



Final Review: What FFLs Need to Know about the New ATF Regulations

2022 Firearm Industry
Compliance Webinar Series



Final Review: What FFLs Need to Know about the New ATF Regulations

**ATF Final Rule 2021R-05F, Definition of “Frame or Receiver” and
Identification of Firearms
Effective August 24, 2022**

Introduction

- The purpose of this short session is to advise FFLs, in brief, of the new requirements that they must follow under the new regulations. Time does not allow me to cover every change.
- You can type in questions and there will be some time for me to respond at the end of the presentation, but it is likely that I will not be able to get to all of them.
- I will follow up with the NSSF staff and respond to any questions I could not get to. If any come to mind afterwards just send them to me via email. I will respond to you as quickly as I can.

ATF Final Rule 2021R-05F, Definition of “Frame or Receiver” and Identification of Firearms

- Effective 8/24/2022.
- Link to FR <https://www.federalregister.gov/documents/2022/04/26/2022-08026/definition-of-frame-or-receiver-and-identification-of-firearms>
- Most sweeping changes to the GCA regulations since 1968.
- Major areas of this change include:
 - Revised and much more detailed definition of ‘frame or receiver’. Grandfathered all previous ATF determinations of what part of the firearm was the receiver. E.g., AR lower.
 - So-called 80% receiver kits are classified as receivers if readily completable.
 - Imposes requirements on FFLs who possess personally manufactured firearms (PMFs).
 - Revises the term ‘gunsmith’. Gunsmiths can mark PMFs.
 - Grandfathers current marking requirements for existing models and establishes new requirements for new models. PMFs and receiver kits marking will follow new requirements.
 - Consolidates manufacturer and importer firearms acquisition and disposition records into a single record.
 - Retention of required records is made permanent.

New Recordkeeping Requirements

- Final Rule 2021R-05F makes some substantial changes to the recordkeeping requirements for FFLs, especially acquisition and disposition of licensed manufacturers and importers.
- The 1968 regulations required separate records to be kept for firearms imported or manufactured, firearms otherwise acquired, for disposition to FFLs and dispositions to non-licensees.
- Hence the approval of many variances and rulings over the years to simplify manufacturer and importer recordkeeping.
- For licensed manufacturers and importers, those records are now required to be consolidated into one single record.
- The required record templates are shown on the next two slides.
- You should already be planning your change over.

New Form 4473

Record Retention Requirements

- Under the new regulations, all ATF Forms 4473 must now be retained permanently, *i.e.*, until the discontinuance of business.
- Forms 4473 may be retained on paper, or a variance can be obtained for digital storage.
- Paper forms more than 20 years old may be stored in a separate warehouse, which then shall be considered part of the licensed premises subject to inspection by ATF officers.
- The new retention requirements also apply to denied and to “no transfer” forms where NICS or the state agency was contacted to perform a background check. They could be delayed customers who never return, customers who cannot pay, customers who change their minds, or sales that you cancel.
- The denied and no transfer forms must be retained in a separate file either alphabetically by the transferee’s last name or chronologically by the transferee’s date of certification.

Recordkeeping and Retention

- Manufacturers and importers must maintain all records of the importation, manufacture, or other acquisition of firearms, including Forms 6, Application and Permit for Importation of Firearms, Ammunition and Implements of War and 6A, Release and Receipt of Imported Firearms, Ammunition and Implements of War, until the business under the license is discontinued.
- Licensed importers and licensed manufacturers records of disposition of firearms after December 15, 1968, must also be retained permanently.
- Licensees must record all firearms markings in the A&D record. Information on the ATF website advises that , if there is more than one manufacturer or importer listed, or country of manufacturer or serial number both must be listed. It would follow that the same information would be on the Form 4473.
- Where a s/n has the first three and last five numbers of an FFL included in it, the engraved FFL numbers must be recorded in all records.

Record Keeping and Retention

- The A&D records of licensed dealers and licensed collectors shall be maintained until business under the license is discontinued.
- As with Forms 4473, they may be retained on paper or in an approved electronic format, and those more than 20 years old may be stored in a separate warehouse that once again will be considered part of the licensed premises subject to ATF inspection.
- As of today, the ATF National Tracing Center, and local ATF officers are accepting records more than 20 years old (for paper A&D records that means 20 years from the date of the last disposition) from licensees who are continuing operations. Contact the NTC or your local ATF office if you have qualifying records you wish to surrender. But hurry if you are thinking of doing this. Time is running out.

Definition of Receiver

- Current Definition at 27 CFR 478.11:

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

ATF and the industry have known that this definition was inadequate and did not relate to many firearms, such as hammerless firearms, silencers, rockets, some machine guns, etc.

- Revised Definitions as of 8/24/2022, at 27 CFR 478.12, are much more detailed and specific:

Separate definitions for handgun frames and rifle receivers.

Variant defined.

Firearm muffler or silencer frame or receiver defined.

Partially complete, disassembled, or nonfunctional frame or receiver.

Grandfathering of Frame or Receiver Classifications Determined Before April 26, 2022.

- The terms “frame” and “receiver” in the revised regulations include the specific part of a complete weapon, including variants thereof, classified by ATF FATD as a firearm frame or receiver prior to April 26, 2022.
- The revised regulations also exempt from the new definitions and marking requirements existing split frame or receiver designs in which a part was previously classified by ATF as the firearm “frame or receiver”, and they may be marked as before this rule.
- Pictures of some grandfathered frames or receivers, such as AR-15/M-16 variant firearms are included in the regulation.
- The terms “variant” and “variants thereof” mean a weapon utilizing a similar frame or receiver design irrespective of new or different model designations or configurations, characteristics, features, components, accessories, or attachments.

Frame or Receiver Classifications of Partially Complete, Disassembled, or Nonfunctional Frames or Receivers before April 26, 2022.

- Prior determinations by the Director that a partially complete, disassembled, or nonfunctional frame or receiver, including a parts kit, was not, or did not include, a “firearm frame or receiver” under § 478.11, or “frame or receiver” under § 479.11 of this subchapter, as those terms were defined prior to April 26, 2022, **shall not continue to be valid or authoritative after that date.**
- New regulation 27 CFR 478.12(c): *“The terms “frame” and “receiver” include partially complete, disassembled, or nonfunctional frames or receivers, including a frame or receiver parts kit, that is designed to or may **readily** be completed, assembled, restored, or otherwise converted to function as a frame or receiver.”*
- The regulation, effective August 24, 2022, classifies as firearms *“incomplete frames or receivers, commonly called “80% receivers,” that contain all the necessary components (finished or unfinished), along with jigs, templates, or other tools that allow an individual to complete a functional weapon with minimal effort, expertise, or equipment within a short period of time”.*

Parts Kits That Have Been Classified as Firearms

- Manufacturers of kits or partially completed frames or receivers that are clearly identifiable as unfinished component of a weapon will have to be licensed to continue in business, as well as mark and serialize the frames or receivers and maintain records of acquisition and disposition, just as any other manufacturer is required to do. License applications should already be in process, if not already completed.
- Manufacturers are still able to submit such items to the ATF FATD with a letter request, asking for a determination that they are not readily completable.
- Any forging, casting, printing, extrusion, unmachined body, or similar article that is not clearly identifiable as an unfinished component part of a weapon will not fall under the definition of frame or receiver.
- Dealers in possession of such parts kits (erstwhile 80% receivers) as of the effective day of the regulations should enter them into their A&D records. They will also have to be marked prior to sale or if they remain in inventory NLT 60 days after the effective date of the regulation. But even if not marked they must be entered into the A&D record.

Privately Made Firearms (PMFs)

- A PMF is *“a firearm, including a frame or receiver, completed, assembled, or otherwise **produced by a person other than a licensed manufacturer, and without a serial number placed by a licensed manufacturer at the time the firearm was produced.** The term shall not include a firearm identified and registered in the National Firearms Registration and Transfer Record pursuant to chapter 53, title 26, United States Code, or any firearm manufactured or made before October 22, 1968 (unless remanufactured after that date).”*. This would include all unmarked former 80% receivers and parts kits, whether made by an FFL or otherwise.
- Under the new rule, an unlicensed individual may still manufacture a firearm (PMF) for his or her personal use only.
- Effective with this new rule, every FFL who takes a PMF into inventory must mark it and record it into their A&D record within seven days, or before it is disposed of, whichever comes first. **If the name of the private manufacturer is known, that information should be entered in the manufacturer column.** If not known, then PMF may be entered. I would recommend entering (PMF) after the name of the private manufacturer.
- The required markings are: An individual serial number that begins with the first three and last five digits of the FFL number, followed by a hyphen and then a unique serial number.
- FFLs marking PMFs must keep track of the serial numbers marked in their records.
- Serialization is not required for same day repairs if returned to person from whom received.

PMFs (Cont.)

- FFLs with PMFs in inventory as of August 24, 2022, must mark them prior to transfer or NLT 60 days from that date, whichever occurs first. FFLs can have another FFL mark them or have them marked by an unlicensed person in the business of engraving items, under the direct supervision of the FFL.
- FFLs not wishing to mark PMFs may surrender them to ATF for disposal or destroy them in accordance with ATF guidelines ATF.
- **IMPORTANT:** No FFL is required to accept a PMF into their inventory; however, if they do, they must follow all requirements.

Marking Requirements

- **IMPORTANT:** Almost all firearms that ATF classified prior to the April issuance of the new rule will be grandfathered and may continue to be marked in the same manner as before the date the new rule goes into effect.
- The new marking requirements apply to licensed importers and manufacturers only for **new firearm designs** for firearms imported or manufactured with those new designs after August 24, 2022. They also apply to marking PMFs and parts kits and so called 80% receivers now classified as firearms by the new regulations.
- The new rule allows licensed manufacturers to adopt the serial number and other identifying markings previously placed on a firearm, without a variance from ATF, provided the firearm has not been sold, shipped, or otherwise disposed of to a person who is not a licensed manufacturer.
- The new rule also permits licensed manufacturers to perform gunsmithing services on existing, marked firearms without marking or obtaining a marking variance.

Marking Requirements, cont.

- As under the old rule, the new rule requires firearms imported or manufactured to be legibly marked with a serial number, by engraving, casting, stamping (impressing), (or other approved method) that information on the frame or receiver of the firearm.
- This required serial number must not be readily susceptible to obliteration, alteration, or removal.
- The serial number must not duplicate any serial number placed by the licensee on any other firearm.
- Also as under the old rule, every firearm must also be marked, on the frame or receiver, or barrel or pistol slide with the following information:
 - The model (if any)
 - The caliber or gauge
 - If manufactured outside the U.S., the name of the foreign manufacturer
 - For imported firearms, the name of the foreign country in which it was manufactured

Marking Requirements, cont.

- This is the major marking change: In addition to the serial number, the new rule requires the importer or manufacturer to mark the **frame or receiver** with their name (or recognized abbreviation, *e.g.*, BACO, H&K, etc.) and the city and State where they maintain their business.
- Alternatively, the frame or receiver may be marked with their name (or recognized abbreviation) and the serial number, beginning with their abbreviated FFL number (first 3 and last 5 numbers) followed by a hyphen and the unique identification (serial) number.
- That marking would look like: W&H Firearms, 12345678-abc654321, for example.
- Again, this requirement is for new designs only, or an importer or manufacturer could voluntarily change its marking practices.

Marking Requirements, cont.

- In the case of a multi-piece frame or receiver, the part that must be marked is *“the outermost housing or structure designed to house, hold, or contain either the primary energized component of a handgun, breech blocking or sealing component of a projectile weapon other than a handgun, or internal sound reduction component of a firearm muffler or silencer....”*.
- In the case of a left and a right half of a receiver that are similarly designed, both pieces must be marked with the same information.
- PMFs must be marked with a unique serial number that begins with the FFL’s abbreviated license number (First 3 and last 5 numbers) followed by a hyphen and the unique identification number for that firearm.

Marking Requirements, cont.

- Non-NFA firearms must be marked not later than the seventh day following the date of the end of the complete manufacturing process, or prior to disposition, whichever is sooner.
- To comply with NFA registration requirements, NFA firearms must be marked not later than the close of the next business day following the date the entire manufacturing process is complete, or prior to disposition, whichever is sooner.
- Required information must be no smaller than 1/16 inch and engraved at a depth of not less than .003 inch.
- Serial numbers cannot be marked into polymer because the marking is not durable. An acceptable way of marking a PMF is by placing the serial number on a metal plate that is permanently embedded into a polymer frame or receiver, or other method approved by the Director of ATF.
- If there is no metal plate, the FFL will have to contact ATF with a proposed alternative marking proposal.

Additional NSSF Compliance Resources

NSSF[®]
The Firearm Industry
Trade Association

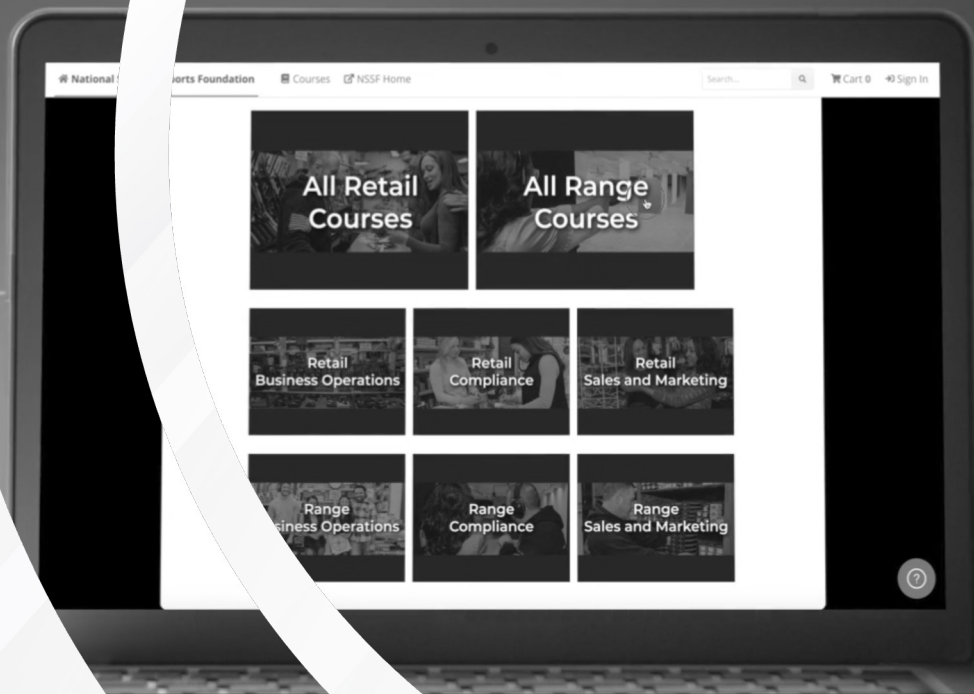
SHOT
UNIVERSITY™

NSSF online

Industry Compliance courses:

- “Zero Tolerance” Policy
- Winning at ATF Inspections
- Completing the Form 4473
- Multiple Sales Report
- and more

[NSSF.org/Education](https://www.nssf.org/education)



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NEXT WEBINAR

Understanding the OSHA Lead Standard and Shooting Range Compliance

Monday, August 29 | 1-2 p.m. Eastern

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