you later this afternoon.

Roger that. Did you try to call yesterday afternoon from a 202 number? I got a call from 202-648-9999 at about 3:45 my time (I was on another line). I know it's an ATF number, but no message was left.

By the way, I *do* appreciate the communication and the effort. There are a lot of folks trying to stir this up for their own personal financial gain and I am more concerned with getting it right in the quickest, most expedient way.

--

(b)(6)
Executive Director
Phone: 281.492.8288
Website: www.nfatca.org
Forums: www.nfatcaforsmms.org



From: [REDACTED] (b)(6)
Sent: Monday, September 15, 2014 10:55 AM
To: Hughes, Alphonso J.
Subject: Re: NEW ATF RULING WILL IMPACT MANUFACTURE AND IMPORT OF MACHINEGUNS

On 9/15/2014 9:46 AM, [REDACTED] (b)(6) wrote:

(b)(6) stand by on the question. FTB, FIPB and ourselves are getting that very question. (b)(6) will be out today we will discuss how ATF should clarify the ruling. Stand by!

My phone is ringing off the wall on this! It is literally making it impossible, in a practical manner, for FFL/SOT's to secure repair of their lawfully owned post-sample weapons!

Thank you for your help.

On another matter, I still have yet to hear back from disclosure regarding the FOIA. My calendar says that today is actually the deadline for them to notify me that they would need more time. No answers to phone call, email and written inquiry.

--

(b)(6)
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