



U.S. Department of Justice
Bureau of Alcohol, Tobacco, Firearms and Explosives

Notice to Revoke or Suspend License and/or Impose a Civil Fine

NOR NOW WHAT

**2022 Firearm Industry
Compliance Webinar Series**

Additional NSSF Compliance Resources

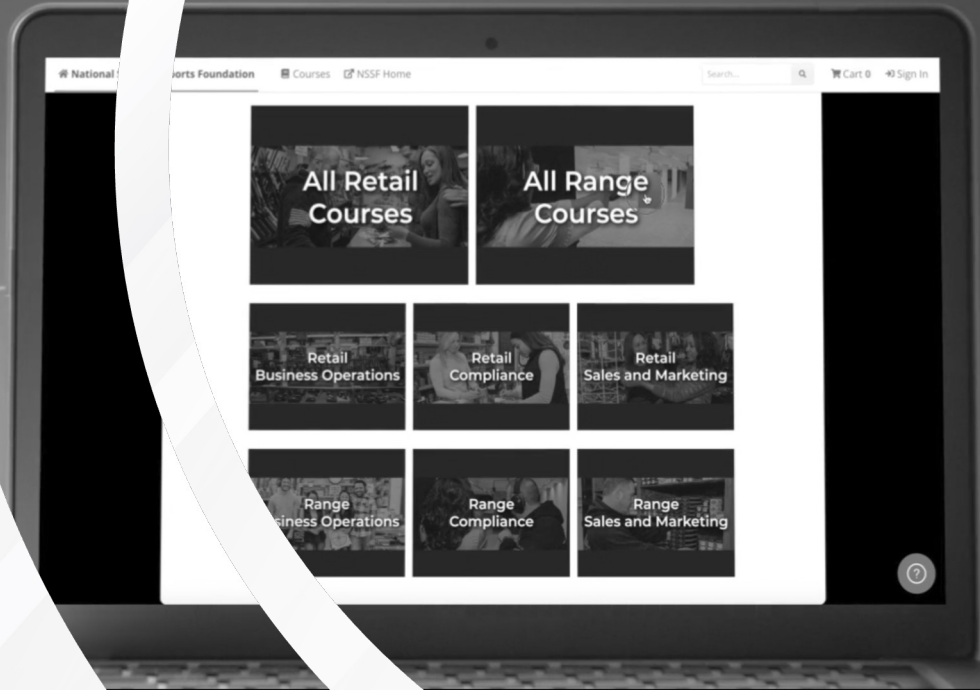
NSSF[®]
The Firearm Industry
Trade Association

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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Take a Deep Breath

Get ready to
respond.

Now is not
the time to
give up!

Take a walk,
clear your
head!

It Will Leave a Mark!

- Going to cost \$\$
- Labor
- Distraction to business
- Lots of team members will get involved



Notification Internally and Start Task Force

Leadership

Marketing

BOD

Local Counsel

HR

Compliance

Finance

Pursuant to U.S.C. 923(f)(2) and/or 922(t)(5), you may file a request with the Director of Industry Operations, Bureau of Alcohol, Tobacco, Firearms and Explosives, at 5825 North Sam Houston Parkway West Suite 100 Houston Texas 77086, in duplicate, for a hearing to review the revocation, suspension and/or fine of your license. The request must be received at the above address within 15 days of your receipt of this notice. Where a timely request for a hearing is made, the license shall remain in effect pending the outcome of the hearing; and if the license is due to expire, the license will remain in effect provided a timely application for renewal is also filed. The hearing will be held as provided in 27 CFR Part 478.

If you do not request a hearing, or your request for a hearing is not received by ATF on time, a final notice of revocation, suspension, and/or imposition of civil fine (ATF Form 5300.13) shall be issued.

Request Hearing

- Mail return receipt requested
- 15 days to comply
- Get a 2A attorney

The Hearing: Legal Standards

- Per the GCA, the ATF can only revoke FFL for “willful” violations-18 USC § 923(e).
- Willful not defined in GCA—definition from case law, varies by Circuit.
- General federal court definition used by ATF → “[A] willful violation of GCA’s regulations occurs when the FFL commits the violation with an intentional disregard of a known legal duty or with plain indifference to their legal obligations.”

The Hearing: Legal Standards

- GCA → ATF can revoke an FFL based on a single willful violation.
- Always keep record of any ATF compliance inspections and Reports of Violations (“ROV”).
- Attorney must know if any violations in ROV/NOR are repeat violations + outcome of prior ATF compliance inspections.
- Work together with your attorney—communication is key.

Start a Diary with Dates and Steps

NOR

Notifications

Reviews conducted

Root cause

Who will attend hearing

Who will present on behalf of FFL

Check chainwide for systemic issue

Keep Track of Costs Along the Journey

- Payroll and labor
- Meetings
- Travel
- Time away from focus on sales and customer experience
- Update P&P
- New software
- At the end of the journey
 - Could this have been avoided?
 - Not going to happen again!

Root Cause Analysis

Who

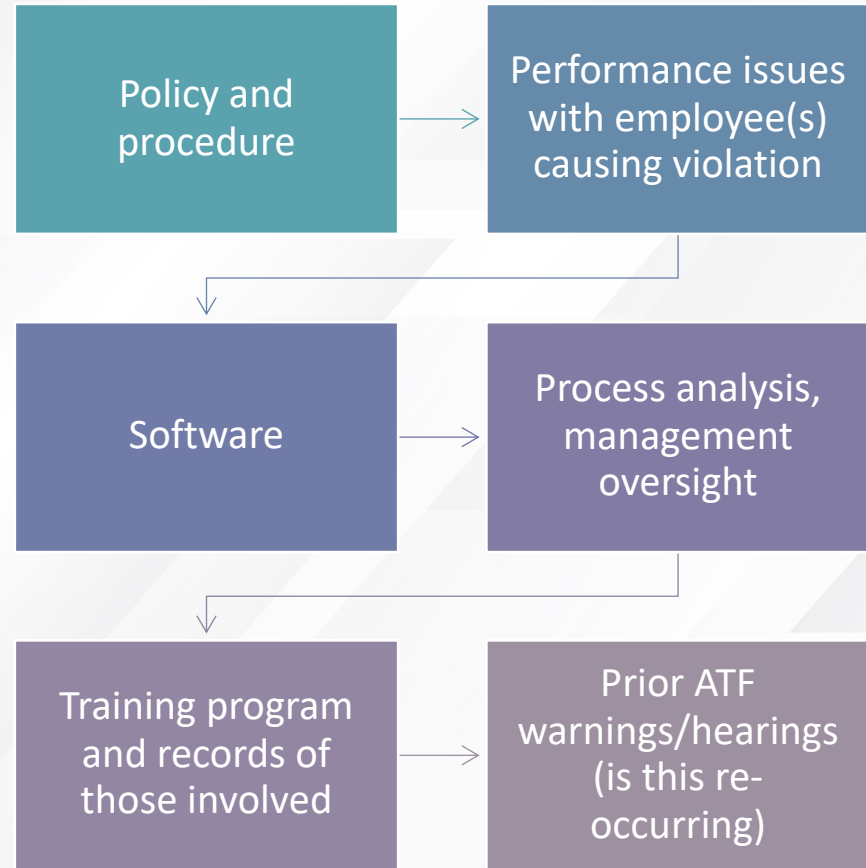
What

Why

Where

How

Review and Draft Changes as Needed



Recap what is different since ATF visit document

This leads
to talking
points at
hearing

Changed
or updated
software

Retrained
staff

Outside
mock audit

Build Your Remediation Plan

- What will you do differently to avoid future violations?
- Who is accountable?
- If you commit to doing it, you better follow through!



Who Will Attend Hearing on Your Behalf

Counsel

Compliance

Store management

Corporate leadership

Witnesses

Plan at Least 2 Practice Presentations



Be authentic



Convince and say repeatedly “not willful”



Mistake made, human error...



Software failure...



Bad decision by...

Who is at Hearing

ATF IOI –
Testifies about
NOR findings

ATF DIO –
Hearing Officer

ATF Legal –
Presents Case

Transcriptionist
– Audio and
Video Recorded

FFL

Remember

This is anything but informal hearing

Government here to take your license

Anything said, recorded, presented as evidence by copy is obtainable by FOIA request

Conclusion of hearing most likely will be advised ruling can take up to 6 months to receive

Outcome Favorable - Don't Let Up

Set

Set six months check up

Review
and report

Review and report to Task Force

Review

Outside review annually

Outcome – License Revocation

- Counsel – decide if you will appeal to US District Court

Review Procedures: Federal Court

- Must file Notice of Appeal in proper U.S. District Court (based on FFL location) within sixty (60) days of ATF's final decision to revoke.
- During appeal process, FFL cannot continue operations as of right.
- However, FFL can make request to DIO to continue operations and DIO can allow licensee to operate during appeal.
- Interactions with ATF are crucial—always maintain respect, even if there is a disagreement. Interactions can affect entire process.

Review Procedures: Federal Court

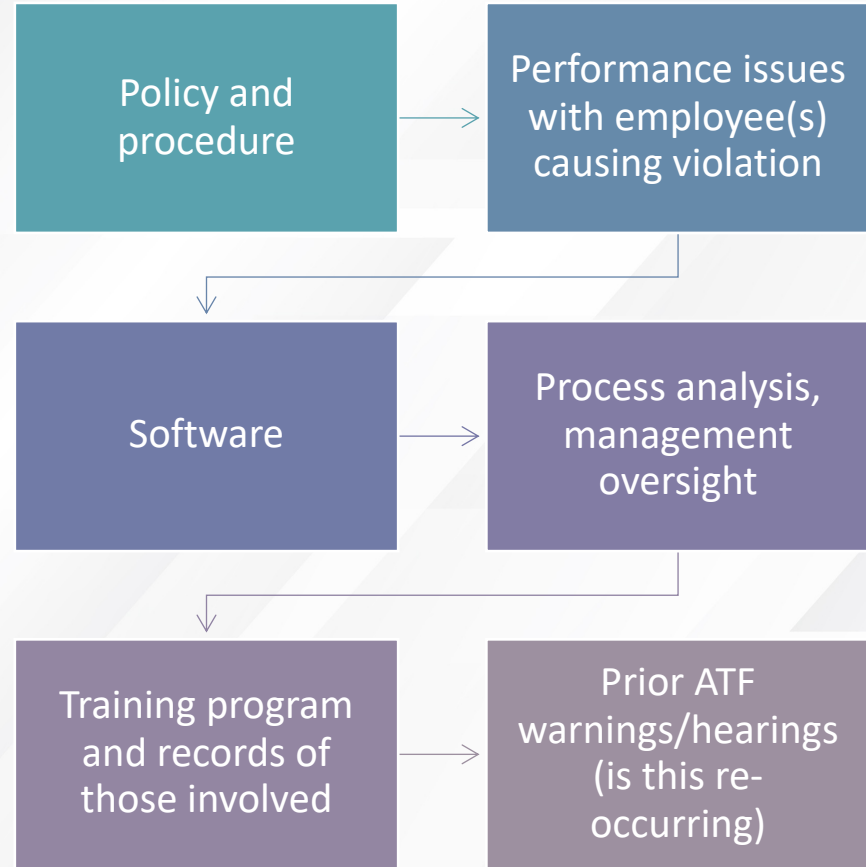
- De novo review (independent review of facts and law—not bound by ATF’s factual conclusions).
- Generally, federal court only reviews evidence in the administrative record.
- In order to win in federal court, FFL must establish that it did not engage in any willful violations of GCA.
- Uphill battle—ATF only needs to establish that one violation was willful to win. FFL needs to establish that none of the violations were willful to win.



Risk Reduction to Avoid NOR

- Slow down – Take your time!
- Review training!
- Review processes!
- Second set of eyes review!
- Self audit!
- Outside audit!
- What would a NOR cost my business even if we get a favorable ruling?

NOR Avoidance - Change as Needed



NSSF Compliance Consultant Team

ATF Consultants



Judy Bender
dog3mom1@msn.com
630-418-0141



Bill Napier
lpcbill@gmail.com
308-249-0131



John Clark
jclark@pciservices.us
720-431-8821



John Bocker
johnbocker1@gmail.com
720-514-0609



Wally Nelson
nels4947@outlook.com
703-505-2617



Renee Lewis
rlewis.consultant@gmail.com
916-717-5304



Harry McCabe
harry@mccabeconsultingllc.com
931-505-3638



Patricia Smith
spatsy1968@gmail.com
251-401-3878



Dale Krupinski
oshacoach@ontargetsafetyacademy.com
303-351-7915

ATF & OSHA Consultant

CA DOJ Consultants

OSHA Consultant

Additional Questions?

Email NSSF at:
membership@nssf.org

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