



# The Secrets to All Things NFA

**2023 Firearms Retailer/Range  
Compliance Webinar Series**



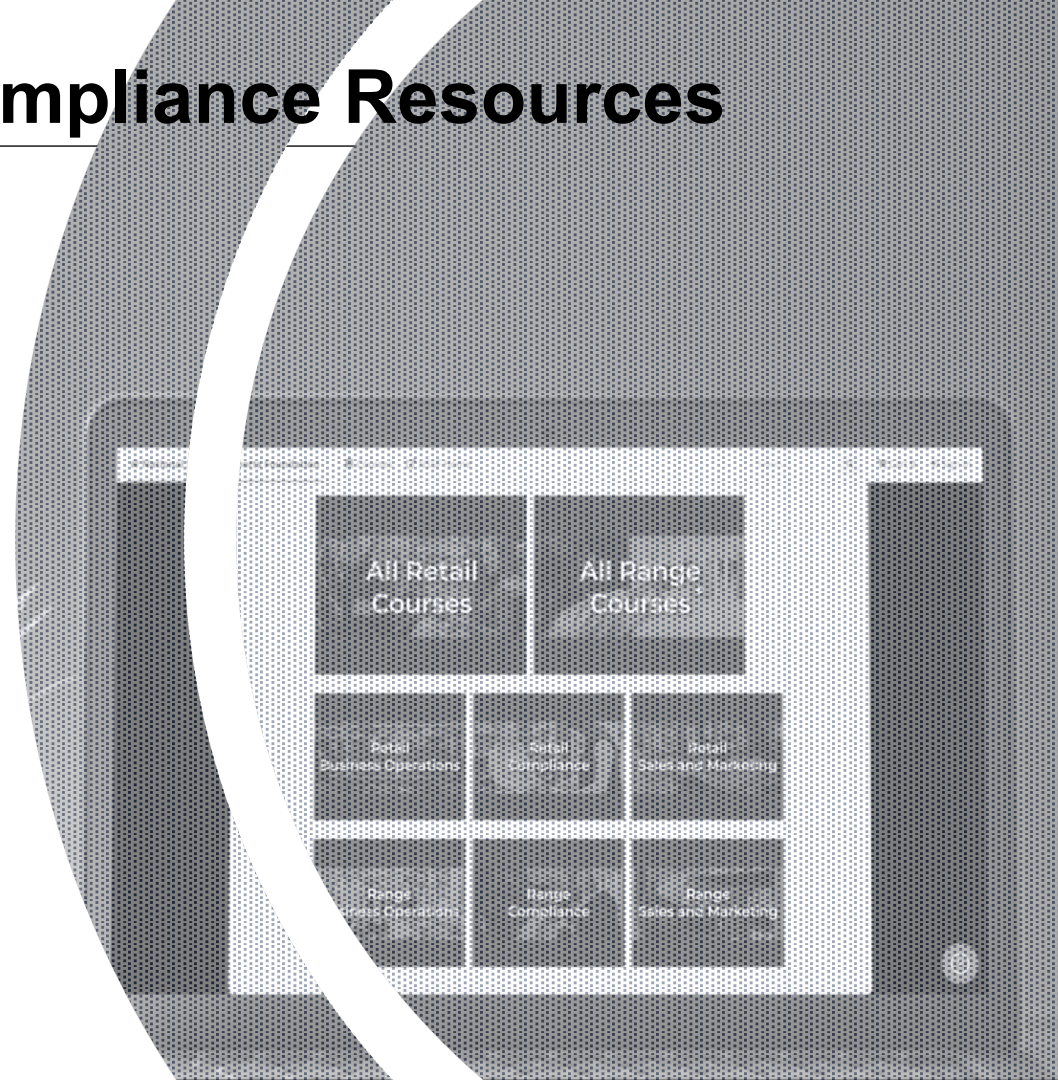
# Additional NSSF Compliance Resources



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)





# The Secrets to All Things NFA

**2023 Firearms Retailer/Range  
Compliance Webinar Series**



# Today's Agenda

---

- NFA registration trends.
- Discuss current NFA compliance issues.
- Rental of NFA firearms on ranges.
- The demise of the “Law Letter”.
- Discuss NFA and Gun Control Act records and forms.
- Answer your questions.

# Continuous Rise of Interest in NFA Firearms

---

- The past 20 years have seen a revolution in interest in NFA firearms, particularly silencers. The demand for silencers seems to be inexhaustible. In FY-1999 there were about 83,000 silencers registered with ATF. As of May 2021, there were 2,664,774 silencers registered.
- As a result, there has been a tremendous rise in NFA tax collections, numbers of transfer forms filed, and long processing times.
- The reasons for the increase include:
  - Awareness that silencers were legal in their state.
  - Legalization of silencers, short barreled rifles, short barreled shotguns and machine guns in additional states.
  - Publicity that trusts could be used to register NFA firearms. (Prior to 2016, CLEOs had to sign Forms 4 for individuals for them to be approved.)
  - Hunting with silencers became legal in most states and more well known.

# Current NFA Trends

NFA Firearms Act Tax Revenues (Fiscal Year)		
2005	SOT = \$1.66M	Trans./Mak. = \$2.81M
2010	SOT = \$2.53M	Trans./Mak. = \$7.18M
2015	SOT = \$5.42M	Trans./Mak. = \$32.46M
2020	SOT = \$7.98M	Trans./Mak. = \$37.29M

Total Number of Registered NFA Firearms
1999 = 1,148,984
2010 = 2,850,406
2015 = 4,436,090
2021 = 7,512,175 (5/2021)

NFA Firearms Processed
2007 = 563,127
2012 = 1,112,041
2017 = 1,607,952
2022 = 3,059,054

Total Number of SOT Payers
1980 = 920
1999 = 2,521
2010 = 4,280
2015 = 9,349
2020 = 17,323

NFA Forms –  
**Average**  
**Processing Times**  
 August 2023

<u>Form Number</u>	<u>Paper</u>	<u>eForms</u>
<b>Form 1</b> Appl. to Make & Register	60 days	50 days
<b>Form 2</b> Mfr./Imp. Notice	14 days	7 days
<b>Form 3</b> Appl. Tax Exempt SOT FFL	14 days	7 days
<b>Form 4</b> Appl. Taxpaid Transfer	Individual 286 days Trust 293 days	190 days 241 days
<b>Form 5</b> Appl. Tax Exempt Transfer	30 days	7 days
<b>Form 9</b> Appl. Permanent Export	14 days	7 days

# Needed Qualities for NFA Dealers

---

- **Patience and forbearance** – The process time for NFA forms takes as long as it takes and there is not much an FFL can do about it, other than not calling the NFA Division every day about pending transfers.
- **Precision and accuracy** – FFLs must maintain complete, accurate and timely records to stay in business. The NFA is a criminal statute with three remedies: Prosecution, Assessment of unpaid taxes and Forfeiture of firearms.
- **Hope and Optimism** - Hope for shorter processing times in the future.



# Rental of NFA Firearms at Ranges

---

- There is no problem renting NFA firearms, however FFLs must control the renters' possession, so that no one could say the NFA firearm had been transferred to them, even if temporary.
- Ranges that rent NFA firearms typically will have a bona fide employee on the shooting lane with the NFA renter so that they maintain the FFL's dominion and control over the firearm. No volunteers or contractors.
- Dominion and control means that the renter can only do with the firearm what the employee with them allows and only when the employee allows it.
- Allowing silencer purchasers awaiting approval of their ATF paperwork to shoot with the one they purchased on the range is okay, but the same rules must apply.

# Machinegun Law Letters

---

Since the passage of FOPA in 1986, dealers in machine guns can only acquire new machine guns by obtaining a valid 'law letter' from a police agency.

Elements of a law letter include:

- Written on the government entity's letterhead
- Signed by someone having the authority to sign on behalf of the government entity, e.g., sheriff, police chief, etc., or by someone with delegated authority to sign on behalf of the government entity
- Signer's printed name, phone number and email address
- Dated within one (1) year of the date of the receipt of the application
- Identification of the particular machinegun to be transferred (for example, M16A2)
- Identification of the government entity's interest in considering purchase of the machinegun requested
- Indication of how the particular machine gun model requested is suitable for use by the government entity

# Machinegun Law Letters (Continued)

---

Common reasons for rejections of law letters are:

- Training and/or familiarity
- Enhancement of firearms knowledge
- Testing (for purposes other than determining suitability to purchase for official government use)
- Enhancement of personal collection

Over the years there have been repeated instances of misuse of machineguns obtained via law letters.

Law enforcement officers have been prosecuted for fraudulent law letters, including a recent case in the DC area.

# Machinegun Law Letters (Continued)

---

- Because of these recurrent problems, ATF has proposed to do away with law letters.
- On July 6, 2023, ATF published in the Federal Register the intent to publish a new form to be used by government and law enforcement agencies seeking to have a demonstration of a Post-86 machinegun by an FFL.
- The new form, ATF Form 5320.24, Request for Restricted Machinegun (National Firearms Act) will replace the “Law Letter” and will be required to be signed by the agency head and submitted to ATF for approval prior to any approval of a Form 3 to transfer the proposed machinegun to the FFL.
- The form requires the signature of the agency head “under penalty of perjury.”

# Common Errors on NFA Forms

---

- Form 2 – Notice of Firearms Manufactured or Imported
  - Manufacturers must file Form 2 with ATF by COB every day a firearm is manufactured. Can file by mail, email to [nfafax@atf.gov](mailto:nfafax@atf.gov), or fax to 304-616-4501.
  - Trade name on Form 2 must agree with trade names on FFL
  - Wrong type of firearm.
  - Delays from not notifying NFA about new model production. Not an error. You can notify NFA of new models via an email to [nfafax@atf.gov](mailto:nfafax@atf.gov), with the subject being MFG F2 Add Model. This will eliminate delays in registration for ‘pending research’. Include new model names, caliber and type. NFA will then update your eForms file.
- Form 3 - Application for Tax-Exempt Transfer of Firearm and Registration to Special Occupational Taxpayer
  - Description of firearm must match prior registration document. If changes occur during possession, NFA Division should be notified.

# Common Errors on NFA Forms (Continued)

---

- Form 4, Application for Tax Paid Transfer and Registration of Firearms
  - Missing Photos
  - Fingerprint Cards incomplete (personal descriptors)
  - Trust/Individual names do not match on form
  - Item 9 – Missing Transferor signature/date
  - Item 4d – Incorrect models
  - Item 12 – Law Enforcement Notification information not provided
  - Item 13 – Transferee Necessity Statement left blank (Not required for silencer.)
  - Item 17 – Missing Transferee signature/date
- Do not file a Form 4 until Form 3 transferring firearm to your FFL has been approved and firearm received by your FFL.

# Common Errors on NFA Forms (Continued)

---

- Form 5320.23, National Firearms Act (NFA) Responsible Person Questionnaire (RPQ)
- No RPQs submitted at all
- RPQs submitted for persons not listed on Form 4
- No RPQ for persons listed on Form 4
- Missing RPQ signature

# Error-Proof Your ATF Forms 4 & 5320.23

---

- ATF has stated that 40 percent of all Forms 4 applications submitted to the NFA Division are incomplete and/or contain errors. Resolving errors will lead to significant delays in processing.
- In these cases, the applicant is issued an error letter and given a period of 30 days to respond to ATF. (Some are disapproved immediately and returned.)
- Failure to respond in a timely manner will result in the application being disapproved.
- Please take your time when completing NFA forms. The delays are long enough without further delay from FFL's careless errors.
- We recommend the development and use of a check sheet that must be signed off by a reviewer who is not the person who completed the forms.
- The check sheet can be retained with other records kept while the transfer is pending.



# Filing Review

---

- For a transfer to an individual the FFL files with ATF –
  - The first two copies of the Form 4, with photo attached to each.
  - Two copies of the FBI FD-258 (blue lined version). Make sure all data is provided.
  - A copy of any required state or local license or permit.
  - Remittance for the \$200 transfer tax.
- The individual transferee submits the CLEO copy to the LE agency listed in item 12.
- For a transfer to a trust or other legal entity the FFL files with ATF –
  - The first two copies of the Form 4. No photos.
  - A copy of the Form 5320.23, RP Questionnaire, for each person listed in item 19 of Form 4, with photo attached to each.
  - Two copies of the FBI FD-258 for each RP.
  - A copy of any required state or local license or permit for each RP.
  - Remittance for the \$200 transfer tax.
  - One copy of the documents evidencing existence and validity of the trust or other entity, or a properly completed certification of approved Form 4 within previous 24 months.
- The CLEO copy of Form 4 is submitted by an RP for the trust/corporation to the CLEO for the address shown in item 2a.
- Each RP submits a copy of Form 5320.23, RP Questionnaire, to their CLEO entered in item 5.

# Safeguarding and Filing of Registration Documents

---

- The Form 3 that comes with your firearm(s) is the only proof of registration you have for that firearm. A good way to safeguard them is by filing them in three ring binders in plastic sleeves, or in a file cabinet.
- Copies can be made for store use. Many stores keep a copy with the firearm. Where multiple firearms are on a single Form 3, a copy can be made for each firearm.
- ATF regulation 27 CFR 479.131 states that registration documents shall be maintained in chronological order. We suggest that means by date of ATF approval.

# Reporting Missing NFA Firearms and Registration Forms

---

- Under GCA regulations FFLs must within 48 hours report lost or stolen firearms by telephoning ATF and completing and submitting ATF F 3310.11 to ATF and the CLEO where the theft/loss occurred.
- The licensee must complete and submit Form 3310.11 to the National Tracing Center (NTC) and the NTC will notify the NFA Branch. This will satisfy the licensee's reporting requirements under 27 CFR 478.39a and 27 CFR 479.141; licensees will no longer have to submit additional notification to ATF.
- NFA registration documents – i.e., Forms 2, 3, 4 and 5 – evidence that the FFL is in lawful possession of a specific NFA Firearm.
  - If lost/stolen – Immediate notification to the Chief, NFA Division (delegated by the Director of ATF). We suggest a telephone call first for guidance.
  - The report must detail the circumstances of the loss or theft.
  - ATF will make whatever investigation deemed appropriate and issue duplicate documents if conditions warrant.
  - Do not ask your transferor for a copy of your Form 3.

# In-Store Filing of Forms 4

---

- ATF Form 4 is used to apply for a tax paid transfer of an NFA firearm from an SOT paying FFL to a non-SOT payer
- We suggest that you maintain several separate files of Forms 4
  - Pending Submission – This is for completed sales but awaiting FP cards, photo, trust documents and/or completion of RP Questionnaire on ATF Form 5320.23. While the customer is getting his/her documents in order you have a copy of the completed form awaiting submission.
  - Submitted – We suggest that you retain a file of the submitted Form 4. If you do not keep a copy, at least have some record of the filing with ATF.
  - Transferred – When the firearm is transferred the customer gets the original with the stamp. We suggest that you make a copy and attach it to the ATF Form 4473.

# Acquiring Used NFA Firearms

---

- Dealers in the business of acquiring used firearms should be aware that unregistered NFA firearms may be attempted to be sold to them.
- Dealers need to verify the lawful possession of the firearm. Ask the would-be seller for the ATF registration form.
- If the firearm is currently registered on Forms 1 or 4, it can be transferred only on an approved Form 4, but only if in possession of the current registrant. The \$200 transfer tax must be paid.
- If the firearm is unregistered, or not registered to the possessor, it cannot be legally acquired.
- If a dealer unknowingly or inadvertently acquires a firearm later determined to be an unregistered NFA firearms, the local ATF LE Office should be contacted immediately for guidance.

# Repair of NFA Firearms

---

- ATF does not consider the temporary conveyance of an NFA firearm to an FFL for repair to be a “transfer” under the NFA. A transfer application is not required to convey the firearm for repair or to return the repaired firearm to its registrant.
- However, ATF recommends that a Form 5 application be submitted for approval prior to conveying the firearm for repair. It is also recommended that the FFL making repairs obtain an approved Form 5 to return a repaired firearm.
- For repair conveyance, only the face of Form 5 needs to be completed.
- If Forms 5 are not used to convey a firearm for repair or return the repaired firearm to the owner, the parties should maintain documentation showing that the conveyance was for purposes of repair, identifying the firearm, and showing the anticipated time for repair.
- Whether by Form 5 or otherwise, documentation should include a copy of the NFA registration form.
- Approved Forms 5, or the recommended documentation, will show that the FFL making the repairs is not in unlawful possession of the firearm. This will be verified on an ATF compliance inspection.
- The purchase of an NFA firearm for destruction of the receiver, is not a repair and must be accomplished by registering the transfer with ATF.

# NFA Transfers and the GCA

---

- All NFA firearms are also regulated by the GCA.
- NFA firearms are required to be recorded in your A&D records : 27 CFR Part 478.
  - Acquisitions - Close of Business (COB) the next day. The obligation to record in this time frame is not removed because there is a Form 3 with the firearm.
  - Dispositions - Although ATF regulations allow 7 days, we strongly recommend that all dispositions be recorded by COB of the next day.
- Many FFLs have a separate A&D record for NFA firearms. With electronic records, it is helpful if a separate NFA report could be created. ATF IOIs will review them meticulously.
- Type of firearm to be entered into the A&D record is the type entered on the ATF transfer paperwork (Form 3); e.g., SBR, SBS, Silencer, not “NFA”.
- Integrally suppressed pistols and rifles are two firearms, a silencer and a pistol or rifle. They should be recorded in the A&D record on two lines of data with cross-referencing.

# Completion of ATF Form 4473 for NFA Transfers

---

- As soon as the approved Form 4 is returned to the you (the transferor) by ATF, the transferee should be contacted to complete the transfer. The NFRTR already reflects the transfer to your customer.
- ATF Form 4473, Firearms Transaction Record, must be completed for each firearm transferred to a non-licensee, which includes individuals, corporations and trusts, etc.
- The individual being transferred the firearm completes Section B, after you complete Section A. If the Form 4 is to an individual, that person must complete the Form 4473. For a trust transfer a Responsible Person must complete it.
- The FFL completes Section A, C and E – Same as for a Title I firearm transfer.
- At Item 24 – The “Other” block is checked for silencers and AOWs.
- If the transferee is an individual or is listed as an RP on the Form 4, and no other firearm is being transferred on the Form 4473, Item 28 is checked. Individuals and RPs on Forms 4 have already undergone a fingerprint-based FBI background check.



# ATF Form 4473 Process for NFA Transfers

---

- We recommend that a copy of the approved Form 4 be attached to the Form 4473. The original goes with the transferee, who is now the registered possessor of the firearm.
- If a second firearm is acquired at the same time, a NICS check is required.
- If that required NICS check results in a “Denied” response, you are bound by that response.
  - You cannot transfer either firearm to the individual (nor can they buy any ammunition from you).
  - We recommend that you contact the NFA Division Chief, in writing, and ask to have the transfer cancelled and to have the registration of the firearm restored to you. They will do so and will refund the transfer tax.
- Transfers of an NFA Firearm to a non-FFL Corporation/Partnership.
  - The individual acquiring the firearm for the corporation must present the required letter of permission to receive the firearm for the corporation. See 478.124 (g).
  - FFL should attach the letter to the Form 4473.

# NSSF Premium Retail Membership

Offering Unmatched Benefits



Legal Defense  
Funds



FFL Compliance  
Consultant Visit &  
Ongoing Support



24/7 FFL  
Compliance  
Hotline



Acquisition and  
Disposition  
Record Books



Industry Research



SHOT Show<sup>®</sup>  
Benefits



Discounts and  
Benefits

# NSSF Compliance Consultant Team

---

## ATF Consultants



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



**John "JB" Bocker**  
jb@fflconsultants.com  
(720) 336-0028



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



**Bill Napier**  
lpcbiller@gmail.com  
308-249-0131



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



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



**Judyth Ledoux**  
ledoux.judyth@gmail.com  
202-528-9465

## ATF & OSHA Consultant



**John "JC" Clark**  
jc@fflconsultants.com  
720-431-8821

## CA DOJ Consultants



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

## OSHA Consultant



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

## Federal Excise Tax Consultant



**Richard M. Weimer**  
akrich246@yahoo.com  
704-641-0531

# Questions

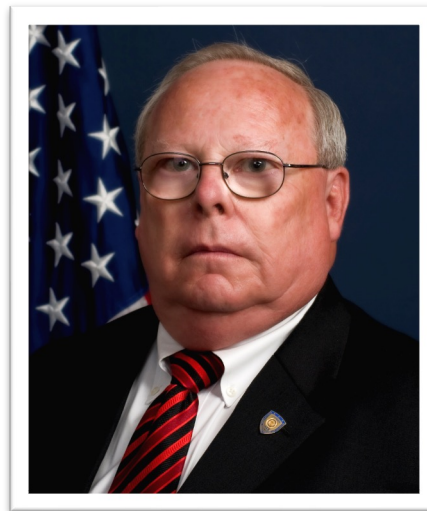
---



Wally Nelson

[nels4947@outlook.com](mailto:nels4947@outlook.com)

(703) 505-2617



Harry McCabe

[harry@mccabeconsultingllc.com](mailto:harry@mccabeconsultingllc.com)

(931) 505-3638

**NSSF<sup>®</sup>**  
*The Firearm Industry  
Trade Association*

NSSF.ORG

