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Table of Contents

<table>
<thead>
<tr>
<th>Explanation</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>v</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Title 27:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Chapter II—Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice</td>
<td>3</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Finding Aids:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Table of CFR Titles and Chapters</td>
<td>185</td>
</tr>
<tr>
<td>Alphabetical List of Agencies Appearing in the CFR</td>
<td>205</td>
</tr>
<tr>
<td>List of CFR Sections Affected</td>
<td>215</td>
</tr>
</tbody>
</table>
Cite this Code: CFR

To cite the regulations in this volume use title, part and section number. Thus, 27 CFR 447.1 refers to title 27, part 447, section 1.
Explanation

The Code of Federal Regulations is a codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government. The Code is divided into 50 titles which represent broad areas subject to Federal regulation. Each title is divided into chapters which usually bear the name of the issuing agency. Each chapter is further subdivided into parts covering specific regulatory areas.

Each volume of the Code is revised at least once each calendar year and issued on a quarterly basis approximately as follows:

Title 1 through Title 16 .............................................................. as of January 1
Title 17 through Title 27 ................................................................. as of April 1
Title 28 through Title 41 ................................................................. as of July 1
Title 42 through Title 50 ............................................................. as of October 1

The appropriate revision date is printed on the cover of each volume.

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To determine whether a Code volume has been amended since its revision date (in this case, April 1, 2016), consult the “List of CFR Sections Affected (LSA),” which is issued monthly, and the “Cumulative List of Parts Affected,” which appears in the Reader Aids section of the daily Federal Register. These two lists will identify the Federal Register page number of the latest amendment of any given rule.

EFFECTIVE AND EXPIRATION DATES

Each volume of the Code contains amendments published in the Federal Register since the last revision of that volume of the Code. Source citations for the regulations are referred to by volume number and page number of the Federal Register and date of publication. Publication dates and effective dates are usually not the same and care must be exercised by the user in determining the actual effective date. In instances where the effective date is beyond the cutoff date for the Code a note has been inserted to reflect the future effective date. In those instances where a regulation published in the Federal Register states a date certain for expiration, an appropriate note will be inserted following the text.

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The Paperwork Reduction Act of 1980 (Pub. L. 96–511) requires Federal agencies to display an OMB control number with their information collection request.
Many agencies have begun publishing numerous OMB control numbers as amendments to existing regulations in the CFR. These OMB numbers are placed as close as possible to the applicable recordkeeping or reporting requirements.

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The term “[Reserved]” is used as a place holder within the Code of Federal Regulations. An agency may add regulatory information at a “[Reserved]” location at any time. Occasionally “[Reserved]” is used editorially to indicate that a portion of the CFR was left vacant and not accidentally dropped due to a printing or computer error.

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What is incorporation by reference? Incorporation by reference was established by statute and allows Federal agencies to meet the requirement to publish regulations in the Federal Register by referring to materials already published elsewhere. For an incorporation to be valid, the Director of the Federal Register must approve it. The legal effect of incorporation by reference is that the material is treated as if it were published in full in the Federal Register (5 U.S.C. 552(a)). This material, like any other properly issued regulation, has the force of law.

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(a) The incorporation will substantially reduce the volume of material published in the Federal Register.

(b) The matter incorporated is in fact available to the extent necessary to afford fairness and uniformity in the administrative process.

(c) The incorporating document is drafted and submitted for publication in accordance with 1 CFR part 51.

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An index to the text of “Title 3—The President” is carried within that volume. The Federal Register Index is issued monthly in cumulative form. This index is based on a consolidation of the “Contents” entries in the daily Federal Register.

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OLIVER A. POTTS,
Director,
Office of the Federal Register.
April 1, 2016.
Title 27—Alcohol, Tobacco Products and Firearms is composed of three volumes: Parts 1–39, parts 40–399, and part 400 to end. The contents of these volumes represent all current regulations issued by the Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, and the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice, as of April 1, 2016.

For this volume, Michele Bugenhagen was Chief Editor. The Code of Federal Regulations publication program is under the direction of John Hyrum Martinez, assisted by Stephen J. Frattini.
Title 27—Alcohol, Tobacco Products, and Firearms

(This book contains part 400 to End)

CHAPTER II—Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice .................................................. 447

ABBREVIATIONS USED IN THIS CHAPTER:

ATF = Alcohol, Tobacco and Firearms.
TD = Treasury Decision.
TTB = Alcohol and Tobacco Tax and Trade Bureau.
CHAPTER II—BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES, DEPARTMENT OF JUSTICE

SUBCHAPTER A [RESERVED]

SUBCHAPTER B—FIREARMS AND AMMUNITION

<table>
<thead>
<tr>
<th>Part</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>400–446 [Reserved]</td>
<td></td>
</tr>
<tr>
<td>447</td>
<td>Importation of arms, ammunition and implements of war</td>
</tr>
<tr>
<td>478</td>
<td>Commerce in firearms and ammunition</td>
</tr>
<tr>
<td>479</td>
<td>Machine guns, destructive devices, and certain other firearms</td>
</tr>
</tbody>
</table>

SUBCHAPTER C—EXPLOSIVES

<table>
<thead>
<tr>
<th>Part</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>555</td>
<td>Commerce in explosives</td>
</tr>
</tbody>
</table>

SUBCHAPTER D—MISCELLANEOUS REGULATIONS RELATING TO ALCOHOL AND TOBACCO

<table>
<thead>
<tr>
<th>Part</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>646</td>
<td>Contraband cigarettes</td>
</tr>
<tr>
<td>647–699 [Reserved]</td>
<td></td>
</tr>
</tbody>
</table>
SUBCHAPTER A [RESERVED]
SUBCHAPTER B—FIREARMS AND AMMUNITION

PARTS 400–446 [RESERVED]

PART 447—IMPORTATION OF ARMS, AMMUNITION AND IMPLEMENTS OF WAR

Subpart A—Scope

Sec.
447.1 General.
447.2 Relation to other laws and regulations.

Subpart B—Definitions

447.11 Meaning of terms.

Subpart C—The U.S. Munitions Import List

447.21 The U.S. Munitions Import List.
447.22 Forgings, castings, and machined bodies.

Subpart D—Registration

447.31 Registration requirement.
447.32 Application for registration and refund of fee.
447.33 Notification of changes in information furnished by registrants.
447.34 Maintenance of records by persons required to register as importers of Import List articles.
447.35 Forms prescribed.

Subpart E—Permits

447.41 Permit requirement.
447.42 Application for permit.
447.43 Terms of permit.
447.44 Permit denial, revocation or suspension.
447.45 Importation.
447.46 Articles in transit.

Subpart F—Miscellaneous Provisions

447.51 Import certification and delivery verification.
447.52 Import restrictions applicable to certain countries.
447.53 Exemptions.
447.54 Administrative procedures inapplicable.
447.55 Departments of State and Defense consulted.
447.56 Authority of Customs officers.
447.57 U.S. military defense articles.
447.58 Delegations of the Director.

Subpart G—Penalties, Seizures and Forfeitures

447.61 Unlawful importation.
447.62 False statements or concealment of facts.
447.63 Seizure and forfeiture.


Subpart A—Scope

§ 447.1 General.

The regulations in this part relate to that portion of section 38 of the Arms Export Control Act of 1976, as amended, authorizing the President to designate defense articles and defense services as part of the United States Munitions List (USML) for purposes of import and export controls. To distinguish the list of defense articles and defense services controlled in this part for purposes of permanent import from the list of defense articles and defense services controlled by the Secretary of State for purposes of export and temporary import, this part shall refer to the defense articles and defense services controlled by the Secretary of State for purposes of export and temporary import as the U.S. Munitions Import List (USMIL) and shall refer to the export and temporary import control list set out by the Department of State in its International Traffic in Arms Regulations as the USML. Part 447 contains the USMIL and includes procedural and administrative requirements relating to registration of importers, permits, articles in transit, import certification, delivery verification, import restrictions applicable to certain countries, exemptions, U.S. military firearms and ammunition, penalties, seizures, and forfeitures. The President's delegation of permanent import control authorities to the Attorney General provides the Attorney General the
§ 447.2 Relation to other laws and regulations.

(a) All of those items on the U.S. Munitions Import List (see § 447.21) which are "firearms" or "ammunition" as defined in 18 U.S.C. 921(a) are subject to the interstate and foreign commerce controls contained in Chapter 44 of Title 18 U.S.C. and 27 CFR Part 478 and if they are "firearms" within the definition set out in 26 U.S.C. 5845(a) are also subject to the provisions of 27 CFR Part 479. Any person engaged in the business of importing firearms or ammunition as defined in 18 U.S.C. 921(a) must obtain a license under the provisions of 27 CFR Part 478, and if he imports firearms which fall within the definition of 26 U.S.C. 5845(a) he must also register and pay special tax pursuant to the provisions of 27 CFR Part 479. Such licensing, registration and special tax requirements are in addition to registration under subpart D of this part.

(b) The permit procedures of subpart E of this part are applicable to all importations of articles on the U.S. Munitions Import List not subject to controls under 27 CFR Part 478 or 479. U.S. Munitions Import List articles subject to controls under 27 CFR Part 478 or 27 CFR Part 479 are subject to the import permit procedures of those regulations if imported into the United States (within the meaning of 27 CFR Parts 478 and 479).

(c) Articles on the U.S. Munitions Import List imported for the United States or any State or political subdivision thereof are exempt from the import controls of 27 CFR Part 478 but are not exempt from control under Section 38, Arms Export Control Act of 1976, unless imported by the United States or any agency thereof. All such importations not imported by the United States or any agency thereof shall be subject to the import permit procedures of subpart E of this part.

(d) For provisions requiring the registration of persons engaged in the business of brokering activities with respect to the importation of any defense article or defense service, see Department of State regulations in 22 CFR part 129.


Subpart B—Definitions

§ 447.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words imparting the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude other things not enumerated which are in the same general class or are otherwise within the scope thereof.

Appropriate ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) specified by ATF Order 1130.34, Delegation of the Director’s Authorities in 27 CFR Part 447, Importation of Arms, Ammunition and Implements of War.

Article. Any of the defense articles enumerated in the U.S. Munitions Import List (USMIL).

Bureau. Bureau of Alcohol, Tobacco, Firearms, and Explosives, the Department of Justice.

Carbine. A short-barrelled rifle whose barrel is generally not longer than 22 inches and is characterized by light weight.

CFR. The Code of Federal Regulations.

Chemical agent. A substance useful in war which, by its ordinary and direct
chemical action, produces a powerful physiological effect.

**Defense articles.** Any item designated in §447.21 or §447.22. This term includes models, mockups, and other such items which reveal technical data directly relating to §447.21 or §447.22.

**Defense services.** (a) The furnishing of assistance, including training, to foreign persons in the design, engineering, development, production, processing, manufacture, use, operation, overhaul, repair, maintenance, modification, or reconstruction of defense articles, whether in the United States or abroad; or

(b) The furnishing to foreign persons of any technical data, whether in the United States or abroad.

**Director.** The Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives, the Department of Justice, Washington, DC 20226.

**Executed under the penalties of perjury.** Signed with the prescribed declaration under the penalties of perjury that this [insert type of document such as statement, certificate, application, or other document], including the documents submitted in support thereof, has been examined by me and, to best of my knowledge and belief, is true, correct, and complete.

**Firearms.** A weapon, and all components and parts thereof, not over .50 caliber which will or is designed to or may be readily converted to expel a projectile by the action of an explosive, but shall not include BB and pellet guns, and muzzle loading (black powder) firearms (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) or firearms covered by Category I(a) established to have been manufactured in or before 1898.

**Import or importation.** Bringing into the United States from a foreign country any of the articles on the Import List, but shall not include intransit, temporary import or temporary export transactions subject to Department of State controls under Title 22, Code of Federal Regulations.

**Import List.** The list of articles contained in §447.21 and identified therein as “The U.S. Munitions Import List”.

**Machinegun.** A “machinegun”, “machine pistol”, “submachinegun”, or “automatic rifle” is a firearm originally designed to fire, or capable of being fired fully automatically by a single pull of the trigger.

**Permit.** The same as “license” for purposes of 22 U.S.C. 1934(c).

**Person.** A partnership, company, association, or corporation, as well as a natural person.

**Pistol.** A hand-operated firearm having a chamber integral with, or permanently aligned with, the bore.

**Revolver.** A hand-operated firearm with a revolving cylinder containing chambers for individual cartridges.

**Rifle.** A shoulder firearm discharging bullets through a rifled barrel at least 16 inches in length, including combination and drilling guns.

**Sporting type sight including optical.** A telescopic sight suitable for daylight use on a rifle, shotgun, pistol, or revolver for hunting or target shooting.

**This chapter.** Title 27, Code of Federal Regulations, Chapter II (27 CFR Chapter II).

**United States.** When used in the geographical sense, includes the several States, the Commonwealth of Puerto Rico, the insular possessions of the United States, the District of Columbia, and any territory over which the United States exercises any powers of administration, legislation, and jurisdiction.
Subpart C—The U.S. Munitions Import List

§ 447.21 The U.S. Munitions Import List.

The following defense articles and defense services, designated pursuant to section 38(a) of the Arms Export Control Act, 22 U.S.C. 2778(a), and E.O. 13637 are subject to controls under this part. For purposes of this part, the list shall be known as the U.S. Munitions Import List (USMIL):

THE U.S. MUNITIONS IMPORT LIST

CATEGORY I—FIREARMS

(a) Nonautomatic and semiautomatic firearms, to caliber .50 inclusive, combat shotguns, and shotguns with barrels less than 18 inches in length, and all components and parts for such firearms.
(b) Automatic firearms and all components and parts for such firearms to caliber .50 inclusive.
(c) Insurgency-counterinsurgency type firearms of other weapons having a special military application (e.g. close assault weapons systems) regardless of caliber and all components and parts for such firearms.
(d) Firearms silencers and suppressors, including flash suppressors.
(e) [Reserved]

NOTE: Rifles, carbines, revolvers, and pistols, to caliber .50 inclusive, combat shotguns, and shotguns with barrels less than 18 inches in length are included under Category I(a). Machineguns, submachineguns, machine pistols and fully automatic rifles to caliber .50 inclusive are included under Category I(b).

CATEGORY II—ARTILLERY PROJECTORS

(a) Guns over caliber .50, howitzers, mortars, and recoilless rifles.
(b) Military flamethrowers and projectors.
(c) Components, parts, accessories, and attachments for the articles in paragraphs (a) and (b) of this category, including but not limited to mounts and carriages for these articles.

CATEGORY III—AMMUNITION

(a) Ammunition for the arms in Categories I and II of this section.
(b) Components, parts, accessories, and attachments for articles in paragraph (a) of this category, including but not limited to cartridge cases, powder bags, bullets, jackets, cores, shells (excluding shotgun shells), projectiles, boosters, fuses and components therefor, primers, and other detonating devices for such ammunition.
(c) [Reserved]
(d) [Reserved]

NOTE: Cartridge and shell casings are included under Category III unless, prior to their importation, they have been rendered useless beyond the possibility of restoration for use as a cartridge or shell casing by means of heating, flame treatment, mangles, crushing, cutting, or popping.

CATEGORY IV—LAUNCH VEHICLES, GUIDED MISSILES, BALLISTIC MISSILES, ROCKETS, TORPEDOES, BOMBS AND MINES

(a) Rockets (including but not limited to meteorological and other sounding rockets), bombs, grenades, torpedoes, depth charges, land and naval mines, as well as launchers for such defense articles, and demolition blocks and blasting caps.
(b) Launch vehicles and missile and anti-missile systems including but not limited to guided, tactical and strategic missiles, launchers, and systems.
(c) Apparatus, devices, and materials for the handling, control, activation, monitoring, detection, protection, discharge, or detonation of the articles in paragraphs (a) and (b) of this category. Articles in this category include, but are not limited to, the following: Fuses and components for the items in this category, bomb racks and shackles, bomb shackle release units, bomb ejectors, torpedo tubes, torpedo and guided missile boosters, guidance system equipment and parts, launching racks and projectors, pistols (exploders), igniters, fuze arming devices, intervalometers, guided missile launchers and specialized handling equipment, and hardened missile launching facilities.
(d) Missile and space vehicle powerplants.
(e) [Reserved]
(f) Military explosive excavating devices.
(g) [Reserved]

(h) All specifically designed components or modified components, parts, accessories, attachments, and associated equipment for the articles in this category.

NOTE: Military demolition blocks and blasting caps referred to in Category IV(a) do not include the following articles:

(a) Electric squibs.
(b) No. 6 and No. 8 blasting caps, including electric ones.
(c) Delay electric blasting caps (including No. 6 and No. 8 millisecond ones).
(d) Seismograph electric blasting caps (including SSS, Static-Master, Vibrocap SR, and SEISMO SR).
(e) Oil well perforating devices.
CATEGORY V [Reserved]

CATEGORY VI—VESSELS OF WAR AND SPECIAL NAVAL EQUIPMENT

(a) Vessels of War, if they are armed and equipped with offensive or defensive weapon systems, including but not limited to amphibious warfare vessels, landing craft, mine warfare vessels, patrol vessels, auxiliary vessels, service craft, experimental types of naval ships, and any vessels specifically designed or modified for military purposes or other surface vessels equipped with offensive or defensive military systems.

(b) Turrets and gun mounts, special weapons systems, protective systems, and other components, parts, attachments, and accessories specifically designed or modified for such articles on combatant vessels.

(c)–(d) [Reserved]

(e) Naval nuclear propulsion plants, their land prototypes and special facilities for their construction, support and maintenance. This includes any machinery, device, component, or equipment specifically developed or designed or modified for use in such plants or facilities.

NOTE: The term “vessels of war” includes, but is not limited to, the following, if armed and equipped with offensive or defensive weapons systems:

(a) Combatant vessels:
   (1) Warships (including nuclear-powered versions):
      (i) Aircraft carriers (CV, CVN)
      (ii) Battleships (CA, CG, CGN)
      (iv) Destroyers (DD, DDG)
      (v) Frigates (FF, FFG)
   (vi) Submarines (SS, SSN, SSSN, SSG, SSNAG).

(b) Support and Service Craft:
   (1) Tugs (YT, YTL, YTM)
   (2) Tankers (YO, YOG, YW)
   (3) Lighters (YC, YCF, YCV, YF, YFN, YPB, YPNX, YPR, YPU, YG, YGN, YOGN, YON, YOS, YSR, YWN)
   (4) Floating Dry Docks (AFDB, AFDL, AFD, ARD, ARDM, YFD)
   (5) Miscellaneous (APL, DSRV, DSV, IX, NR, YAG, YD, YDT, YPB, YPND, YEP, YFRT, YHLC, YM, YNG, YP, YPD, YR, YRB, YRN, YRDH, YRDM, YRR, YRST, YSD).

(c) Coast Guard Patrol and Service Vessels and Craft:
   (1) Coast Guard Cutters (CGC, WHEC, WMEC)
   (2) Patrol Craft (WPB)
   (3) Icebreakers (WAGB)
   (4) Oceanography Vessels (WAGO)
   (5) Special Vessels (WIX)
   (6) Buoy Tenders (WL, WLM, WLI, WLR, WLIC)
   (7) Tugs (WYTM, WYTL)
   (8) Light Ships (WLV).

CATEGORY VII—TANKS AND MILITARY VEHICLES

(a) Military type armed or armored vehicles, military railway trains, and vehicles specifically designed or modified to accommodate mountings for arms or other specialized military equipment or fitted with such items.

(b) Military tanks, combat engineer vehicles, bridge launching vehicles, halftracks and gun carriers.

(c) Self-propelled guns and howitzers.

(d)–(e) [Reserved]

(f) Amphibious vehicles.

(g) [Reserved]

(h) Tank and military vehicle parts, components, accessories, attachments, and associated equipment for offensive or defensive systems for the articles in this category, as follows:

1. Armored hulls, armored turrets and turret support rings;
2. Active protection systems (i.e., defensive systems that actively detect and track incoming threats and launch a ballistic, explosive, energy or electromagnetic countermeasure(s) to neutralize the threat prior to contact with a vehicle);
3. Composite armor parts and components;
4. Spaced armor components and parts, including slat armor parts and components;
5. Reactive armor and components;
6. Electromagnetic armor parts and components, including pulsed power;
§ 447.21

(7) Gun mount, stabilization, turret drive, and automatic elevating systems;

(8) Kits specifically designed to convert a vehicle in this category into either an unmanned or a driver-optimal vehicle. For a kit to be controlled by this paragraph it must include all of the following:
   (i) Remote or autonomous steering;
   (ii) Acceleration and braking; and
   (iii) A control system;

(9) Fire control computers, stored management systems, armaments control processors, vehicle weapon interface units and computers;

(10) Electro-optical sighting systems; and

(11) Laser rangefinder or target designating devices.

(i) Other ground vehicles having all of the following:
   (1) Manufactured or fitted with materials or components to provide ballistic protection to level III (NIJ 0101.07, September 1985) or better;
   (2) A transmission to provide drive to both front and rear wheels simultaneously, including those vehicles having additional wheels for load bearing purposes whether driven or not;
   (3) Gross Vehicle Weight Rating (GVWR) greater than 4,500 kg; and
   (4) Designed or modified for off-road use.

NOTE: An “amphibious vehicle” in Category VII(f) is a vehicle or chassis that is equipped to meet special military requirements, and that is designed or adapted for operation on or under water, as well as on land.

NOTE: Engines and engine parts are not included in paragraph (b) of Category VII.

Note: Paragraph (i) of Category VII does not apply to civil vehicles designed or modified for transporting money or valuables.

CATEGORIE VIII—AIRCRAFT AND ASSOCIATED EQUIPMENT

(a) Aircraft, including but not limited to helicopters, non-expansive balloons, drones and lighter-than-air aircraft, which are specifically designed, modified, or equipped for military purposes. This includes but is not limited to the following military purposes: gunnery, bombing, rocket or missile launching, electronic and other surveillance, reconnaissance, refueling, aerial mapping, military liaison, cargo carrying or dropping, personnel dropping, airborne warning and control, and military training.

(b) [Reserved]

Note: In Category VIII, “aircraft” means aircraft designed, modified, or equipped for a military purpose, including aircraft described as “demilitarized.” All aircraft bearing an original military designation are included in Category VIII. However, the following aircraft are not so included so long as they have not been specifically equipped, re-equipped, or modified for military operations:

(a) Cargo aircraft bearing “C” designations and numbered C-45 through C-118 inclusive, and C-121 through C-125 inclusive, and C-131, using reciprocating engines only.

(b) Trainer aircraft bearing “T” designations and using reciprocating engines or turboprop engines with less than 600 horsepower (s.h.p.).

(c) Utility aircraft bearing “U” designations and using reciprocating engines only.

(d) All liaison aircraft bearing an “L” designation.

(e) All observation aircraft bearing “O” designations and using reciprocating engines.

CATEGORIES IX–XIII [Reserved]

CATEGORY XIV—TOXICOLOGICAL AGENTS AND EQUIPMENT AND RADIOLOGICAL EQUIPMENT

(a) Chemical agents, including but not limited to lung irritants, vesicants, lachrymators, and tear gases (except tear gas formulations containing 1% or less CN or CS), sternutators and irritant smoke, and nerve gases and incapacitating agents.

(b) [Reserved]

(c) All specifically designed or modified equipment, including components, parts, accessories, and attachments for disseminating the articles in paragraph (a) of this category.

(d)–(e) [Reserved]

Note: A chemical agent in Category XIV(a) is a substance having military application which by its ordinary and direct chemical action produces a powerful physiological effect. The term “chemical agent” includes, but is not limited to, the following chemical compounds:

(a) Lung irritants:
   (1) Diphenylcyaanoarsine (DC).
   (2) Fluorine (but not fluorene).
   (3) Trichloronitro methane (chloropicrin PS).

(b) Vesicants:
   (1) B-Chlorovinyldichloroarsine (Lewisite, L).
   (2) Bis(dichlorethyl) sulphide (Mustard Gas, HD or H).
   (3) Ethyldichloroarsine (ED).
   (4) Methylidichloroarsine (MD).

(c) Lachrymators and tear gases:
   (1) A-Brombenzyl cyanide (BBC).
   (2) Chloracetophenone (CN).
   (3) Dibromodimethyl ether.
   (4) Dichloromethyl ether (CICI).
   (5) Ethylidibromoarsine.
   (6) Phenylcarbylamine chloride.
   (7) Tear gas solutions (CNB and CNS).
   (8) Tear gas orthochlorobenzalmonotriile (CS).

(d) Sternumtators and irritant smoke:
   (1) Diphenylamine chloroarsine (Adamite, DM).
   (2) Diphenylchloroarsine (BA).
(3) Liquid pepper.
(e) Nerve agents, gases, and aerosols. These are toxic compounds which affect the nervous system, such as:
(1) Dimethylaminoethoxycyanophosphine oxide (GA).
(2) Methylisopropoxyfluorophosphine oxide (GB).
(3) Methylpinacolyloxyfluorophosphine oxide (GD).
(f) Antiplant chemicals, such as: Butyl 2-chloro-4-fluorophenoxyacetate (LNF).

**CATEGORY XV** [Reserved]

**CATEGORY XVI—NUCLEAR WEAPONS DESIGN AND TEST EQUIPMENT**

(a) [Reserved]
(b) Modeling or simulation tools that model or simulate the environments generated by nuclear detonations or the effects of these environments on systems, subsystems, components, structures, or humans.

**NOTE:** Category XVI does not include equipment, technical data, or services controlled by the Department of Energy pursuant to the Atomic Energy Act of 1954, as amended, and the Nuclear Non-Proliferation Act of 1978, as amended, or are government transfers authorized pursuant to these Acts.

**CATEGORY XVII—XIX** [Reserved]

**CATEGORY XX—SUBMERSIBLE VESSELS, OCEANOGRAPHIC AND ASSOCIATED EQUIPMENT**

(a) Submersible vessels, manned and unmanned, designed or modified for military purposes or having independent capability to maneuver vertically or horizontally at depths below 1,000 feet, or powered by nuclear propulsion plants.
(b) Submersible vessels, manned or unmanned, designed or modified in whole or in part from technology developed by or for the U.S. Armed Forces.
(c) Any of the articles in Category VI and elsewhere in this part specifically designed or modified for use with submersible vessels, and oceanographic or associated equipment assigned a military designation.
(d) Equipment, components, parts, accessories, and attachments specifically designed for any of the articles in paragraphs (a) and (b) of this category.

**CATEGORY XXI—MISCELLANEOUS ARTICLES**

Any defense article or defense service not specifically enumerated in the other categories of the USMIL that has substantial military applicability and that has been specifically designed or modified for military purposes. The decision as to whether any article may be included in this category shall be made by the Attorney General with the concurrence of the Secretary of State and the Secretary of Defense.


**§ 447.22 Forgings, castings, and machined bodies.**

Articles on the U.S. Munitions Import List include articles in a partially completed state (such as forgings, castings, extrusions, and machined bodies) which have reached a stage in manufacture where they are clearly identifiable as defense articles. If the end-item is an article on the U.S. Munitions Import List, (including components, accessories, attachments and parts) then the particular forging, casting, extrusion, machined body, etc., is considered a defense article subject to the controls of this part, except for such items as are in normal commercial use.


**Subpart D—Registration**

**§ 447.31 Registration requirement.**

Persons engaged in the business, in the United States, of importing articles enumerated on the U.S. Munitions Import List must register by making an application on ATF Form 4587.

[T.D. ATF-484, 67 FR 64526, Oct. 21, 2002]

**§ 447.32 Application for registration and refund of fee.**

(a) Application for registration must be filed on ATF Form 4587 and must be accompanied by the registration fee at the rate prescribed in this section. The appropriate ATF officer will approve the application and return the original to the applicant.

(b) Registration may be effected for periods of from 1 to 5 years at the option of the registrant by identifying on Form 4587 the period of registration desired. The registration fees are as follows:

<table>
<thead>
<tr>
<th>Period</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 year</td>
<td>$250</td>
</tr>
<tr>
<td>2 years</td>
<td>$500</td>
</tr>
<tr>
<td>3 years</td>
<td>$700</td>
</tr>
<tr>
<td>4 years</td>
<td>$850</td>
</tr>
<tr>
<td>5 years</td>
<td>$1,000</td>
</tr>
</tbody>
</table>
§ 447.33 Fees paid in advance for whole future years of a multiple year registration will be refunded upon request if the registrant ceases to engage in importing articles on the U.S. Munitions Import List. A request for a refund must be submitted to the appropriate ATF officer at the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Martinsburg, WV 25405, prior to the beginning of any year for which a refund is claimed.

(Approved by the Office of Management and Budget under control number 1140–0009)


§ 447.33 Notification of changes in information furnished by registrants.

Registered persons shall notify the appropriate ATF officer in writing, in duplicate, of significant changes in the information set forth in their registration.

(Approved by the Office of Management and Budget under control number 1140–0009)


§ 447.34 Maintenance of records by persons required to register as importers of Import List articles.

(a) Registrants under this part engaged in the business of importing articles subject to controls under 27 CFR Parts 478 and 479 shall maintain records in accordance with the applicable provisions of those parts.

(b) Registrants under this part engaged in importing articles on the U.S. Munitions Import List subject to the permit procedures of subpart E of this part must maintain for a period of 6 years records bearing on such articles imported, including records concerning their acquisition and disposition, including Forms 6 and 6A. The appropriate ATF officer may prescribe a longer or shorter period in individual cases as such officer deems necessary. See § 478.129 of this chapter for articles subject to import control under part 478 of this chapter.

(Approved by the Office of Management and Budget under control number 1140–0009)


§ 447.35 Forms prescribed.

(a) The appropriate ATF officer is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part. The form will be filed in accordance with the instructions for the form.

(b) Forms may be requested from the ATF Distribution Center (http://www.atf.gov) or by calling (202) 648–6420.

(Approved by the Office of Management and Budget under control number 1140–0032)


Subpart E—Permits

§ 447.41 Permit requirement.

(a) Articles on the U.S. Munitions Import List will not be imported into the United States except pursuant to a permit under this subpart. For articles subject to control under parts 478 or 479 of this chapter, a separate permit is not necessary.

(b) Articles on the U.S. Munitions Import List intended for the United States or any State or political subdivision thereof, or the District of Columbia, which are exempt from import controls of 27 CFR 478.115 shall not be imported into the United States, except by the United States or agency thereof, without first obtaining a permit under this subpart.

(c) A permit is not required for the importation of—

(i) The U.S. Munitions Import List articles from Canada, except articles enumerated in Categories I, II, III, IV, VII, VIII, XII, XVI, and XX;
§ 447.42 Application for permit.

(a)(1) Persons required to obtain a permit as provided in §447.41 must file a Form 6—Part I. The application must be signed and dated and must contain the information requested on the form, including:

(i) The name, address, telephone number, license and registration number, if any (including expiration date) of the importer;

(ii) The country from which the defense article is to be imported;

(iii) The name and address of the foreign seller and foreign shipper;

(iv) A description of the defense article to be imported, including—

(A) The name and address of the manufacturer;

(B) The type (e.g., rifle, shotgun, pistol, revolver, aircraft, vessel, and in the case of ammunition only, ball, wadcutter, shot, etc.);

(C) The caliber, gauge, or size;

(D) The model;

(E) The length of barrel, if any (in inches);

(F) The overall length, if a firearm (in inches);

(G) The serial number, if known;

(H) Whether the defense article is new or used;

(I) The quantity;

(J) The unit cost of the firearm, firearm barrel, ammunition, or other defense article to be imported;

(K) The category of U.S. Munitions Import List under which the article is regulated;

(v) The specific purpose of importation, including final recipient information if different from the importer; and

(vi) Certification of origin.

(2)(i) If the appropriate ATF officer approves the application, such approved application will serve as the permit to import the defense article described therein, and importation of such defense article may continue to be made by the licensed/registered importer (if applicable) under the approved application (permit) during the period specified thereon. The appropriate ATF officer will furnish the approved application (permit) to the applicant and retain two copies thereof for administrative use.

(ii) If the Director disapproves the application, the licensed/registered importer (if applicable) will be notified of the basis for the disapproval.

(b) For additional requirements relating to the importation of plastic explosives into the United States on or after April 24, 1997, see §555.183 of this title.

(Approved by the Office of Management and Budget under control number 1140–0005)

§ 447.43 Terms of permit.

(a) Import permits issued under this subpart are valid for two years from their issuance date unless a different period of validity is stated thereon. They are not transferable.

(b) If shipment cannot be completed during the period of validity of the permit, another application must be submitted for permit to cover the unshipped balance. Such an application shall make reference to the previous permit and may include materials in addition to the unshipped balance.

(c) No amendments or alteration of a permit may be made, except by the appropriate ATF officer.

(Approved by the Office of Management and Budget under control number 1140–0005)

§ 447.44 Permit denial, revocation or suspension.

(a) Import permits under this subpart are valid for two years from their issuance date unless a different period of validity is stated thereon. They are not transferable.

(b) If shipment cannot be completed during the period of validity of the permit, another application must be submitted for permit to cover the unshipped balance. Such an application shall make reference to the previous permit and may include materials in addition to the unshipped balance.

(c) No amendments or alteration of a permit may be made, except by the appropriate ATF officer.
§ 447.45 Importation.

(a) Articles subject to the import permit procedures of this subpart imported into the United States may be released from Customs custody to the person authorized to import same upon his showing that he has a permit for the importation of the article or articles to be released. For articles in Categories I and III imported by a registered importer, the importer will also submit to Customs a copy of the export license authorizing the export of the article or articles from the exporting country. If the exporting country does not require issuance of an export license, the importer must submit a certification, under penalty of perjury, to that effect.

(1) In obtaining the release from Customs custody of an article imported pursuant to a permit, the permit holder will prepare and file Form 6A according to its instructions.

(2) The ATF Form 6A must contain the information requested on the form, including:

(i) The name, address, and license number (if any) of the importer;

(ii) The name of the manufacturer of the defense article;

(iii) The country of manufacture;

(iv) The type;

(v) The model;

(vi) The caliber, gauge, or size;

(vii) The serial number in the case of firearms, if known; and

(viii) The number of defense articles released.

(b) Within 15 days of the date of their release from Customs custody, the importer of the articles released will forward to the address specified on the form a copy of Form 6A on which will be reported any error or discrepancy appearing on the Form 6A certified by Customs and serial numbers if not previously provided on ATF Form 6A.

(Approved by the Office of Management and Budget under control number 1140–0007)


§ 447.46 Articles in transit.

Articles subject to the import permit procedures of this subpart which enter the United States for temporary deposit pending removal therefrom and such articles which are temporarily taken out of the United States for return thereto shall be regarded as in transit and will be considered neither imported nor exported under this part. Such transactions are subject to the Intransit or Temporary Export License procedures of the Department of State (see 22 CFR Part 123).


Subpart F—Miscellaneous Provisions

§ 447.51 Import certification and delivery verification.

Pursuant to agreement with the United States, certain foreign countries are entitled to request certification of legality of importation of articles on the U.S. Munitions Import List. Upon request of a foreign government, the appropriate ATF officer will certify the importation, on Form ITA–645P/ATF–4522/DSP53, for the U.S. importer. Normally, the U.S. importer will submit this form at the time he applies for an import permit. This document will serve as evidence to the
government of the exporting company that the U.S. importer has complied with import regulations of the U.S. Government and is prohibited from diverting, transshipping, or reexporting the material described therein without the approval of the U.S. Government. Foreign governments may also require documentation attesting to the delivery of the material into the United States. When such delivery certification is requested by a foreign government, the U.S. importer may obtain directly from the U.S. District Director of Customs the authenticated Delivery Verification Certificate (U.S. Department of Commerce Form ITA–647P) for this purpose.

(Approved by the Office of Management and Budget under control number 0625–0064)


§ 447.52 Import restrictions applicable to certain countries.

(a) It is the policy of the United States to deny licenses and other approvals with respect to defense articles and defense services originating in certain countries or areas. This policy applies to Afghanistan, Belarus (one of the states composing the former Soviet Union), Cuba, Iran, Iraq, Libya, Mongolia, North Korea, Sudan, Syria, and Vietnam. This policy applies to countries or areas with respect to which the United States maintains an arms embargo (e.g., Burma, China, the Democratic Republic of the Congo, Haiti, Liberia, Rwanda, Somalia, Sudan, and UNITA (Angola)). It also applies when an import would not be in furtherance of world peace and the security and foreign policy of the United States.

NOTE: Changes in foreign policy may result in additions to and deletions from the above list of countries. The ATF will publish changes to this list in the Federal Register. Contact the Firearms and Explosives Imports Branch at (304) 616–4550 for current information.

(b) Notwithstanding paragraph (a) of this section, the appropriate ATF officer shall deny applications to import into the United States the following firearms and ammunition:

(1) Any firearm located or manufactured in Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russian Federation, Turkmenistan, Ukraine, or Uzbekistan, and any firearm previously manufactured in the Soviet Union, that is not one of the models listed below:

(i) Pistols/Revolvers:
   (A) German Model P08 Pistol.
   (B) IZH 34M, .22 caliber Target Pistol.
   (C) IZH 35M, .22 caliber Target Pistol.
   (D) Mauser Model 1896 Pistol.
   (E) MC–57–1 Pistol.
   (F) MC–1–5 Pistol.
   (G) Polish Vis Model 35 Pistol.
   (H) Soviet Nagant Revolver.
   (I) TOZ 35, .22 caliber Target Pistol.

(ii) Rifles:
   (A) BARS–4 Bolt Action Carbine.
   (B) Biathlon Target Rifle, .22LR caliber.
   (C) British Enfield Rifle.
   (D) CM2, .22 caliber Target Rifle (also known as SM2, 22 caliber).
   (E) German Model 98K Rifle.
   (F) German Model G41 Rifle.
   (G) German Model G43 Rifle.
   (H) IZH–94.
   (I) LOS–7 Bolt Action Rifle.
   (J) MC–7–7.
   (K) MC–18–3.
   (L) MC–19–07.
   (M) MC–105–01.
   (N) MC–112–02.
   (O) MC–113–02.
   (P) MC–115–1.
   (Q) MC–125–127.
   (R) MC–126.
   (S) MC–128.
   (T) Saiga Rifle.
   (U) Soviet Model 38 Carbine.
   (V) Soviet Model 44 Carbine.
   (W) Soviet Model 91/30 Rifle.
   (X) TOZ 18, .22 caliber Bolt Action Rifle.
   (Y) TOZ 55.
   (Z) TOZ 78.
   (AA) Ural Target Rifle, .22LR caliber.
   (BB) VEPR Rifle.
   (CC) Winchester Model 1895, Russian Model Rifle;

(2) Ammunition located or manufactured in Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russian Federation, Turkmenistan, Ukraine, or Uzbekistan, and ammunition previously manufactured in the Soviet Union, that is 7.62 × 25mm caliber (also known as 7.63 × 25mm caliber or .30 Mauser); or

(3) A type of firearm the manufacture of which began after February 9, 1996.
§ 447.53 Exemptions.

(a) The provisions of this part are not applicable to:

(1) Importations by the United States or any agency thereof;
(2) Importation of components for items being manufactured under contract for the Department of Defense; or
(3) Importation of articles (other than those which would be “firearms” as defined in 18 U.S.C. 921(a)(3) manufactured in foreign countries for persons in the United States pursuant to Department of State approval.

(b) Any person seeking to import articles on the U.S. Munitions Import List as exempt under paragraph (a)(2) or (3) of this section may obtain release of such articles from Customs custody by submitting, to the Customs officer with authority to release, a statement claiming the exemption accompanied by satisfactory proof of eligibility. Such proof may be in the form of a letter from the Department of Defense or State, as the case may be, confirming that the conditions of the exemption are met.


§ 447.54 Administrative procedures inapplicable.

The functions conferred under section 38, Arms Export Control Act of 1976, as amended, are excluded from the
§ 447.55 Departments of State and Defense consulted.

The administration of the provisions of this part will be subject to the guidance of the Secretaries of State and Defense on matters affecting world peace and the external security and foreign policy of the United States.

§ 447.56 Authority of Customs officers.

(a) Officers of the U.S. Customs Service are authorized to take appropriate action to assure compliance with this part and with 27 CFR Parts 478 and 479 as to the importation or attempted importation of articles on the U.S. Munitions Import List, whether or not authorized by permit.

(b) Upon the presentation to him of a permit or written approval authorizing importation of articles on the U.S. Munitions Import List, the Customs officer who has authority to release same may require, in addition to such documents as may be required by Customs regulations, the production of other relevant documents relating to the proposed importation, including, but not limited to, invoices, orders, packing lists, shipping documents, correspondence, and instructions.

§ 447.57 U.S. military defense articles.

(a) Notwithstanding any other provision of this part or of parts 478 or 479 of this chapter, no military defense article of United States manufacture may be imported into the United States if such article was furnished to a foreign government under a foreign assistance or foreign military sales program of the United States.

(2) The restrictions in paragraph (a)(1) of this section cover defense articles which are advanced in value or improved in condition in a foreign country, but do not include those which have been substantially transformed as to become, in effect, articles of foreign manufacture.

(b) Paragraph (a) of this section will not apply if:

(1) The applicant submits with the ATF Form 6—Part I application written authorization from the Department of State to import the defense article; and

(2) In the case of firearms, such firearms are curios or relics under 18 U.S.C. 925(e) and the person seeking to import such firearms provides a certification of a foreign government that the firearms were furnished to such government under a foreign assistance or foreign military sales program of the United States and that the firearms are owned by such foreign government. (See § 478.118 of this chapter providing for the importation of certain curio or relic handguns, rifles and shotguns.)

(c) For the purpose of this section, the term “military defense article” includes all defense articles furnished to foreign governments under a foreign assistance or foreign military sales program of the United States as set forth in paragraph (a) of this section.

(Approved by the Office of Management and Budget under OMB Control No. 1140–0005)

§ 447.58 Delegations of the Director.

The regulatory authorities of the Director contained in this part are delegated to appropriate ATF officers. These ATF officers are specified in ATF O 1130.34, Delegation of the Director’s Authorities in 27 CFR Part 447. ATF delegation orders, such as ATF O 1130.34, are available to any interested party by submitting a request to the ATF Distribution Center (http://www.atf.gov) or by calling (202) 648–6420.
§ 447.61 Unlawful importation.

Any person who willfully:
(a) Imports articles on the U.S. Munitions Import List without a permit;
(b) Engages in the business of importing articles on the U.S. Munitions Import List without registering under this part; or
(c) Otherwise violates any provisions of this part;

Shall upon conviction be fined not more than $1,000,000 or imprisoned not more than 10 years, or both.


§ 447.62 False statements or concealment of facts.

Any person who willfully, in a registration or permit application, makes any untrue statement of a material fact or fails to state a material fact required to be stated therein or necessary to make the statements therein not misleading, shall upon conviction be fined not more than $1,000,000, or imprisoned not more than 10 years, or both.


§ 447.63 Seizure and forfeiture.

Whoever knowingly imports into the United States contrary to law any article on the U.S. Munitions Import List; or receives, conceals, buys, sells, or in any manner facilitates its transportation, concealment, or sale after importation, knowing the same to have been imported contrary to law, shall be fined not more than $10,000 or imprisoned not more than 5 years, or both; and the merchandise so imported, or the value thereof shall be forfeited to the United States.

(18 U.S.C. 545)

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

478.46 Insufficient fee.
478.47 Issuance of license.
478.48 Correction of error on license.
478.49 Duration of license.
478.50 Locations covered by license.
478.51 License not transferable.
478.52 Change of address.
478.53 Change in trade name.
478.54 Change of control.
478.55 Continuing partnerships.
478.56 Right of succession by certain persons.
478.57 Discontinuance of business.
478.58 State or other law.
478.59 Abandoned application.
478.60 Certain continuances of business.

Subpart E—License Proceedings

478.71 Denial of an application for license.
478.72 Hearing after application denial.
478.73 Notice of revocation, suspension, or imposition of civil fine.
478.74 Request for hearing after notice of suspension, revocation, or imposition of civil fine.
478.75 Service on applicant or licensee.
478.76 Representation at a hearing.
478.77 Designated place of hearing.
478.78 Operations by licensee after notice.

Subpart F—Conduct of Business

478.91 Posting of license.
478.92 Postings and written notification to purchasers of handguns.
478.93 Authorized operations by a licensed collector.
478.94 Sales or deliveries between licensees.
478.95 Certified copy of license.
478.96 Out-of-State and mail order sales.
478.97 Loan or rental of firearms.
478.98 Sales or deliveries of destructive devices and certain firearms.
478.99 Certain prohibited sales or deliveries.
478.100 Conduct of business away from licensed premises.
478.101 Record of transactions.
478.102 Sales or deliveries of firearms on and after November 30, 1998.

Subpart G—Importation

478.111 General.
478.112 Importation by a licensed importer.
478.113 Importation by other licensees.
478.113a Importation of firearm barrels by nonlicensees.
478.114 Importation by members of the U.S. Armed Forces.
478.115 Exempt importation.
478.116 Conditional importation.
478.117 Function outside a customs territory.
478.118 Importation of certain firearms classified as curios and relics.
478.119 Importation of ammunition feeding devices.
478.120 Firearms or ammunition imported by or for a nonimmigrant alien.

Subpart H—Records

478.121 General.
478.122 Records maintained by importers.
478.123 Records maintained by manufacturers.
478.124 Firearms transaction record.
478.125 Record of receipt and disposition.
478.125a Personal firearms collection.
478.126 Furnishing transaction information.
478.126a Reporting multiple sales or other disposition of pistols and revolvers.
478.127 Discontinuance of business.
478.128 False statement or representation.
478.129 Record retention.
478.131 Firearms transactions not subject to a NICS check.
478.132 Dispositions of semiautomatic assault weapons and large capacity ammunition feeding devices to law enforcement officers for official use and to employees or contractors of nuclear facilities.
478.133 Records of transactions in semiautomatic assault weapons.
478.134 Sale of firearms to law enforcement officers.

Subpart I—Exemptions, Seizures, and Forfeitures

478.141 General.
478.142 Effect of pardons and expungements of convictions.
478.143 Relief from disabilities incurred by indictment.
478.144 Relief from disabilities under the Act.
478.145 Research organizations.
478.146 Deliveries by mail to certain persons.
478.147 Return of firearm.
478.148 Armor piercing ammunition intended for sporting or industrial purposes.
478.149 Armor piercing ammunition manufactured or imported for the purpose of testing or experimentation.
478.150 Alternative to NICS in certain geographical locations.
478.151 Semiautomatic rifles or shotguns for testing or experimentation.
478.152 Seizure and forfeiture.
478.153 Semiautomatic assault weapons and large capacity ammunition feeding devices manufactured or imported for the purposes of testing or experimentation.

Subpart J [Reserved]
Subpart K—Exportation

§ 478.171 Exportation.


Subpart A—Introduction

§ 478.2 Relation to other provisions of law.

The provisions in this part are in addition to, and are not in lieu of, any other provision of law, or regulations, respecting commerce in firearms or ammunition. For regulations applicable to traffic in machine guns, destructive devices, and certain other firearms, see Part 479 of this chapter. For statutes applicable to the registration and licensing of persons engaged in the business of manufacturing, importing or exporting arms, ammunition, or implements of war, see section 38 of the Arms Export Control Act (22 U.S.C. 2778) and regulations thereunder and Part 447 of this chapter. For statutes applicable to nonmailable firearms, see 18 U.S.C. 1715 and regulations thereunder.


Subpart B—Definitions

§ 478.11 Meaning of terms.


(b) Procedural and substantive requirements. This part contains the procedural and substantive requirements relative to:

(1) The interstate or foreign commerce in firearms and ammunition;

(2) The licensing of manufacturers and importers of firearms and ammunition, collectors of firearms, and dealers in firearms;

(3) The conduct of business or activity by licensees;

(4) The importation of firearms and ammunition;

(5) The records and reports required of licensees;

(6) Relief from disabilities under this part;

(7) Exempt interstate and foreign commerce in firearms and ammunition; and

(8) Restrictions on armor piercing ammunition.

Admitted to the United States for lawful hunting or sporting purposes. (a) Is entering the United States to participate in a competitive target shooting event sponsored by a national, State, or local organization, devoted to the competitive use or other sporting use of firearms; or

(b) Is entering the United States to display firearms at a sports or hunting trade show sponsored by a national, State, or local firearms trade organization, devoted to the competitive use or other sporting use of firearms.

Alien. Any person not a citizen or national of the United States.

Alien illegally or unlawfully in the United States. Aliens who are unlawfully in the United States are not in valid immigrant, nonimmigrant or parole status. The term includes any alien—

(a) Who unlawfully entered the United States without inspection and authorization by an immigration officer and who has not been paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (INA);

(b) Who is a nonimmigrant and whose authorized period of stay has expired or who has violated the terms of the nonimmigrant category in which he or she was admitted;

(c) Paroled under INA section 212(d)(5) whose authorized period of parole has expired or whose parole status has been terminated; or

(d) Under an order of deportation, exclusion, or removal, or under an order to depart the United States voluntarily, whether or not he or she has left the United States.

Ammunition. Ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm other than an antique firearm. The term shall not include (a) any shotgun shot or pellet not designed for use as the single, complete projectile load for one shotgun hull or casing, nor

(b) any unloaded, non-metallic shotgun hull or casing not having a primer.

Antique firearm. (a) Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; and (b) any replica of any firearm described in paragraph (a) of this definition if such replica (1) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or (2) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

Armor piercing ammunition. Projectiles or projectile cores which may be used in a handgun and which are constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium; or full jacketed projectiles larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile. The term does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, frangible projectiles designed for target shooting, projectiles which the Director finds are primarily intended to be used for sporting purposes, or any other projectiles or projectile cores which the Director finds are intended to be used for industrial purposes, including charges used in oil and gas well perforating devices.

ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Business premises. The property on which the manufacturing or importing of firearms or ammunition or the dealing in firearms is or will be conducted. A private dwelling, no part of which is open to the public, shall not be recognized as coming within the meaning of the term.

Chief, Federal Firearms Licensing Center (FFLC). The ATF official responsible for the issuance and renewal of licenses under this part.

Collector. Any person who acquires, holds, or disposes of firearms as curios or relics.

Collection premises. The premises described on the license of a collector as
the location at which he maintains his collection of curios and relics.

Commerce. Travel, trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia and any State, or between any foreign country or any territory or possession and any State or the District of Columbia, or between points in the same State but through any other State or the District of Columbia or a foreign country.

Committed to a mental institution. A formal commitment of a person to a mental institution by a court, board, commission, or other lawful authority. The term includes a commitment to a mental institution involuntarily. The term includes commitment for mental defectiveness or mental illness. It also includes commitments for other reasons, such as for drug use. The term does not include a person in a mental institution for observation or a voluntary admission to a mental institution.

Controlled substance. A drug or other substance, or immediate precursor, as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802. The term includes, but is not limited to, marijuana, depressants, stimulants, and narcotic drugs. The term does not include distilled spirits, wine, malt beverages, or tobacco, as those terms are defined or used in Subtitle E of the Internal Revenue Code of 1986, as amended.

Crime punishable by imprisonment for a term exceeding 1 year. Any Federal, State or foreign offense for which the maximum penalty, whether or not imposed, is capital punishment or imprisonment in excess of 1 year. The term shall not include (a) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices or (b) any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of 2 years or less. What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any conviction which has been expunged or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for the purposes of the Act or this part, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms, or unless the person is prohibited by the law of the jurisdiction in which the proceedings were held from receiving or possessing any firearms.

Curios or relics. Firearms which are of special interest to collectors by reason of some quality other than is associated with firearms intended for sporting use or as offensive or defensive weapons. To be recognized as curios or relics, firearms must fall within one of the following categories:

(a) Firearms which were manufactured at least 50 years prior to the current date, but not including replicas thereof;

(b) Firearms which are certified by the curator of a municipal, State, or Federal museum which exhibits firearms to be curios or relics of museum interest; and

(c) Any other firearms which derive a substantial part of their monetary value from the fact that they are novel, rare, bizarre, or because of their association with some historical figure, period, or event. Proof of qualification of a particular firearm under this category may be established by evidence of present value and evidence that like firearms are not available except as collector’s items, or that the value of like firearms available in ordinary commercial channels is substantially less.

Customs officer. Any officer of U.S. Customs and Border Protection, any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law to perform the duties of a customs officer.

Dealer. Any person engaged in the business of selling firearms at wholesale or retail; any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms; or any person who is a pawnbroker. The term shall include any person who engages in such business or occupation on a part-time basis.
Destructive device. (a) Any explosive, incendiary, or poison gas (1) bomb, (2) grenade, (3) rocket having a propellant charge of more than 4 ounces, (4) missile having an explosive or incendiary charge of more than one-quarter ounce, (5) mine, or (6) device similar to any of the devices described in the preceding paragraphs of this definition; (b) any type of weapon (other than a shotgun or a shotgun shell which the Director finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and (c) any combination of parts either designed or intended for use in converting any device into any destructive device described in paragraph (a) or (b) of this section and from which a destructive device may be readily assembled. The term shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signalling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10, United States Code; or any other device which the Director finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting, recreational, or cultural purposes.

Director. The Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives, the Department of Justice, Washington, DC.

Director of Industry Operations. The principal ATF official in a Field Operations division responsible for administering regulations in this part.

Discharged under dishonorable conditions. Separation from the U.S. Armed Forces resulting from a dishonorable discharge or dismissal adjudged by a general court-martial. The term does not include any separation from the Armed Forces resulting from any other discharge, e.g., a bad conduct discharge.

Engaged in the business—(a) Manufacturer of firearms. A person who devotes time, attention, and labor to manufacturing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured;

(b) Manufacturer of ammunition. A person who devotes time, attention, and labor to manufacturing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition manufactured;

(c) Dealer in firearms other than a gunsmith or a pawnbroker. A person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of firearms, but such a term shall not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms;

(d) Gunsmith. A person who devotes time, attention, and labor to engaging in such activity as a regular course of trade or business with the principal objective of livelihood and profit, but such a term shall not include a person who makes occasional repairs of firearms or who occasionally fits special barrels, stocks, or trigger mechanisms to firearms;

(e) Importer of firearms. A person who devotes time, attention, and labor to importing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms imported; and,

(f) Importer of ammunition. A person who devotes time, attention, and labor to importing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition imported.

Executed under penalties of perjury. Signed with the prescribed declaration.
under the penalties of perjury as provided on or with respect to the return form, or other document or, where no form of declaration is prescribed, with the declaration:

“I declare under the penalties of perjury that this—(insert type of document, such as, statement, application, request, certificate), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete.’’


Firearm. Any weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; or any destructive device; but the term shall not include an antique firearm. In the case of a licensed collector, the term shall mean only curios and relics.

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.

Firearm muffler or firearm silencer. 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.

Friendly foreign government. Any government with whom the United States has diplomatic relations and whom the United States has not identified as a State sponsor of terrorism.

Fugitive from justice. Any person who has fled from any State to avoid prosecution for a felony or a misdemeanor; or any person who leaves the State to avoid giving testimony in any criminal proceeding. The term also includes any person who knows that misdemeanor or felony charges are pending against such person and who leaves the State of prosecution.

Handgun. (a) Any firearm which has a short stock and is designed to be held and fired by the use of a single hand; and (b) Any combination of parts from which a firearm described in paragraph (a) can be assembled.

Hunting license or permit lawfully issued in the United States. A license or permit issued by a State for hunting which is valid and unexpired.

Identification document. A document containing the name, residence address, date of birth, and photograph of the holder and which was made or issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

Importation. The bringing of a firearm or ammunition into the United States; except that the bringing of a firearm or ammunition from outside the United States into a foreign-trade zone for storage pending shipment to a foreign country or subsequent importation into this country, pursuant to this part, shall not be deemed importation.

Importer. Any person engaged in the business of importing or bringing firearms or ammunition into the United States. The term shall include any person who engages in such business on a part-time basis.

Indictment. Includes an indictment or information in any court, under which a crime punishable by imprisonment for a term exceeding 1 year (as defined in this section) may be prosecuted, or in military cases to any offense punishable by imprisonment for a term exceeding 1 year which has been referred to a general court-martial. An information is a formal accusation of a crime, differing from an indictment in that it is made by a prosecuting attorney and not a grand jury.

Interstate or foreign commerce. Includes commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia. The term shall not include commerce between places within the same State but
through any place outside of that State.

**Intimate partner.** With respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabitates or has cohabitated with the person.

**Large capacity ammunition feeding device.** A magazine, belt, drum, feed strip, or similar device for a firearm manufactured after September 13, 1994, that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition. The term does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition, or a fixed device for a manually operated firearm, or a fixed device for a firearm listed in 18 U.S.C. 922, appendix A.

**Licensed collector.** A collector of curios and relics only and licensed under the provisions of this part.

**Licensed dealer.** A dealer licensed under the provisions of this part.

**Licensed importer.** An importer licensed under the provisions of this part.

**Licensed manufacturer.** A manufacturer licensed under the provisions of this part.

**Machine gun.** Any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machine gun, and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.

**Manufacturer.** Any person engaged in the business of manufacturing firearms or ammunition. The term shall include any person who engages in such business on a part-time basis.

**Mental institution.** Includes mental health facilities, mental hospitals, sanitariums, psychiatric facilities, and other facilities that provide diagnoses by licensed professionals of mental retardation or mental illness, including a psychiatric ward in a general hospital.

**Misdemeanor crime of domestic violence.**

(a) Is a Federal, State or local offense that:

1. Is a misdemeanor under Federal or State law or, in States which do not classify offenses as misdemeanors, is an offense punishable by imprisonment for a term of one year or less, and includes offenses that are punishable only by a fine. (This is true whether or not the State statute specifically defines the offense as a "misdemeanor" or as a "misdemeanor crime of domestic violence." The term includes all such misdemeanor convictions in Indian Courts established pursuant to 25 CFR part 11.);

2. Has, as an element, the use or attempted use of physical force (e.g., assault and battery), or the threatened use of a deadly weapon; and

3. Was committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, (e.g., the equivalent of a "common law" marriage even if such relationship is not recognized under the law), or a person similarly situated to a spouse, parent, or guardian of the victim (e.g., two persons who are residing at the same location in an intimate relationship with the intent to make that place their home would be similarly situated to a spouse).

(b) A person shall not be considered to have been convicted of such an offense for purposes of this part unless:

1. The person is considered to have been convicted by the jurisdiction in which the proceedings were held;

2. The person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and

3. In the case of a prosecution for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either

   (i) The case was tried by a jury, or

   (ii) The person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise.
(c) A person shall not be considered to have been convicted of such an offense for purposes of this part if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the jurisdiction in which the proceedings were held provides for the loss of civil rights upon conviction for such an offense) unless the pardon, expunction, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms, and the person is not otherwise prohibited by the law of the jurisdiction in which the proceedings were held from receiving, receiving any firearms.


*NICS.* The National Instant Criminal Background Check System established by the Attorney General pursuant to 18 U.S.C. 922(t).

*Nonimmigrant alien.* An alien in the United States in a nonimmigrant classification as defined by section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).

*Nonimmigrant visa.* A visa properly issued to an alien as an eligible nonimmigrant by a competent officer as provided in the Immigration and Nationality Act, 8 U.S.C. 1101 et seq.

*Pawnbroker.* Any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any firearm as security for the payment or repayment of money. The term shall include any person who engages in such business on a part-time basis.

*Permanently inoperable.* A firearm which is incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition. An acceptable method of rendering most firearms permanently inoperable is to fusion weld the chamber closed and fusion weld the barrel solidly to the frame. Certain unusual firearms require other methods to render the firearm permanently inoperable. Contact ATF for instructions.

*Person.* Any individual, corporation, company, association, firm, partnership, society, or joint stock company.

*Pistol.* A weapon originally designed, made, and intended to fire a projectile (bullet) from one or more barrels when held in one hand, and having (a) a chamber(s) as an integral part(s) of, or permanently aligned with, the bore(s); and (b) a short stock designed to be gripped by one hand and at an angle to and extending below the line of the bore(s).

*Principal objective of livelihood and profit.* The intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents such as improving or liquidating a personal firearms collection: Provided, That proof of profit shall not be required as to a person who engages in the regular and repetitive purchase and disposition of firearms for criminal purposes or terrorism. For purposes of this part, the term "terrorism" means activity directed against United States persons, which—

(a) Is committed by an individual who is not a national or permanent resident alien of the United States;

(b) Involves violent acts or acts dangerous to human life which would be a criminal violation if committed within the jurisdiction of the United States; and

(c) Is intended—

(1) To intimidate or coerce a civilian population;

(2) To influence the policy of a government by intimidation or coercion; or

(3) To affect the conduct of a government by assassination or kidnapping.

*Published ordinance.* A published law of any political subdivision of a State which the Director determines to be relevant to the enforcement of this part and which is contained on a list compiled by the Director, which list is incorporated by reference in the Federal Register, revised annually, and furnished to licensees under this part.

*Renounced U.S. citizenship.* (a) A person has renounced his U.S. citizenship if the person, having been a citizen of the United States, has renounced citizenship either—

(1) Before a diplomatic or consular officer of the United States in a foreign state pursuant to 8 U.S.C. 1481(a)(5); or

(2) Before an officer designated by the Attorney General when the United
States is in a state of war pursuant to 8 U.S.C. 1481(a)(6).

(b) The term shall not include any renunciation of citizenship that has been reversed as a result of administrative or judicial appeal.

Revolver. A projectile weapon, of the pistol type, having a breechloading chambered cylinder so arranged that the cocking of the hammer or movement of the trigger rotates it and brings the next cartridge in line with the barrel for firing.

Rifle. A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

Semiautomatic assault weapon. (a) Any of the firearms, or copies or duplicates of the firearms in any caliber, known as:

(1) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),
(2) Action Arma Israeli Military Industries UZI and Galil,
(3) Beretta Ar70 (SC–70),
(4) Colt AR–15,
(5) Fabrique National FN/FAL, FN/LAR, and FNC,
(6) SWD M–10, M–11, M–11/9, and M–12,
(7) Steyr AUG,
(8) INTRATEC TEC–9, TEC-DC9 and TEC-22, and
(9) Revolving cylinder shotguns, such as (or similar to) the Street Sweeper and Striker 12;

(b) A semiautomatic rifle that has an ability to accept a detachable magazine and has at least 2 of—

(1) A folding or telescoping stock,
(2) A pistol grip that protrudes conspicuously beneath the action of the weapon,
(3) A bayonet mount,
(4) A flash suppressor or threaded barrel designed to accommodate a flash suppressor, and
(5) A grenade launcher;

(c) A semiautomatic pistol that has an ability to accept a detachable magazine and has at least 2 of—

(1) An ammunition magazine that attaches to the pistol outside of the pistol grip,
(2) A threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer,
(3) A shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the nontrigger hand without being burned,
(4) A manufactured weight of 50 ounces or more when the pistol is unloaded, and
(5) A semiautomatic version of an automatic firearm; and
(d) A semiautomatic shotgun that has at least 2 of—

(1) A folding or telescoping stock,
(2) A pistol grip that protrudes conspicuously beneath the action of the weapon,
(3) A fixed magazine capacity in excess of 5 rounds, and
(4) An ability to accept a detachable magazine.

Semiautomatic pistol. Any repeating pistol which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

Semiautomatic rifle. Any repeating rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

Semiautomatic shotgun. Any repeating shotgun which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

Short-barreled rifle. A rifle having one or more barrels less than 16 inches in length, and any weapon made from a rifle, whether by alteration, modification, or otherwise, if such weapon, as modified, has an overall length of less than 26 inches.

Short-barreled shotgun. A shotgun having one or more barrels less than 18 inches in length, and any weapon made from a shotgun, whether by alteration, modification, or otherwise, if such weapon as modified has an overall length of less than 26 inches.
§478.11 Shotgun. A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shots or a single projectile for each single pull of the trigger.

State. A State of the United States. The term shall include the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).

State of residence. The State in which an individual resides. An individual resides in a State if he or she is present in a State with the intention of making a home in that State. If an individual is on active duty as a member of the Armed Forces, the individual’s State of residence is the State in which his or her permanent duty station is located, as stated in 18 U.S.C. 921(b). The following are examples that illustrate this definition:

Example 1. A maintains a home in State X. A travels to State Y on a hunting, fishing, business, or other type of trip. A does not become a resident of State Y by reason of such trip.

Example 2. A maintains a home in State X and a home in State Y. A resides in State X except for weekends or the summer months of the year and in State Y for the weekends or the summer months of the year. During the time that A actually resides in State X, A is a resident of State X, and during the time that A actually resides in State Y, A is a resident of State Y.

Example 3. A, an alien, travels to the United States on a three-week vacation to State X. A does not have a state of residence in State X because A does not have the intention of making a home in State X while on vacation. This is true regardless of the length of the vacation.

Example 4. A, an alien, travels to the United States to work for three years in State X. A rents a home in State X, moves his personal possessions into the home, and his family resides with him in the home. A intends to reside in State X during the 3-year period of his employment. A is a resident of State X.

Unlawful user of or addicted to any controlled substance. A person who uses a controlled substance and has lost the power of self-control with reference to the use of controlled substance; and any person who is a current user of a controlled substance in a manner other than as prescribed by a licensed physician. Such use is not limited to the use of drugs on a particular day, or within a matter of days or weeks before, but rather that the unlawful use has occurred recently enough to indicate that the individual is actively engaged in such conduct. A person may be an unlawful current user of a controlled substance even though the substance is not being used at the precise time the person seeks to acquire a firearm or receives or possesses a firearm. An inference of current use may be drawn from evidence of a recent use or possession of a controlled substance or a pattern of use or possession that reasonably covers the present time, e.g., a conviction for use or possession of a controlled substance within the past year; multiple arrests for such offenses within the past 5 years if the most recent arrest occurred within the past year; or persons found through a drug test to use a controlled substance unlawfully, provided that the test was administered within the past year. For a current or former member of the Armed Forces, an inference of current use may be drawn from recent disciplinary or other administrative action based on confirmed drug use, e.g., court-martial conviction, nonjudicial punishment, or an administrative discharge based on drug use or drug rehabilitation failure.

Unserviceable firearm. A firearm which is incapable of discharging a shot by means of an explosive and is incapable of being ready restored to a firing condition.


EDITORIAL NOTE: For Federal Register citations affecting §478.11, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.
§ 478.21 Forms prescribed.
(a) The Director is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part.
(b) Requests for forms should be submitted to the ATF Distribution Center (http://www.atf.gov) or made by calling (202) 648–6420.

§ 478.22 Alternate methods or procedures; emergency variations from requirements.
(a) Alternate methods or procedures. The licensee, on specific approval by the Director as provided in this paragraph, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in this part. The Director may approve an alternate method or procedure, subject to stated conditions, when it is found that:
(1) Good cause is shown for the use of the alternate method or procedure;
(2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure and that the alternate method or procedure is substantially equivalent to that specifically prescribed method or procedure; and
(3) The alternate method or procedure will not be contrary to any provision of law and will not result in an increase in cost to the Government or hinder the effective administration of this part. Where the licensee desires to employ an alternate method or procedure, a written application shall be submitted to the appropriate Director of Industry Operations, for transmittal to the Director. The application shall specifically describe the proposed alternate method or procedure and shall set forth the reasons for it. Alternate methods or procedures may not be employed until the application is approved by the Director. The licensee shall, during the period of authorization of an alternate method or procedure, comply with the terms of the approved application. Authorization of any alternate method or procedure may be withdrawn whenever, in the judgment of the Director, the effective administration of this part is hindered by the continuation of the authorization.
(b) Emergency variations from requirements. The Director may approve a method of operation other than as specified in this part, where it is found that an emergency exists and the proposed variation from the specified requirements are necessary and the proposed variations (1) will not hinder the effective administration of this part, and (2) will not be contrary to any provisions of law. Variations from requirements granted under this paragraph are conditioned on compliance with the procedures, conditions, and limitations set forth in the approval of the application. Failure to comply in good faith with the procedures, conditions, and limitations shall automatically terminate the authority for the variations, and the licensee shall fully comply with the prescribed requirements of regulations from which the variations were authorized. Authority for any variation may be withdrawn whenever, in the judgment of the Director, the effective administration of this part is hindered by the continuation of the variation. Where the licensee desires to employ an emergency variation, a written application shall be submitted to the appropriate Director of Industry Operations for transmittal to the Director. The application shall describe the proposed variation and set forth the reasons for it. Variations may not be employed until the application is approved.
(c) Retention of approved variations. The licensee shall retain, as part of the
licensee’s records, available for examination by ATF officers, any application approved by the Director under this section.


§ 478.23 Right of entry and examination.

(a) Except as provided in paragraph (b), any ATF officer, when there is reasonable cause to believe a violation of the Act has occurred and that evidence of the violation may be found on the premises of any licensed manufacturer, licensed importer, licensed dealer, or licensed collector, may, upon demonstrating such cause before a Federal magistrate and obtaining from the magistrate a warrant authorizing entry, enter during business hours (or, in the case of a licensed collector, the hours of operation) the premises, including places of storage, of any such licensee for the purpose of inspecting or examining:

(1) Any records or documents required to be kept by such licensee under this part and

(2) Any inventory of firearms or ammunition kept or stored by any licensed manufacturer, licensed importer, licensed dealer, or licensed collector at such premises or any firearms curios or relics or ammunition kept or stored by any licensed collector at such premises.

(b) Any ATF officer, without having reasonable cause to believe a violation of the Act has occurred or that evidence of the violation may be found and without demonstrating such cause before a Federal magistrate or obtaining from the magistrate a warrant authorizing entry, may enter during hours of operation the premises, including places of storage, of any licensed collector for the purpose of inspecting or examining the records, documents, firearms, and ammunition referred to in paragraph (a) of this section:

(i) In the course of a reasonable inquiry during the course of a criminal investigation of a person or persons other than the licensee,

(ii) For insuring compliance with the recordkeeping requirements of this part:

(i) Not more than once during any 12-month period, or

(ii) At any time with respect to records relating to a firearm involved in a criminal investigation that is traced to the licensee, or

(3) When such inspection or examination may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation.

(c) Any ATF officer, without having reasonable cause to believe a violation of the Act has occurred or that evidence of the violation may be found and without demonstrating such cause before a Federal magistrate or obtaining from the magistrate a warrant authorizing entry, may enter during hours of operation the premises, including places of storage, of any licensed collector for the purpose of inspecting or examining the records, documents, firearms, and ammunition referred to in paragraph (a) of this section (1) for ensuring compliance with the recordkeeping requirements of this part not more than once during any 12-month period or (2) when such inspection or examination may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation. At the election of the licensed collector, the annual inspection permitted by this paragraph shall be performed at the ATF office responsible for conducting such inspection in closest proximity to the collector’s premises.

(d) The inspections and examinations provided by this section do not authorize an ATF officer to seize any records or documents other than those records or documents constituting material evidence of a violation of law. If an ATF officer seizes such records or documents, copies shall be provided the licensee within a reasonable time.


§ 478.24 Compilation of State laws and published ordinances.

(a) The Director shall annually revise and furnish Federal firearms licensees with a compilation of State laws and
§ 478.27 Destructive device determination.

The Director shall determine in accordance with 18 U.S.C. 921(a)(4) whether a device is excluded from the definition of a destructive device. A person who desires to obtain a determination under that provision of law for any device which he believes is not likely to be used as a weapon shall submit a
written request, in triplicate, for a ruling thereon to the Director. Each such request shall be executed under the penalties of perjury and contain a complete and accurate description of the device, the name and address of the manufacturer or importer thereof, the purpose of and use for which it is intended, and such photographs, diagrams, or drawings as may be necessary to enable the Director to make his determination. The Director may require the submission to him, of a sample of such device for examination and evaluation. If the submission of such device is impracticable, the person requesting the ruling shall so advise the Director and designate the place where the device will be available for examination and evaluation.

§ 478.28 Transportation of destructive devices and certain firearms.

(a) The Director may authorize a person to transport in interstate or foreign commerce any destructive device, machine gun, short-barreled shotgun, or short-barreled rifle, if he finds that such transportation is reasonably necessary and is consistent with public safety and applicable State and local law. A person who desires to transport in interstate or foreign commerce any such device or weapon shall submit a written request so to do, in duplicate, to the Director. The request shall contain:

(1) A complete description and identification of the device or weapon to be transported;

(2) A statement whether such transportation involves a transfer of title;

(3) The need for such transportation;

(4) The approximate date such transportation is to take place;

(5) The present location of such device or weapon and the place to which it is to be transported;

(6) The mode of transportation to be used (including, if by common or contract carrier, the name and address of such carrier); and

(7) Evidence that the transportation or possession of such device or weapon is not inconsistent with the laws at the place of destination.

(b) No person shall transport any destructive device, machine gun, short-barreled shotgun, or short-barreled rifle in interstate or foreign commerce under the provisions of this section until he has received specific authorization so to do from the Director. Authorization granted under this section does not carry or import relief from any other statutory or regulatory provision relating to firearms.

(c) This section shall not be construed as requiring licensees to obtain authorization to transport destructive devices, machine guns, short-barreled shotguns, and short-barreled rifles in interstate or foreign commerce: Provided, That in the case of a licensed importer, licensed manufacturer, or licensed dealer, such a licensee is qualified under the National Firearms Act (see also Part 479 of this chapter) and this part to engage in the business with respect to the device or weapon to be transported, and that in the case of a licensed collector, the device or weapon to be transported is a curio or relic.


§ 478.29 Out-of-State acquisition of firearms by nonlicensees.

No person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, shall transport into or receive in the State where the person resides (or if a corporation or other business entity, where it maintains a place of business) any firearm purchased or otherwise obtained by such person outside that State: Provided, That the provisions of this section:

(a) Shall not preclude any person who lawfully acquires a firearm by bequest or intestate succession in a State other than his State of residence from transporting the firearm into or receiving it in that State, if it is lawful for such person to purchase or possess such firearm in that State,

(b) Shall not apply to the transportation or receipt of a rifle or shotgun obtained from a licensed manufacturer, licensed importer, licensed dealer, or licensed collector in a State other than the transferee’s State of residence in an over-the-counter transaction at the licensee’s premises obtained in conformity with the provisions of §478.96(c) and
§ 478.32 Prohibited shipment, transportation, possession, or receipt of firearms and ammunition by certain persons.
(a) No person may ship or transport any firearm or ammunition in interstate or foreign commerce, or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce, or possess any firearm or ammunition in or affecting commerce, who:
§478.32  27 CFR Ch. II (4–1–16 Edition)

(1) Has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year,
(2) Is a fugitive from justice,
(3) Is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802),
(4) Has been adjudicated as a mental defective or has been committed to a mental institution,
(5) Being an alien—
   (i) Is illegally or unlawfully in the United States; or
   (ii) Except as provided in paragraph (f) of this section, has been admitted to the United States under a nonimmigrant visa: Provided, That the provisions of this paragraph (a)(5)(ii) do not apply to any alien who has been lawfully admitted to the United States under a nonimmigrant visa, if that alien is—
      (A) Admitted to the United States for lawful hunting or sporting purposes or is in possession of a hunting license or permit lawfully issued in the United States;
      (B) An official representative of a foreign government who is either accredited to the United States Government or the Government’s mission to an international organization having its headquarters in the United States or is en route to or from another country to which that alien is accredited. This exception only applies if the firearm or ammunition is shipped, transported, possessed, or received in the representative’s official capacity;
      (C) An official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State. This exception only applies if the firearm or ammunition is shipped, transported, possessed, or received in the official’s or visitor’s official capacity, except if the visitor is a private individual who does not have an official capacity; or
      (D) A foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business,
(6) Has been discharged from the Armed Forces under dishonorable conditions,
(7) Having been a citizen of the United States, has renounced citizenship,
(8) Is subject to a court order that—
   (i) Was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;
   (ii) Restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and
   (iii) (A) Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or
   (B) By its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury, or
(9) Has been convicted of a misdemeanor crime of domestic violence.

(b) No person who is under indictment for a crime punishable by imprisonment for a term exceeding one year may ship or transport any firearm or ammunition in interstate or foreign commerce or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(c) Any individual, who to that individual’s knowledge and while being employed by any person described in paragraph (a) of this section, may not in the course of such employment receive, possess, or transport any firearm or ammunition in commerce or affecting commerce or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(d) No person may sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person:
   (1) Is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year,
   (2) Is a fugitive from justice,
(3) Is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802),

(4) Has been adjudicated as a mental defective or has been committed to a mental institution,

(5) Being an alien—
   (i) Is illegally or unlawfully in the United States; or
   (ii) Except as provided in paragraph (f) of this section, has been admitted to the United States under a non-immigrant visa, if that alien is:
       (A) Admitted to the United States for lawful hunting or sporting purposes or is in possession of a hunting license or permit lawfully issued in the United States;
       (B) An official representative of a foreign government who is either accredited to the United States Government or the Government's mission to an international organization having its headquarters in the United States or en route to or from another country to which that alien is accredited. This exception only applies if the firearm or ammunition is shipped, transported, possessed, or received in the representative's official capacity;
       (C) An official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State. This exception only applies if the firearm or ammunition is shipped, transported, possessed, or received in the representative's official capacity, except if the visitor is a private individual who does not have an official capacity; or
       (D) A foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business,

(6) Has been discharged from the Armed Forces under dishonorable conditions,

(7) Having been a citizen of the United States, has renounced citizenship,

(8) Is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child: Provided, That the provisions of this paragraph shall only apply to a court order that—
   (i) Was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and
   (ii)(A) Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or
   (B) By its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury, or

(9) Has been convicted of a misdemeanor crime of domestic violence.

(e) The actual notice required by paragraphs (a)(8)(i) and (d)(8)(i) of this section is notice expressly and actually given, and brought home to the party directly, including service of process personally served on the party and service by mail. Actual notice also includes proof of facts and circumstances that raise the inference that the party received notice including, but not limited to, proof that notice was left at the party’s dwelling house or usual place of abode with some person of suitable age and discretion residing therein; or proof that the party signed a return receipt for a hearing notice which had been mailed to the party. It does not include notice published in a newspaper.

(f) Pursuant to 18 U.S.C. 922(y)(3), any individual who has been admitted to the United States under a non-immigrant visa may receive a waiver from the prohibition contained in paragraph (a)(5)(ii) of this section if the Attorney General approves a petition for the waiver.

§ 478.33 Stolen firearms and ammunition.

No person shall transport or ship in interstate or foreign commerce any stolen firearm or stolen ammunition knowing or having reasonable cause to believe that the firearm or ammunition was stolen, and no person shall receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

[T.D. ATF–363, 60 FR 17451, Apr. 6, 1995]

§ 478.33a Theft of firearms.

No person shall steal or unlawfully take or carry away from the person or the premises of a person who is licensed to engage in the business of importing, manufacturing, or dealing in firearms, any firearm in the licensee’s business inventory that has been shipped or transported in interstate or foreign commerce.


§ 478.34 Removed, obliterated, or altered serial number.

No person shall knowingly transport, ship, or receive in interstate or foreign commerce any firearm which has had the importer’s or manufacturer’s serial number removed, obliterated, or altered, or possess or receive any firearm which has had the importer’s or manufacturer’s serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce.

[T.D. ATF–313, 56 FR 32508, July 17, 1991]

§ 478.35 Skeet, trap, target, and similar shooting activities.

Licensing and recordkeeping requirements, including permissible alternate records, for skeet, trap, target, and similar organized activities shall be determined by the Director of Industry Operations on a case by case basis.

§ 478.36 Transfer or possession of machine guns.

No person shall transfer or possess a machine gun except:

(a) A transfer to or by, or possession by or under the authority of, the United States, or any department or agency thereof, or a State, or a department, agency, or political subdivision thereof. (See Part 479 of this chapter); or

(b) Any lawful transfer or lawful possession of a machine gun that was lawfully possessed before May 19, 1986 (See Part 479 of this chapter).


§ 478.37 Manufacture, importation and sale of armor piercing ammunition.

No person shall manufacture or import, and no manufacturer or importer shall sell or deliver, armor piercing ammunition, except:

(a) The manufacture or importation, or the sale or delivery by any manufacturer or importer, of armor piercing ammunition for the use of the United States or any department or agency thereof or any State or any department, agency or political subdivision thereof;

(b) The manufacture, or the sale or delivery by a manufacturer or importer, of armor piercing ammunition for the purpose of exportation; or

(c) The sale or delivery by a manufacturer or importer of armor piercing ammunition for the purposes of testing or experimentation as authorized by the Director under the provisions of § 478.149.


§ 478.38 Transportation of firearms.

Notwithstanding any other provision of any law or any rule or regulation of a State or any political subdivision thereof, any person who is not otherwise prohibited by this chapter from transporting, shipping, or receiving a firearm shall be entitled to transport a firearm for any lawful purpose from any place where such person may lawfully possess and carry such firearm to any other place where such person may lawfully possess and carry such firearm.
§ 478.39 Assembly of semiautomatic rifles or shotguns.

(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 purposes.

(b) The provisions of this section shall not apply to:

(1) The assembly of such rifle or shotgun for sale or distribution by a licensed manufacturer to the United States or any department or agency thereof or to any State or any department, agency, or political subdivision thereof; or

(2) The assembly of such rifle or shotgun for the purposes of testing or experimentation authorized by the Director under the provisions of §478.151; or

(3) The repair of any rifle or shotgun which had been imported into or assembled in the United States prior to November 30, 1990, or the replacement of any part of such firearm.

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

(1) Frames, receivers, receiver castings, forgings or stampings

(2) Barrels

(3) Barrel extensions

(4) Mounting blocks (trunions)

(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) Floorplates


§ 478.39a Reporting theft or loss of firearms.

(a)(1) Each licensee shall report the theft or loss of a firearm from the licensee’s inventory (including any firearm which has been transferred from the licensee’s inventory to a personal collection and held as a personal firearm for at least 1 year), or from the collection of a licensed collector, within 48 hours after the theft or loss is discovered.

(2) When a firearm is stolen or lost in transit on a common or contract carrier (which for purposes of this paragraph includes the U.S. Postal Service), it is considered stolen or lost from the transferor/sender licensee’s inventory for reporting purposes. Therefore, the transferor/sender of the stolen or lost firearm shall report the theft or loss of the firearm within 48 hours after the transferor/sender discovers the theft or loss.

(b) Each licensee shall report the theft or loss by telephoning ATF at 1–888–930–9275 (nationwide toll-free number), and by preparing and submitting to ATF a Federal Firearms Licensee Theft/Loss Report, ATF Form 3310.11, in accordance with the instructions on the form. The original of the report shall be retained by the licensee as part of the licensee’s required records.

(c) When a licensee submits to ATF a Federal Firearms Licensee Theft/Loss Report, ATF Form 3310.11, for the theft or loss of a firearm registered under the National Firearms Act, this report also satisfies the notification requirement under §479.141 of this chapter.

(d) Theft or loss of any firearm shall also be reported to the appropriate local authorities. If the location of the theft or loss is known, the local law enforcement agency at that location would be the appropriate local authority. Otherwise, the report should be made to the local law enforcement authorities at the licensee’s location or business premises.
§ 478.40 Manufacture, transfer, and possession of semiautomatic assault weapons.

(a) Prohibition. No person shall manufacture, transfer, or possess a semiautomatic assault weapon.

(b) Exceptions. The provisions of paragraph (a) of this section shall not apply to:

(1) The possession or transfer of any semiautomatic assault weapon otherwise lawfully possessed in the United States under Federal law on September 13, 1994;

(2) Any of the firearms, or replicas or duplicates of the firearms, specified in 18 U.S.C. 922, appendix A, as such firearms existed on October 1, 1993;

(3) Any firearm that—

(i) Is manually operated by bolt, pump, lever, or slide action;

(ii) Has been rendered permanently inoperable; or

(iii) Is an antique firearm;

(4) Any semiautomatic rifle that cannot accept a detachable magazine that holds more than 5 rounds of ammunition;

(5) Any semiautomatic shotgun that cannot hold more than 5 rounds of ammunition in a fixed or detachable magazine;

(6) The manufacture for, transfer to, or possession by the United States or a department or agency of the United States, or a State or a department, agency, or political subdivision of a State, or a transfer to or possession by a law enforcement officer employed by such an entity for purposes of law enforcement;

(7) The transfer to a licensee under title I of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) for purposes of establishing and maintaining an on-site physical protection system and security organization required by Federal law, or possession by an employee or contractor of such licensee on-site for such purposes or off-site for purposes of licensee-authorized training or transportation of nuclear materials;

(8) The possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving a firearm, of a semiautomatic assault weapon transferred to the individual by the agency upon such retirement;

(9) The manufacture, transfer, or possession of a semiautomatic assault weapon by a licensed manufacturer or licensed importer for the purpose of testing or experimentation as authorized by the Director under the provisions of § 478.153; or

(10) The manufacture, transfer, or possession of a semiautomatic assault weapon by a licensed manufacturer, licensed importer, or licensed dealer for the purpose of exportation in compliance with the Arms Export Control Act (22 U.S.C. 2778).

(c) Manufacture and dealing in semiautomatic assault weapons. Subject to compliance with the provisions of this part, licensed manufacturers and licensed dealers in semiautomatic assault weapons may manufacture and deal in such weapons manufactured after September 13, 1994: Provided, The licensee obtains evidence that the weapons will be disposed of in accordance with paragraph (b) of this section. Examples of acceptable evidence include the following:

(1) Contracts between the manufacturer and dealers stating that the weapons may only be sold to law enforcement agencies, law enforcement officers, or other purchasers specified in paragraph (b) of this section;

(2) Copies of purchase orders submitted to the manufacturer or dealer by law enforcement agencies or other
§ 478.40a Transfer and possession of large capacity ammunition feeding devices.

(a) Prohibition. No person shall transfer or possess a large capacity ammunition feeding device.

(b) Exceptions. The provisions of paragraph (a) of this section shall not apply to:

1. The possession or transfer of any large capacity ammunition feeding device otherwise lawfully possessed on September 13, 1994;

2. The manufacture for, transfer to, or possession by the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State, or a transfer to or possession by a law enforcement officer employed by such an entity for purposes of law enforcement;

3. The transfer to a licensee under title I of the Atomic Energy Act of 1954 for purposes of establishing and maintaining an on-site physical protection system and security organization required by Federal law, or possession by an employee or contractor of such licensee on-site for such purposes or off-site for purposes of licensee-authorized training or transportation of nuclear materials;

4. The possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving ammunition, of a large capacity ammunition feeding device transferred to the individual by the agency upon such retirement;

5. The manufacture, transfer, or possession of any large capacity ammunition feeding device by a manufacturer or importer for the purposes of testing or experimentation in accordance with §478.153; or

6. The manufacture, transfer, or possession of any large capacity ammunition feeding device by a manufacturer or importer for the purpose of exportation in accordance with the Arms Export Control Act (22 U.S.C. 2778).

(c) Importation, manufacture, and dealing in large capacity ammunition feeding devices. Possession and transfer of large capacity ammunition feeding devices by persons who manufacture, import, or deal in such devices will be presumed to be lawful if such persons maintain evidence establishing that the devices are possessed and transferred for sale to purchasers specified in paragraph (b) of this section. Examples of acceptable evidence include the following:

1. Contracts between persons who import or manufacture such devices and persons who deal in such devices stating that the devices may only be sold to law enforcement agencies or other purchasers specified in paragraph (b) of this section;

2. Copies of purchase orders submitted to persons who manufacture, import, or deal in such devices by law enforcement agencies or other purchasers specified in paragraph (b) of this section;

3. Copies of letters submitted to persons who manufacture, import, or deal in such devices by government agencies or other purchasers specified in paragraph (b) of this section expressing an interest in purchasing the devices;

4. Letters from persons who deal in such devices to persons who import or manufacture such devices stating that sales will only be made to law enforcement agencies or other purchasers specified in paragraph (b) of this section; and

(Please note: The above text is an exact representation of the Document Image in question.)
(5) Letters from law enforcement officers purchasing in accordance with paragraph (b)(2) of this section and §478.132.

(Paragraph (c) approved by the Office of Management and Budget under control number 1140–0041)


Subpart D—Licenses

§478.41 General.

(a) Each person intending to engage in business as an importer or manufacturer of firearms or ammunition, or a dealer in firearms shall, before commencing such business, obtain the license required by this subpart for the business to be operated. Each person who desires to obtain a license as a collector of curios or relics may obtain such a license under the provisions of this subpart.

(b) Each person intending to engage in business as a firearms or ammunition importer or manufacturer, or dealer in firearms shall file an application, with the required fee (see §478.42), with ATF in accordance with the instructions on the form (see §478.44), and, pursuant to §478.47, receive the license required for such business from the Chief, Federal Firearms Licensing Center. Except as provided in §478.50, a license must be obtained for each business and each place at which the applicant is to do business. A license as an importer or manufacturer of firearms or ammunition, or a dealer in firearms shall, subject to the provisions of the Act and other applicable provisions of law, entitle the licensee to transport, ship, receive, and acquire curios and relics in interstate or foreign commerce, and to make disposition of curios and relics in interstate or foreign commerce, to any other person licensed under the provisions of this part, for the period stated on the license.

(d) The collector license provided by this part shall apply only to transactions related to a collector's activity in acquiring, holding or disposing of curios and relics. A collector's license does not authorize the collector to engage in a business required to be licensed under the Act or this part. Therefore, if the acquisitions and dispositions of curios and relics by a collector bring the collector within the definition of a manufacturer, importer, or dealer under this part, he shall qualify as such. (See also §478.93 of this part.)


§ 478.42 License fees.

Each applicant shall pay a fee for obtaining a firearms license or ammunition license, a separate fee being required for each business or collecting activity at each place of such business or activity, as follows:

(a) For a manufacturer:
   (1) Of destructive devices, ammunition for destructive devices or armor piercing ammunition—$1,000 per year.
   (2) Of firearms other than destructive devices—$50 per year.
   (3) Of ammunition for firearms other than ammunition for destructive devices or armor piercing ammunition—$10 per year.

(b) For an importer:
   (1) Of destructive devices, ammunition for destructive devices or armor piercing ammunition—$1,000 per year.
   (2) Of firearms other than destructive devices or ammunition for firearms other than ammunition for destructive devices or armor piercing ammunition—$50 per year.

(c) For a dealer:
   (1) In destructive devices—$1,000 per year.
   (2) Who is not a dealer in destructive devices—$200 for 3 years, except that the fee for renewal of a valid license shall be $90 for 3 years.
   (d) For a collector of curios and reliefs—$10 per year.


§ 478.43 License fee not refundable.

No refund of any part of the amount paid as a license fee shall be made where the operations of the licensee are, for any reason, discontinued during the period of an issued license. However, the license fee submitted with an application for a license shall be refunded if that application is denied or withdrawn by the applicant prior to being acted upon.


§ 478.44 Original license.

(a)(1) Any person who intends to engage in business as a firearms or ammunition importer or manufacturer, firearms dealer, or who has not previously been licensed under the provisions of this part to so engage in business, or who has not timely submitted an application for renewal of the previous license issued under this part, must file an application for license, ATF Form 7 (Firearms), in duplicate, with ATF in accordance with the instructions on the form. The application must:
   (i) Be executed under the penalties of perjury and the penalties imposed by 18 U.S.C. 924;
   (ii) Include a photograph and fingerprints as required in the instructions on the form;
   (iii) If the applicant (including, in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is an alien who has been admitted to the United States under a non-immigrant visa, applicable documentation demonstrating that the alien falls within an exception specified in 18 U.S.C. 922(y)(2) (e.g., a hunting license or permit lawfully issued in the United States) or has obtained a waiver as specified in 18 U.S.C. 922(y)(3); and
   (iv) Include the appropriate fee in the form of money order or check made payable to the “Bureau of Alcohol, Tobacco, Firearms, and Explosives”.

(2) ATF Form 7 may be obtained by contacting the ATF Distribution Center (See §478.21).

(b) Any person who desires to obtain a license as a collector under the Act and this part, or who has not timely submitted an application for renewal of the previous license issued under this part, shall file an application, ATF Form 7CR (Curios and Relics), with ATF in accordance with the instructions on the form. If the applicant (including, in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is an alien who has been admitted to the United States under a nonimmigrant visa, the application must include applicable documentation demonstrating that the alien falls within an exception specified in 18 U.S.C. 922(y)(2) (e.g., a hunting license or permit lawfully issued in the United States) or has obtained a waiver as specified in 18 U.S.C. 922(y)(3); and

§ 478.45 Renewal of license.

If a licensee intends to continue the business or activity described on a license issued under this part during any portion of the ensuing year, the licensee shall, unless otherwise notified in writing by the Chief, Federal Firearms Licensing Center, execute and file with ATF prior to the expiration of the license an application for a license renewal, ATF Form 8 Part II, in accordance with the instructions on the form, and the required fee. If the applicant is an alien who has been admitted to the United States under a nonimmigrant visa, the application must include applicable documentation demonstrating that the alien falls within an exception specified in 18 U.S.C. 922(y)(2) (e.g., a hunting license or permit lawfully issued in the United States) or has obtained a waiver as specified in 18 U.S.C. 922(y)(3). The Chief, Federal Firearms Licensing Center may, in writing, require the applicant for license renewal to also file completed ATF Form 7CR in the manner required by §478.44. In the event the licensee does not timely file an ATF Form 8 Part II, the licensee must file an ATF Form 7 or ATF Form 7CR as required by §478.44, and obtain the required license before continuing business or collecting activity. If an ATF Form 8 Part II is not timely received through the mails, the licensee should so notify the Chief, Federal Firearms Licensing Center.

(Approved by the Office of Management and Budget under control number 1140–0060)


§ 478.46 Insufficient fee.

If an application is filed with an insufficient fee, the application and any fee submitted will be returned to the applicant.


§ 478.47 Issuance of license.

(a) Upon receipt of a properly executed application for a license on ATF Form 7, ATF Form 7CR, or ATF Form 8 Part II, the Chief, Federal Firearms Licensing Center, shall, upon finding through further inquiry or investigation, or otherwise, that the applicant is qualified, issue the appropriate license. Each license shall bear a serial number and such number may be assigned to the licensee to whom issued for so long as the licensee maintains continuity of renewal in the same location (State).

(b) The Chief, Federal Firearms Licensing Center, shall approve a properly executed application for license on ATF Form 7, ATF Form 7CR, or ATF Form 8 Part II, if:

(1) The applicant is 21 years of age or over;

(2) The applicant (including, in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is not prohibited under the provisions of the Act from shipping or transporting in interstate or foreign commerce, or possessing in or affecting commerce, any firearm or ammunition, or from receiving any firearm or ammunition which has been shipped or transported in interstate or foreign commerce;

(3) The applicant has not willfully violated any of the provisions of the Act or this part;

(4) The applicant has not willfully failed to disclose any material information required, or has not made any
false statement as to any material fact, in connection with his application; and

(5) The applicant has in a State (i) premises from which he conducts business within a reasonable period of time, or (ii) in the case of a collector, premises from which he conducts his collecting subject to license under the Act or from which he intends to conduct such collecting within a reasonable period of time.

(c) The Chief, Federal Firearms Licensing Center, shall approve or the Director of Industry Operations shall deny an application for a license within the 60-day period beginning on the date the properly executed application was received: Provided, That when an applicant for license renewal is a person who is, pursuant to the provisions of §478.78, §478.143, or §478.144, conducting business or collecting activity under a previously issued license, action regarding the application will be held in abeyance pending the completion of the proceedings against the applicant’s existing license or license application, final determination of the applicant’s criminal case, or final action by the Director on an application for relief submitted pursuant to §478.144, as the case may be.

(d) When the Director of Industry Operations or the Chief, Federal Firearms Licensing Center fails to act on an application for a license within the 60-day period prescribed by paragraph (c) of this section, the applicant may file an action under section 1361 of title 28, United States Code, to compel ATF to act upon the application.


§478.49 Duration of license.

The license entitles the person to whom issued to engage in the business or activity specified on the license, within the limitations of the Act and the regulations contained in this part, for a three year period, unless terminated sooner.

§ 478.50 Locations covered by license.

The license covers the class of business or the activity specified in the license at the address specified therein. A separate license must be obtained for each location at which a firearms or ammunition business or activity requiring a license under this part is conducted except:

(a) No license is required to cover a separate warehouse used by the licensee solely for storage of firearms or ammunition if the records required by this part are maintained at the licensed premises served by such warehouse;

(b) A licensed collector may acquire curios and relics at any location, and dispose of curios or relics to any licensee or to other persons who are residents of the State where the collector's license is held and the disposition is made;

(c) A licensee may conduct business at a gun show pursuant to the provisions of § 478.100; or

(d) A licensed importer, manufacturer, or dealer may engage in the business of dealing in curio or relic firearms with another licensee at any location pursuant to the provisions of § 478.100.

§ 478.51 License not transferable.

Licenses issued under this part are not transferable. In the event of the lease, sale, or other transfer of the operations authorized by the license, the successor must obtain the license required by this part prior to commencing such operations. However, for rules on right of succession, see § 478.56.

§ 478.52 Change of address.

(a) Licensees may during the term of their current license remove their business or activity to a new location at which they intend regularly to carry on such business or activity by filing an Application for an Amended Federal Firearms License, ATF Form 5300.38, in duplicate, not less than 30 days prior to such removal with the Chief, Federal Firearms Licensing Center. The ATF Form 5300.38 shall be completed in accordance with the instructions on the form. The application must be executed under the penalties of perjury and penalties imposed by 18 U.S.C. 924. The application shall be accompanied by the licensee's original license. The Chief, Federal Firearms Licensing Center, may, in writing, require the applicant for an amended license to also file completed ATF Form 7 or ATF Form 7CR, or portions thereof, in the manner required by § 478.44.

(b) Upon receipt of a properly executed application for an amended license, the Chief, Federal Firearms Licensing Center, shall, upon finding through further inquiry or investigation, or otherwise, that the applicant is qualified at the new location, issue the amended license, and return it to the applicant. The license shall be valid for the remainder of the term of the original license. The Chief, Federal Firearms Licensing Center, shall, if the applicant is not qualified, refer the application for amended license to the Director of Industry Operations for denial in accordance with § 478.71.

(Approved by the Office of Management and Budget under control number 1140–0040)


§ 478.53 Change in trade name.

A licensee continuing to conduct business at the location shown on his license is not required to obtain a new license by reason of a mere change in trade name under which he conducts his business: Provided, That such licensee furnishes his license for endorsement of such change to the Chief, Federal Firearms Licensing Center within 30 days from the date the licensee begins his business under the new trade name.


§ 478.54 Change of control.

In the case of a corporation or association holding a license under this part, if actual or legal control of the corporation or association changes directly or indirectly, whether by reason...
of change in stock ownership or control (in the licensed corporation or in any other corporation), by operations of law, or in any other manner, the licensee shall, within 30 days of such change, give written notification thereof, executed under the penalties of perjury, to the Chief, Federal Firearms Licensing Center. Upon expiration of the license, the corporation or association must file a Form 7 (Firearms) as required by § 478.44.

§ 478.55 Continuing partnerships.

Where, under the laws of the particular State, the partnership is not terminated on death or insolvency of a partner, but continues until the winding up of the partnership affairs is completed, and the surviving partner has the exclusive right to the control and possession of the partnership assets for the purpose of liquidation and settlement, such surviving partner may continue to operate the business under the license of the partnership. If such surviving partner acquires the business on completion of the settlement of the partnership, he shall obtain a license in his own name from the date of acquisition, as provided in § 478.44. The rule set forth in this section shall also apply where there is more than one surviving partner.

§ 478.56 Right of succession by certain persons.

(a) Certain persons other than the licensee may secure the right to carry on the same firearms or ammunition business at the same address shown on, and for the remainder of the term of, a current license. Such persons are:

(1) The surviving spouse or child, or executor, administrator, or other legal representative of a deceased licensee; and

(2) A receiver or trustee in bankruptcy, or an assignee for benefit of creditors.

(b) In order to secure the right provided by this section, the person or persons continuing the business shall furnish the license for that business for endorsement of such succession to the Chief, Federal Firearms Licensing Center, within 30 days from the date on which the successor begins to carry on the business.

§ 478.57 Discontinuance of business.

(a) Where a firearm or ammunition business is either discontinued or succeeded by a new owner, the owner of the business discontinued or succeeded shall within 30 days thereof furnish to the Chief, Federal Firearms Licensing Center notification of the discontinuance or succession. (See also § 478.127.)

(b) Since section 922(v), Title 18, U.S.C., makes it unlawful to transfer or possess a semiautomatic assault weapon, except as provided in the law, any licensed manufacturer, licensed importer, or licensed dealer intending to discontinue business shall, prior to going out of business, transfer in compliance with the provisions of this part any semiautomatic assault weapon manufactured or imported after September 13, 1994, to a person specified in §478.40(b), or, subject to the provisions of §§478.40(c) and 478.132, a licensed manufacturer, a licensed importer, or a licensed dealer.

(c) Since section 922(w), Title 18, U.S.C., makes it unlawful to transfer or possess a large capacity ammunition feeding device, except as provided in the law, any person who manufactures, imports, or deals in such devices and who intends to discontinue business shall, prior to going out of business, transfer in compliance with the provisions of this part any large capacity ammunition feeding device manufactured after September 13, 1994, to a person specified in §478.40a(b), or, subject to the provisions of §§478.40a(c) and 478.132, a person who manufactures, imports, or deals in such devices.
§ 478.58  State or other law.

A license issued under this part confers no right or privilege to conduct business or activity contrary to State or other law. The holder of such a license is not by reason of the rights and privileges granted by that license immune from punishment for operating a firearm or ammunition business or activity in violation of the provisions of any State or other law. Similarly, compliance with the provisions of any State or other law affords no immunity under Federal law or regulations.

§ 478.59  Abandoned application.

Upon receipt of an incomplete or improperly executed application on ATF form 7 (5310.12), or ATF Form 8 (5310.11) Part II, the applicant shall be notified of the deficiency in the application. If the application is not corrected and returned within 30 days following the date of notification, the application shall be considered as having been abandoned and the license fee returned.


§ 478.60  Certain continuances of business.

A licensee who furnishes his license to the Chief, Federal Firearms Licensing Center for correction or endorsement in compliance with the provisions contained in this subpart may continue his operations while awaiting its return.


Subpart E—License Proceedings

§ 478.71  Denial of an application for license.

Whenever the Director has reason to believe that an applicant is not qualified to receive a license under the provisions of §478.47, he may issue a notice of denial, on Form 4498, to the applicant. The notice shall set forth the matters of fact and law relied upon in determining that the application should be denied, and shall afford the applicant 15 days from the date of receipt of the notice in which to request a hearing to review the denial. If no request for a hearing is filed within such time, the application shall be disapproved and a copy, so marked, shall be returned to the applicant.


§ 478.72  Hearing after application denial.

If the applicant for an original or renewal license desires a hearing to review the denial of his application, he shall file a request therefor, in duplicate, with the Director of Industry Operations within 15 days after receipt of the notice of denial. The request should include a statement of the reasons therefor. On receipt of the request, the Director of Industry Operations shall, as expeditiously as possible, make the necessary arrangements for the hearing and advise the applicant of the date, time, location, and the name of the officer before whom the hearing will be held. Such notification shall be made not less than 10 days in advance of the date set for the hearing. On conclusion of the hearing and consideration of all relevant facts and circumstances presented by the applicant or his representative, the Director shall render his decision confirming or reversing the denial of the application. If the decision is that the denial should stand, a certified copy of the Director’s findings and conclusions shall be furnished to the applicant with a final notice of denial, Form 5300.13. A copy of the application, marked “Disapproved,” will be returned to the applicant. If the decision is that the license applied for should be issued, the applicant shall be so notified, in writing, and the license shall be issued as provided by §478.47.


§ 478.73  Notice of revocation, suspension, or imposition of civil fine.

(a) Basis for action. Whenever the Director has reason to believe that a licensee has willfully violated any provision of the Act or this part, a notice of revocation of the license, ATF Form
478.76 Representation at a hearing.

An applicant or licensee may be represented by an attorney, certified public accountant, or other person recognized to practice before the Bureau of
§ 478.77 Designated place of hearing.

The designated place of the hearing shall be a location convenient to the aggrieved party.


§ 478.78 Operations by licensee after notice.

In any case where denial, suspension, or revocation proceedings are pending before the Bureau of Alcohol, Tobacco, Firearms, and Explosives, or notice of denial, suspension, or revocation has been served on the licensee and he has filed timely request for a hearing, the license in the possession of the licensee shall remain in effect even though such license has expired, or the suspension or revocation date specified in the notice of revocation on Form 4500 served on the licensee has passed: Provided, That with respect to a license that has expired, the licensee has timely filed an application for the renewal of his license. If a licensee is dissatisfied with a posthearing decision revoking or suspending the license or denying the application or imposing a civil fine, he may file a petition for judicial review of such action. Such petition should be filed with the U.S. district court for the district in which the applicant or licensee resides or has his principal place of business. In such case, when the Director finds that justice so requires, he may postpone the effective date of suspension or revocation of a license or authorize continued operations under the expired license, as applicable, pending judicial review.

obiterated, altered, or removed. For firearms manufactured or imported on and after January 30, 2002, the engraving, casting, or stamping (impressing) of this information must be to a minimum depth of .003 inch. The additional information includes:

(A) The model, if such designation has been made;
(B) The caliber or gauge;
(C) Your name (or recognized abbreviation) and also, when applicable, the name of the foreign manufacturer;
(D) 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; and
(E) 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.

(2) Firearm frames or receivers. A firearm frame or receiver that is not a component part of a complete weapon at the time it is sold, shipped, or otherwise disposed of by you must be identified as required by this section.

(3) Special markings for semiautomatic assault weapons, effective July 5, 1995. In the case of any semiautomatic assault weapon manufactured after September 13, 1994, you must mark the frame or receiver “RESTRICTED LAW ENFORCEMENT/GOVERNMENT USE ONLY” or, in the case of weapons manufactured for export, “FOR EXPORT ONLY,” in a manner not susceptible of being readily obliterated, altered, or removed. For weapons manufactured or imported on and after January 30, 2002, the engraving, casting, or stamping (impressing) of the special markings prescribed in this paragraph (a)(3) must be to a minimum depth of .003 inch.

(4) Exceptions. (i) Alternate means of identification. The Director may authorize other means of identification upon receipt of a letter application from you, submitted in duplicate, showing that such other identification is reasonable and will not hinder the effective administration of this part.

(ii) Destructive devices. In the case of a destructive device, the Director may authorize other means of identifying that weapon upon receipt of a letter application from you, submitted in duplicate, showing that engraving, casting, or stamping (impressing) such a weapon would be dangerous or impracticable.

(iii) Machine guns, silencers, and parts. Any part defined as a machine gun, firearm muffler, or firearm silencer in §478.11, that is not a component part of a complete weapon at the time it is sold, shipped, or otherwise disposed of by you, must be identified as required by this section. The Director may authorize other means of identification of parts defined as machine guns other than frames or receivers and parts defined as mufflers or silencers upon receipt of a letter application from you, submitted in duplicate, showing that such other identification is reasonable and will not hinder the effective administration of this part.

(5) Measurement of height and depth of markings. 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)(i) of this section will be measured as the distance between the latitudinal ends of the character impression bottoms (bases).

(b) Armor piercing ammunition—(1) Marking of ammunition. Each licensed manufacturer or licensed importer of armor piercing ammunition shall identify such ammunition by means of painting, staining or dying the exterior of the projectile with an opaque black coloring. This coloring must completely cover the point of the projectile and at least 50 percent of that portion of the projectile which is visible when the projectile is loaded into a cartridge case.

(2) Labeling of packages. Each licensed manufacturer or licensed importer of armor piercing ammunition shall clearly and conspicuously label each package in which armor piercing ammunition is contained, e.g., each box, carton, case, or other container. The label shall include the words “ARMOR PIERCING” in block letters at least 1/4 inch in height. The lettering shall be
located on the exterior surface of the package which contains information concerning the caliber or gauge of the ammunition. There shall also be placed on the same surface of the package in block lettering at least ½ inch in height the words "FOR GOVERNMENTAL ENTITIES OR EXPORTATION ONLY." The statements required by this subparagraph shall be on a contrasting background.

(c) Large capacity ammunition feeding devices manufactured after September 13, 1994. (1) Each person who manufactures or imports any large capacity ammunition feeding device manufactured after September 13, 1994, shall legibly identify each such device with a serial number. Such person may use the same serial number for all large capacity ammunition feeding devices produced.

(i) Additionally, in the case of a domestically made large capacity ammunition feeding device, such device shall be marked with the name, city and State (or recognized abbreviation thereof) of the manufacturer;

(ii) And in the case of an imported large capacity ammunition feeding device, such device shall be marked:

(A) With the name of the manufacturer, country of origin, and,

(B) Effective July 5, 1995, the name, city and State (or recognized abbreviation thereof) of the importer.

(iii) Further, large capacity ammunition feeding devices manufactured after September 13, 1994, shall be marked "RESTRICTED LAW ENFORCEMENT/GOVERNMENT USE ONLY" or, in the case of devices manufactured or imported for export, effective July 5, 1995, "FOR EXPORT ONLY."

(2) All markings required by this paragraph (c) shall be cast, stamped, or engraved on the exterior of the device. In the case of a magazine, the markings shall be placed on the magazine body.

(3) Exceptions—(i) Metallic links. Persons who manufacture or import metallic links for use in the assembly of belted ammunition are only required to place the identification marks prescribed in paragraph (c)(1) of this section on the containers used for the packaging of the links.

(ii) Alternate means of identification. The Director may authorize other means of identifying large capacity ammunition feeding devices upon receipt of a letter application, in duplicate, from the manufacturer or importer showing that such other identification is reasonable and will not hinder the effective administration of this part.

(Approved by the Office of Management and Budget under control number 1140–0050)


§ 478.93 Authorized operations by a licensed collector.

The license issued to a collector of curios or relics under the provisions of this part shall cover only transactions by the licensed collector in curios and relics. The collector’s license is of no force or effect and a licensed collector is of the same status under the Act and this part as a nonlicensee with respect to (a) any acquisition or disposition of firearms other than curios or relics, or any transportation, shipment, or receipt of firearms other than curios or relics in interstate or foreign commerce, and (b) any transaction with a nonlicensee involving any firearm other than a curio or relic. (See also § 478.50.) A collector's license is not necessary to receive or dispose of ammunition, and a licensed collector is not precluded by law from receiving or disposing of armor piercing ammunition. However, a licensed collector may not dispose of any ammunition to a person prohibited from receiving or possessing ammunition (see § 478.99(c)). Any licensed collector who disposes of armor piercing ammunition must record the disposition as required by § 478.125 (a) and (b).


§ 478.94 Sales or deliveries between licensees.

A licensed importer, licensed manufacturer, or licensed dealer selling or otherwise disposing of firearms, and a licensed collector selling or otherwise disposing of curios or relics, to another
licensor shall verify the identity and licensed status of the transferee prior to making the transaction. Verification shall be established by the transferee furnishing to the transferor a certified copy of the transferee’s license and by such other means as the transferor deems necessary: Provided, That it shall not be required (a) for a transferee who has furnished a certified copy of its license to a transferor to again furnish such certified copy to that transferor during the term of the transferee’s current license, (b) for a licensor to furnish a certified copy of its license to another licensee if a firearm is being returned either directly or through another licensee to such licensee and (c) for licensees of multi-licensed business organizations to furnish certified copies of their licenses to other licensed locations operated by such organization: Provided further, That a multilicensed business organization may furnish to a transferor, in lieu of a certified copy of each license, a list, certified to be true, correct and complete, containing the name, address, license number, and the date of license expiration of each licensed location operated by such organization: §478.95 Certified copy of license.

The license furnished to each person licensed under the provisions of this part contains a purchasing certification statement. This original license may be reproduced and the reproduction then certified by the licensee for use pursuant to §178.94. If the licensee desires an additional copy of the license for certification (instead of making a reproduction of the original license), the licensee may submit a request, in writing, for a certified copy or copies of the license to the Chief Federal Firearms Licensing Center. The request must set forth the name, trade name (if any) and address of the licensee, and the number of license copies desired. There is a charge of $1 for each copy. The fee paid for copies of the license must accompany the request for copies. The fee may be paid by (a) cash, or (b) money order or check made payable to the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

§478.96 Out-of-State and mail order sales.

(a) The provisions of this section shall apply when a firearm is purchased by or delivered to a person not otherwise prohibited by the Act from purchasing or receiving it.

(b) A licensed importer, licensed manufacturer, or licensed dealer may sell a firearm that is not subject to the provisions of §478.102(a) to a non-licensee who does not appear in person at the licensee’s business premises if the nonlicensee is a resident of the same State in which the licensee’s business premises are located, and the nonlicensee furnishes to the licensee the firearms transaction record, Form 4473, required by §478.124. The nonlicensee shall attach to such record a true copy of any permit or other information required pursuant to any statute of the State and published ordinance applicable to the locality in which he resides. The licensee shall prior to shipment or delivery of the firearm, forward by registered or certified mail (return receipt requested) a copy of the record, Form 4473, to the chief law enforcement officer named on such record, and delay shipment or delivery of the firearm for a period of at least 7 days following receipt of the return receipt evidencing delivery of the copy of the record to such chief law enforcement officer, or the return of the copy of the record to
§ 478.97 Loan or rental of firearms.

(a) A licensee may lend or rent a firearm to any person for temporary use off the premises of the licensee for lawful sporting purposes: Provided, That the delivery of the firearm to such person is not prohibited by § 478.99(b) or § 478.99(c), the licensee complies with the requirements of § 478.102, and the licensee records such loan or rental in the records required to be kept by him under Subpart H of this part.

(b) A club, association, or similar organization temporarily furnishing firearms (whether by loan, rental, or otherwise) to participants in a skeet, trap, target, or similar shooting activity for use at the time and place such activity is held does not, unattended by other circumstances, cause such club, association, or similar organization to be engaged in the business of a dealer in firearms or as engaging in firearms transactions. Therefore, licensing and recordkeeping requirements contained in this part pertaining to firearms transactions would not apply to this temporary furnishing of firearms for use on premises on which such an activity is conducted.


§ 478.98 Sales or deliveries of destructive devices and certain firearms.

The sale or delivery by a licensee of any destructive device, machine gun, short-barreled shotgun, or short-barreled rifle, to any person other than another licensee who is licensed under this part to deal in such device or firearm, is prohibited unless the person to receive such device or firearm furnishes to the licensee a sworn statement setting forth

(a) The reasons why there is a reasonable necessity for such person to purchase or otherwise acquire the device or weapon; and

(b) That such person’s receipt or possession of the device or weapon would be consistent with public safety. Such sworn statement shall be made on the application for transfer and register the firearm required by Part 479 of this chapter. The sale or delivery of the device or weapon shall not be made until the application for transfer is approved by the Director and returned to the licensee (transferor) as provided in Part 479 of this chapter.

§ 478.99 Certain prohibited sales or deliveries.

(a) Interstate sales or deliveries. A licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall not sell or deliver any firearm to any person not licensed under this part and who the licensee knows or has reasonable cause to believe does not reside in (or if a corporation or other business entity, does not maintain a place of business in) the State in which the licensee’s place of business or activity is located: Provided, That the foregoing provisions of this paragraph (1) shall not apply to the sale or delivery of a rifle or shotgun (curio or relic, in the case of a licensed collector) to a resident of a State other than the State in which the licensee’s place of business or collection premises is located if the requirements of § 478.96(c) are fully met, and (2) shall not apply to the loan or rental of a firearm to any person for temporary use for lawful sporting purposes (see § 478.97).

(b) Sales or deliveries to underaged persons. A licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall not sell or deliver (1) any firearm or ammunition to any individual who the importer, manufacturer, dealer, or collector knows or has reasonable cause to believe is less than 18 years of age, and, if the firearm, or ammunition, is other than a shotgun or rifle, to any individual who the importer, manufacturer, dealer, or collector knows or has reasonable cause to believe is less than 21 years of age, or (2) any firearm to any person in any State where the purchase or possession by such person of such firearm would be in violation of any State law or any published ordinance applicable at the place of sale, delivery, or other disposition, unless the importer, manufacturer, dealer, or collector knows or has reasonable cause to believe that the purchase or possession would not be in violation of such State law or such published ordinance.

(c) Sales or deliveries to prohibited categories of persons. A licensed manufacturer, licensed importer, licensed dealer, or licensed collector shall not sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person:

(1) Is, except as provided by § 478.143, under indictment for, or, except as provided by § 478.144, has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year;

(2) Is a fugitive from justice;

(3) Is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802);

(4) Has been adjudicated as a mental defective or has been committed to any mental institution;

(5) Is an alien illegally or unlawfully in the United States or, except as provided in § 478.32(f), is an alien who has been admitted to the United States under a nonimmigrant visa: Provided, That the provisions of this paragraph (c)(5) do not apply to any alien who has been lawfully admitted to the United States under a nonimmigrant visa if that alien is—

(i) Admitted to the United States for lawful hunting or sporting purposes or is in possession of a hunting license or permit lawfully issued in the United States;

(ii) An official representative of a foreign government who is either accredited to the United States Government or the Government’s mission to an international organization having its headquarters in the United States or en route to or from another country to which that alien is accredited. This exception only applies if the firearm or ammunition is shipped, transported, possessed, or received in the representative’s official capacity;

(iii) An official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State. This exception only applies if the firearm or ammunition is shipped, transported, possessed, or received in the official’s or visitor’s official capacity, except if the visitor is a private individual who does not have an official capacity; or

(iv) A foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business;
§ 478.100 Conduct of business away from licensed premises.

(a)(1) A licensee may conduct business temporarily at a gun show or event as defined in paragraph (b) if the gun show or event is located in the same State specified on the license: Provided, That such business shall not be conducted from any motorized or towed vehicle. The premises of the gun show or event at which the licensee conducts business shall be considered part of the licensed premises. Accordingly, no separate fee or license is required for the gun show or event locations. However, licensees shall comply with the provisions of § 478.91 relating to posting of licenses (or a copy thereof) while conducting business at the gun show or event.

(2) A licensed importer, manufacturer, or dealer may engage in the business of dealing in curio or relic firearms with another licensee at any location.

(b) A gun show or an event is a function sponsored by any national, State, or local organization, devoted to the collection, competitive use, or other sporting use of firearms, or an organization or association that sponsors functions devoted to the collection, competitive use, or other sporting use of firearms in the community.

(c) Licensees conducting business at locations other than the premises specified on their license under the provisions of paragraph (a) of this section and manner prescribed by § 478.125(c). Any licensed dealer who violates this paragraph is subject to license revocation. See subpart E of this part. For purposes of this paragraph, the Director shall furnish each licensed dealer information defining which projectiles are considered armor piercing. Such information may not be all-inclusive for purposes of the prohibition on manufacture, importation, or sale or delivery by a manufacturer or importer of such ammunition or 18 U.S.C. 929 relating to criminal misuse of such ammunition.

shall maintain firearms records in the form and manner prescribed by subpart H of this part. In addition, records of firearms transactions conducted at such locations shall include the location of the sale or other disposition, be entered in the acquisition and disposition records of the licensee, and retained on the premises specified on the license.


§ 478.102 Sales or deliveries of firearms on and after November 30, 1998.

(a) Background check. Except as provided in paragraph (d) of this section, a licensed importer, licensed manufacturer, or licensed dealer (the licensee) shall not sell, deliver, or transfer a firearm to any other person who is not licensed under this part unless the licensee meets the following requirements:

(1) Before the completion of the transfer, the licensee has contacted NICS;

(2)(i) NICS informs the licensee that it has no information that receipt of the firearm by the transferee would be in violation of Federal or State law and provides the licensee with a unique identification number; or

(ii) Three business days (meaning days on which State offices are open) have elapsed from the date the licensee contacted NICS and NICS has not notified the licensee that receipt of the firearm by the transferee would be in violation of law; and

(3) The licensee verifies the identity of the transferee by examining the identification document presented in accordance with the provisions of § 478.124(c).

Example for paragraph (a). A licensee contacts NICS on Thursday, and gets a “delayed” response. The licensee does not get a further response from NICS. If State offices are not open on Saturday and Sunday, 3 business days would have elapsed on the following Tuesday. The licensee may transfer the firearm on the next day, Wednesday.

(b) Transaction number. In any transaction for which a licensee receives a transaction number from NICS (which shall include either a NICS transaction number or, in States where the State is recognized as a point of contact for NICS checks, a State transaction number), such number shall be recorded on a firearms transaction record, Form 4473, which shall be retained in the records of the licensee in accordance with the provisions of § 478.129. This applies regardless of whether the transaction is approved or denied by NICS, and regardless of whether the firearm is actually transferred.

(c) Time limitation on NICS checks. A NICS check conducted in accordance with paragraph (a) of this section may be relied upon by the licensee only for use in a single transaction, and for a period not to exceed 30 calendar days from the date that NICS was initially contacted. If the transaction is not completed within the 30-day period, the licensee shall initiate a new NICS check prior to completion of the transfer.

Example 1 for paragraph (c). A purchaser completes the Form 4473 on December 15, 1998, and a NICS check is initiated by the licensee on that date. The licensee is informed by NICS that the information available to the system does not indicate that receipt of the firearm by the transferee would be in violation of law, and a unique identification number is provided. However, the State imposes a 7-day waiting period on all firearms transactions, and the purchaser does not return to pick up the firearm until January 22, 1999. The licensee must conduct another NICS check before transferring the firearm to the purchaser.

Example 2 for paragraph (c). A purchaser completes the Form 4473 on January 25, 1999, and arranges for the purchase of a single firearm. A NICS check is initiated by the licensee on that date. The licensee is informed by NICS that the information available to the system does not indicate that receipt of the firearm by the transferee would be in violation of law, and a unique identification number is provided. The State imposes a 7-day waiting period on all firearms transactions, and the purchaser returns to pick up the firearm on February 15, 1999. Before the licensee executes the Form 4473, and the firearm is transferred, the purchaser decides to purchase an additional firearm. The transfer...
of these two firearms is considered a single transaction; accordingly, the licensee may add the second firearm to the Form 4473, and transfer that firearm without conducting another NICS check.

Example 3 for paragraph (c). A purchaser completes a Form 4473 on February 15, 1999. The licensee receives a unique identification number from NICS on that date, the Form 4473 is executed by the licensee, and the firearm is transferred. On February 20, 1999, the purchaser returns to the licensee's premises and wishes to purchase a second firearm. The purchase of the second firearm is a separate transaction; thus, a new NICS check must be initiated by the licensee.

(d) Exceptions to NICS check. The provisions of paragraph (a) of this section shall not apply if—

(1) The transferee has presented to the licensee a valid permit or license that—

(i) Allows the transferee to possess, acquire, or carry a firearm;

(ii) Was issued not more than 5 years earlier by the State in which the transfer is to take place; and

(iii) The law of the State provides that such a permit or license is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a firearm by the transferee would be in violation of Federal, State, or local law: Provided, That on and after November 30, 1998, the information available to such official includes the NICS;

(2) The firearm is subject to the provisions of the National Firearms Act and has been approved for transfer under 27 CFR part 479; or

(3) On application of the licensee, in accordance with the provisions of § 478.150, the Director has certified that compliance with paragraph (a)(1) of this section is impracticable.

(e) The document referred to in paragraph (d)(1) of this section (or a copy thereof) shall be retained or the required information from the document shall be recorded on the firearms transaction record in accordance with the provisions of § 478.131.

(Approved by the Office of Management and Budget under control number 1140–0045)

§ 478.103 Posting of signs and written notification to purchasers of handguns.

(a) Each licensed importer, manufacturer, dealer, or collector who delivers a handgun to a nonlicensee shall provide such nonlicensee with written notification as described in paragraph (b) of this section.

(b) The written notification (ATF I 5300.2) required by paragraph (a) of this section shall state as follows:

(1) The misuse of handguns is a leading contributor to juvenile violence and fatalities.

(2) Safely storing and securing firearms away from children will help prevent the unlawful possession of handguns by juveniles, stop accidents, and save lives.

(3) Federal law prohibits, except in certain limited circumstances, anyone under 18 years of age from knowingly possessing a handgun, or any person from transferring a handgun to a person under 18.

(4) A knowing violation of the prohibition against selling, delivering, or otherwise transferring a handgun to a person under the age of 18 is, under certain circumstances, punishable by up to 10 years in prison.

FEDERAL LAW

The Gun Control Act of 1968, 18 U.S.C., Chapter 44, provides in pertinent part as follows:

18 U.S.C. 922(x)

(x)(1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a person who the transferor knows or has reasonable cause to believe is a juvenile—

(A) a handgun; or

(B) ammunition that is suitable for use only in a handgun.

(2) It shall be unlawful for any person who is a juvenile to knowingly possess—

(A) a handgun; or

(B) ammunition that is suitable for use only in a handgun.

(3) This subsection does not apply to—

(A) a temporary transfer of a handgun or ammunition to a juvenile or to the possession or use of a handgun or ammunition by a juvenile if the handgun and ammunition are possessed and used by the juvenile—

(i) in the course of employment, in the course of ranching or farming related to activities at the residence of the juvenile or on property used for ranching or farming at which the juvenile, with the permission of
the property owner or lessee, is performing activities related to the operation of the farm or ranch, target practice, hunting, or a course of instruction in the safe and lawful use of a handgun;

(ii) with the prior written consent of the juvenile’s parent or guardian who is not prohibited by Federal, State, or local law from possessing a firearm, except—

(I) during transportation by the juvenile of an unloaded handgun in a locked container directly from the place of transfer to a place at which an activity described in clause (i) is to take place and transportation by the juvenile of that handgun, unloaded and in a locked container, directly from the place at which such an activity took place to the transferor; or

(II) with respect to ranching or farming activities as described in clause (i) a juvenile may possess and use a handgun or ammunition with the prior written approval of the juvenile’s parent or legal guardian and at the direction of an adult who is not prohibited by Federal, State, or local law from possessing a firearm;

(iii) the juvenile has the prior written consent in the juvenile’s possession at all times when a handgun is in the possession of the juvenile; and

(iv) in accordance with State and local law;

(b) a juvenile who is a member of the Armed Forces of the United States or the National Guard who possesses or is armed with a handgun in the line of duty;

(c) a transfer by inheritance of title (but not possession) of a handgun or ammunition to a juvenile; or

(d) the possession of a handgun or ammunition by a juvenile taken in defense of the juvenile or other persons against an intruder into the residence of the juvenile or a residence in which the juvenile is an invited guest.

(B) A person other than a juvenile who knowingly violates section 922(x)—

(i) shall be fined under this title, imprisoned not more than 1 year, or both; and

(ii) if the person sold, delivered, or otherwise transferred a handgun or ammunition to a juvenile knowing or having reasonable cause to know that the juvenile intended to carry or otherwise possess or discharge or otherwise use the handgun or ammunition in the commission of a crime of violence, shall be fined under this title, imprisoned not more than 10 years, or both.

(c) This written notification shall be delivered to the nonlicensee on ATF I 5300.2, or in the alternative, the same written notification may be delivered to the nonlicensee on another type of written notification, such as a manufacturer’s or importer’s brochure accompanying the handgun; a manufacturer’s or importer’s operational manual accompanying the handgun; or sales receipt or invoice applied to the handgun package or container delivered to a nonlicensee. Any written notification delivered to a nonlicensee other than on ATF I 5300.2 shall include the language set forth in paragraph (b) of this section in its entirety. Any written notification other than ATF I 5300.2 shall be legible, clear, and conspicuous, and the required language shall appear in type size no smaller than 10-point type.

D) the possession of which is transferred to a juvenile in violation of this subsection for good cause shown.

18 U.S.C. 924(a)(6)

(6)(A)(i) A juvenile who violates section 922(x) shall be fined under this title, imprisoned not more than 1 year, or both, except that a juvenile described in clause (ii) shall be sentenced to probation on appropriate conditions and shall not be incarcerated unless the juvenile fails to comply with a condition of probation.

(ii) A juvenile is described in this clause if—

(I) the offense of which the juvenile is charged is possession of a handgun or ammunition in violation of section 922(x)(2); and

(ii) the juvenile has not been convicted in any court of an offense (including an offense under section 922(x) or a similar State law, but not including any other offense consisting of conduct that if engaged in by an adult would not constitute an offense) or adjudicated as a juvenile delinquent for conduct that if engaged in by an adult would constitute an offense.

(3) A person other than a juvenile who knowingly violates section 922(x) shall be fined under this title, imprisoned not more than 10 years, or both.
(d) Except as provided in paragraph (f) of this section, each licensed importer, manufacturer, or dealer who delivers a handgun to a nonlicensee shall display at its licensed premises (including temporary business locations at gun shows) a sign as described in paragraph (e) of this section. The sign shall be displayed where customers can readily see it. Licensed importers, manufacturers, and dealers will be provided with such signs by ATF. Replacement signs may be requested from the ATF Distribution Center.

(e) The sign (ATF I 5300.1) required by paragraph (d) of this section shall state as follows:

1. The misuse of handguns is a leading contributor to juvenile violence and fatalities.
2. Safely storing and securing firearms away from children will help prevent the unlawful possession of handguns by juveniles, stop accidents, and save lives.
3. Federal law prohibits, except in certain limited circumstances, anyone under 18 years of age from knowingly possessing a handgun, or any person from transferring a handgun to a person under 18.
4. A knowing violation of the prohibition against selling, delivering, or otherwise transferring a handgun to a person under the age of 18 is, under certain circumstances, punishable by up to 10 years in prison.

NOTE: ATF I 5300.2 provides the complete language of the statutory prohibitions and exceptions provided in 18 U.S.C. 922(a)(6). The Federal firearms licensee posting this sign will provide you with a copy of this publication upon request. Requests for additional copies of ATF I 5300.2 should be submitted to the ATF Distribution Center (http://www.atf.gov) or made by calling (202) 648-6420.

(f) The sign required by paragraph (d) of this section need not be posted on the premises of any licensed importer, manufacturer, or dealer whose only dispositions of handguns to nonlicensees are to nonlicensees who do not appear at the licensed premises and the dispositions otherwise comply with the provisions of this part.

§ 478.112 Importation by a licensed importer.

(a) No firearm, firearm barrel, or ammunition shall be imported or brought into the United States by a licensed importer (as defined in § 478.11) unless the Director has authorized the importation of the firearm, firearm barrel, or ammunition.

(b)(1) An application for a permit, ATF Form 6—Part I, to import or bring a firearm, firearm barrel, or ammunition into the United States or a possession thereof under this section must be filed, in triplicate, with the Director. The application must be signed and dated and must contain the information requested on the form, including:
   (i) The name, address, telephone number, and license number (including expiration date) of the importer;
   (ii) The country from which the firearm, firearm barrel, or ammunition is to be imported;
   (iii) The name and address of the foreign seller and foreign shipper;
   (iv) A description of the firearm, firearm barrel, or ammunition to be imported, including:
      (A) The name and address of the manufacturer;
      (B) The type (e.g., rifle, shotgun, pistol, revolver and, in the case of ammunition only, ball, wadcutter, shot, etc.);
      (C) The caliber, gauge, or size;
      (D) The model;
      (E) The barrel length, if a firearm or firearm barrel (in inches);
      (F) The overall length, if a firearm (in inches);
      (G) The serial number, if known;
      (H) Whether the firearm is new or used;
   (i) The quantity;
   (J) The unit cost of the firearm, firearm barrel, or ammunition to be imported;
   (v) The specific purpose of importation, including final recipient information if different from the importer;
   (vi) Verification that if a firearm, it will be identified as required by this part; and
   (vii)(A) If a firearm or ammunition imported or brought in for scientific or research purposes, a statement describing such purpose; or
   (B) If a firearm or ammunition for use in connection with competition or training pursuant to Chapter 401 of Title 10, U.S.C., a statement describing such intended use; or
   (C) If an unserviceable firearm (other than a machine gun) being imported as a curio or museum piece, a description of how it was rendered unserviceable and an explanation of why it is a curio or museum piece; or
   (D) If a firearm other than a surplus military firearm, of a type that does not fall within the definition of a firearm under section 5845(a) of the Internal Revenue Code of 1986, and is for sporting purposes, an explanation of why the firearm is generally recognized as particularly suitable for or readily adaptable to sporting purposes; or
   (E) If ammunition being imported for sporting purposes, a statement why the ammunition is particularly suitable for or readily adaptable to sporting purposes; or
   (F) If a firearm barrel for a handgun, an explanation why the handgun is generally recognized as particularly suitable for or readily adaptable to sporting purposes.

(ii) If the Director approves the application, such approved application will serve as the permit to import the firearm, firearm barrel, or ammunition described therein, and importation of such firearms, firearm barrels, or ammunition may continue to be made by the licensed importer under the approved application (permit) during the period specified thereon. The Director will furnish the approved application (permit) to the applicant and retain two copies thereof for administrative use.

(ii) If the Director disapproves the application, the licensed importer will be notified of the basis for the disapproval.

(c) A firearm, firearm barrel, or ammunition imported or brought into the United States or a possession thereof under the provisions of this section by a licensed importer may be released from Customs custody to the licensed importer upon showing that the importer has obtained a permit from the Director for the importation of the
§ 478.113 Importation by other licensees.

(a) No person other than a licensed importer (as defined in §478.11) shall engage in the business of importing firearms or ammunition. Therefore, no firearm or ammunition shall be imported or brought into the United States or a possession thereof by any licensee other than a licensed importer unless the Director issues a permit authorizing the importation of the firearm or ammunition. No barrel for a handgun not generally recognized as particularly suitable for or readily adaptable to sporting purposes shall be imported or brought into the United States or a possession thereof by any person. Therefore, no firearm barrel shall be imported or brought into the United States or possession thereof by any licensee other than a licensed importer unless the Director issues a permit authorizing the importation of the firearm barrel.

(b)(1) An application for a permit, ATF Form 6—Part I, to import or bring a firearm, firearm barrel, or ammunition into the United States or a possession thereof by a licensee, other than a licensed importer, must be filed, in triplicate, with the Director. The application must be signed and dated and must contain the information requested on the form, including:

(i) The name, address, telephone number, and license number (including expiration date) of the applicant;

(ii) The country from which the firearm, firearm barrel, or ammunition is to be imported;

(iii) The name and address of the foreign seller and foreign shipper;

(iv) A description of the firearm, firearm barrel, or ammunition to be imported, including:

(firearm, firearm barrel, or ammunition to be released. The importer will also submit to Customs a copy of the export license authorizing the export of the firearm, firearm barrel, or ammunition from the exporting country. If the exporting country does not require issuance of an export license, the importer must submit a certification, under penalty of perjury, to that effect.

(1) In obtaining the release from Customs custody of a firearm, firearm barrel, or ammunition authorized by this section to be imported through the use of a permit, the licensed importer will prepare ATF Form 6A, in duplicate, and furnish the original ATF Form 6A to the Customs officer releasing the firearm, firearm barrel, or ammunition. The Customs officer will, after certification, forward the ATF Form 6A to the address specified on the form.

(2) The ATF Form 6A must contain the information requested on the form, including:

(i) The name, address, and license number of the importer;

(ii) The name of the manufacturer of the firearm, firearm barrel, or ammunition;

(iii) The country of manufacture;

(iv) The type;

(v) The model;

(vi) The caliber, gauge, or size;

(vii) The serial number in the case of firearms, if known; and

(viii) The number of firearms, firearm barrels, or rounds of ammunition released.

(d) Within 15 days of the date of release from Customs custody, the licensed importer must:

(1) Forward to the address specified on the form a copy of ATF Form 6A on which must be reported any error or discrepancy appearing on the ATF Form 6A certified by Customs and serial numbers if not previously provided on ATF Form 6A;

(2) Pursuant to §478.92, place all required identification data on each imported firearm if same did not bear such identification data at the time of its release from Customs custody; and

(3) Post in the records required to be maintained by the importer under subpart H of this part all required information regarding the importation.

(Paragraph (b) approved by the Office of Management and Budget under control number 1140–0005; paragraphs (c) and (d) approved by the Office of Management and Budget under control number 1140–0007)

(A) The name and address of the manufacturer;
(B) The type (e.g., rifle, shotgun, pistol, revolver and, in the case of ammunition only, ball, wadcutter, shot, etc.);
(C) The caliber, gauge, or size;
(D) The model;
(E) The barrel length, if a firearm or firearm barrel (in inches);
(F) The overall length, if a firearm (in inches);
(G) The serial number, if known;
(H) Whether the firearm is new or used;
(I) The quantity;
(J) The unit cost of the firearm, firearm barrel, or ammunition to be imported;
(v) The specific purpose of importation, including final recipient information if different from the applicant; and
(vi)(A) If a firearm or ammunition imported or brought in for scientific or research purposes, a statement describing such purpose; or
(B) If a firearm or ammunition for use in connection with competition or training pursuant to Chapter 401 of Title 10, U.S.C., a statement describing such intended use; or
(B) If a firearm or ammunition for use in connection with competition or training pursuant to Chapter 401 of Title 10, U.S.C., a statement describing such intended use; or
(C) If an unserviceable firearm (other than a machine gun) being imported as a curio or museum piece, a description of how it was rendered unserviceable and an explanation of why it is a curio or museum piece; or
(D) If a firearm other than a surplus military firearm, of a type that does not fall within the definition of a firearm under section 5845(a) of the Internal Revenue Code of 1986, and is for sporting purposes, an explanation of why the firearm is generally recognized as particularly suitable for or readily adaptable to sporting purposes; or
(E) If ammunition being imported for sporting purposes, a statement why the ammunition is particularly suitable for or readily adaptable to sporting purposes; or
(F) If a firearm barrel for a handgun, an explanation why the handgun is generally recognized as particularly suitable for or readily adaptable to sporting purposes.

(2)(i) If the Director approves the application, such approved application will serve as the permit to import the firearm, firearm barrel, or ammunition described therein, and importation of such firearms, firearm barrels, or ammunition may continue to be made by the applicant under the approved application (permit) during the period specified thereon. The Director will furnish the approved application (permit) to the applicant and retain two copies thereof for administrative use.
(ii) If the Director disapproves the application, the applicant will be notified of the basis for the disapproval.

(c) A firearm, firearm barrel, or ammunition imported or brought into the United States or a possession thereof under the provisions of this section may be released from Customs custody to the licensee upon showing that the licensee has obtained a permit from the Director for the importation of the firearm, firearm barrel, or ammunition to be released.

(1) In obtaining the release from Customs custody of a firearm, firearm barrel, or ammunition authorized by this section to be imported through the use of a permit, the licensee will prepare ATF Form 6A, in duplicate, and furnish the original ATF Form 6A to the Customs officer releasing the firearm, firearm barrel, or ammunition. The Customs officer will, after certification, forward the ATF Form 6A to the address specified on the form.

(2) The ATF Form 6A must contain the information requested on the form, including:
(i) The name, address, and license number of the licensee;
(ii) The name of the manufacturer of the firearm, firearm barrel, or ammunition;
(iii) The country of manufacture;
(iv) The type;
(v) The model;
(vi) The caliber, gauge, or size;
(vii) The serial number in the case of firearms; and
§ 478.113a Importation of firearm barrels by nonlicensees.

(a) A permit will not be issued for a firearm barrel for a handgun not generally recognized as particularly suitable for or readily adaptable to sporting purposes. No firearm barrel shall be imported or brought into the United States or possession thereof by any nonlicensee unless the Director issues a permit authorizing the importation of the firearm barrel.

(b)(1) An application for a permit, ATF Form 6—Part I, to import or bring a firearm barrel into the United States or a possession thereof under this section must be filed, in triplicate, with the Director. The application must be signed and dated and must contain the information requested on the form, including:

(i) The name, address, and telephone number of the applicant;

(ii) The country from which the firearm barrel is to be imported;

(iii) The name and address of the foreign seller and foreign shipper;

(iv) A description of the firearm barrel to be imported, including:
   (A) The name and address of the manufacturer;
   (B) The type (e.g., rifle, shotgun, pistol, revolver);
   (C) The caliber, gauge, or size;
   (D) The model;
   (E) The barrel length (in inches);
   (F) The quantity;
   (G) The unit cost of the firearm barrel;

(v) The specific purpose of importation, including final recipient information if different from the importer; and

(vi) If a handgun barrel, an explanation of why the barrel is for a handgun that is generally recognized as particularly suitable for or readily adaptable to sporting purposes.

(2)(i) If the Director approves the application, such approved application will serve as the permit to import the firearm barrel, and importation of such firearm barrels may continue to be made by the applicant under the approved application (permit) during the period specified thereon. The Director will furnish the approved application (permit) to the applicant and retain two copies thereof for administrative use.

(ii) If the Director disapproves the application, the applicant will be notified of the basis for the disapproval.

(c) A firearm barrel imported or brought into the United States or a possession thereof under the provisions of this section may be released from Customs custody to the person importing the firearm barrel upon showing that the person has obtained a permit from the Director for the importation of the firearm barrel to be released.

(1) In obtaining the release from Customs custody of a firearm barrel authorized by this section to be imported through the use of a permit, the person importing the firearm barrel will prepare ATF Form 6A, in duplicate, and furnish the original ATF Form 6A to the Customs officer releasing the firearm barrel. The Customs officer will, after certification, forward the ATF Form 6A to the address specified on the form.

(2) The ATF Form 6A must contain the information requested on the form, including:

(i) The name and address of the person importing the firearm barrel;

(ii) The name of the manufacturer of the firearm barrel;

(iii) The country of manufacture;

(iv) The type;

(v) The model;

(vi) The caliber or gauge of the firearm barrel so released; and
§ 478.114 Importation by members of the U.S. Armed Forces.

(a) The Director may issue a permit authorizing the importation of a firearm or ammunition into the United States to the place of residence of any military member of the U.S. Armed Forces who is on active duty outside the United States, or who has been on active duty outside the United States within the 60-day period immediately preceding the intended importation: Provided, That such firearm or ammunition is generally recognized as particularly suitable for or readily adaptable to sporting purposes and is intended for the personal use of such member.

1. An application for a permit, ATF Form 6—Part II, to import a firearm or ammunition into the United States under this section must be filed, in triplicate, with the Director. The application must be signed and dated and must contain the information requested on the form, including:
   (i) The name, current address, and telephone number of the applicant;
   (ii) Certification that the transportation, receipt, or possession of the firearm or ammunition to be imported would not constitute a violation of any provision of the Act or of any State law or local ordinance at the place of the applicant’s residence;
   (iii) The country from which the firearm or ammunition is to be imported;
   (iv) The name and address of the foreign seller and foreign shipper;
   (v) A description of the firearm or ammunition to be imported, including:
      (A) The name and address of the manufacturer;
      (B) The type (e.g., rifle, shotgun, pistol, revolver and, in the case of ammunition only, ball, wadcutter, shot, etc.);
      (C) The caliber, gauge, or size;
      (D) The model;
      (E) The barrel length, if a firearm (in inches);
      (F) The overall length, if a firearm (in inches);
      (G) The serial number;
      (H) Whether the firearm is new or used;
   (i) The quantity;
   (J) The unit cost of the firearm or ammunition imported;
   (vi) The specific purpose of importation, that is—
      (A) That the firearm or ammunition being imported is for the personal use of the applicant; and
      (B) If a firearm, a statement that it is not a surplus military firearm, that it does not fall within the definition of a firearm under section 5845(a) of the Internal Revenue Code of 1986, and an explanation of why the firearm is generally recognized as particularly suitable for or readily adaptable to sporting purposes; or
      (C) If ammunition, a statement why it is generally recognized as particularly suitable for or readily adaptable to sporting purposes; and
   (vii) The applicant’s date of birth;
   (viii) The applicant’s rank or grade;
   (ix) The applicant’s place of residence;
   (x) The applicant’s present foreign duty station or last foreign duty station, as the case may be;
   (xi) The date of the applicant’s reassignment to a duty station within the United States, if applicable; and
   (xii) The military branch of which the applicant is a member.

2(i) If the Director approves the application, such approved application will serve as the permit to import the firearm or ammunition described therein. The Director will furnish the approved application (permit) to the applicant and retain two copies thereof for administrative use.

2(ii) If the Director disapproves the application, the applicant will be notified of the basis for the disapproval.

(b) Except as provided in paragraph (b)(3) of this section, a firearm or ammunition imported into the United States under the provisions of this section by the applicant may be released from Customs custody to the applicant upon showing that the applicant has
obtained a permit from the Director for the importation of the firearm or ammunition to be released.

(1) In obtaining the release from Customs custody of a firearm or ammunition authorized by this section to be imported through the use of a permit, the military member of the U.S. Armed Forces will prepare ATF Form 6A and furnish the completed form to the Customs officer releasing the firearm or ammunition. The Customs officer will, after certification, forward the ATF Form 6A to the address specified on the form.

(2) The ATF Form 6A must contain the information requested on the form, including:
   (i) The name and address of the military member;
   (ii) The name of the manufacturer of the firearm or ammunition;
   (iii) The country of manufacture;
   (iv) The type;
   (v) The model;
   (vi) The caliber, gauge, or size;
   (vii) The serial number in the case of firearms; and
   (viii) If applicable, the number of firearms or rounds of ammunition released.

(3) When such military member is on active duty outside the United States, the military member may appoint, in writing, an agent to obtain the release of the firearm or ammunition from Customs custody for such member. Such agent will present sufficient identification of the agent and the written authorization to act on behalf of such military member to the Customs officer who is to release the firearm or ammunition.

(c) Firearms determined by the Department of Defense to be war souvenirs may be imported into the United States by the military members of the U.S. Armed Forces under such provisions and procedures as the Department of Defense may issue.

(Paragraph (a) approved by the Office of Management and Budget under control number 1140–0006; paragraph (b) approved by the Office of Management and Budget under control number 1140–0007)


Exempt importation.

(a) Firearms and ammunition may be brought into the United States or any possession thereof by any person who can establish to the satisfaction of Customs that such firearm or ammunition was previously taken out of the United States or any possession thereof by such person. Registration on Customs Form 4457 or on any other registration document available for this purpose may be completed before departure from the United States at any U.S. customhouse or any office of an Director of Industry Operations. A bill of sale or other commercial document showing transfer of the firearm or ammunition in the United States to such person also may be used to establish proof that the firearm or ammunition was taken out of the United States by such person. Firearm and ammunition furnished under the provisions of section 925(a)(3) of the Act to military members of the U.S. Armed Forces on active duty outside of the United States also may be imported into the United States or any possession thereof by such military members upon establishing to the satisfaction of Customs that such firearms and ammunition were so obtained.

(b) Firearms, firearm barrels, and ammunition may be imported or brought into the United States by or for the United States or any department or agency thereof, or any State or any department, agency, or political subdivision thereof. A firearm, firearm barrel or ammunition imported or brought into the United States under this paragraph may be released from Customs custody upon a showing that the firearm, firearm barrel or ammunition is being imported or brought into the United States by or for such a governmental entity.

(c) The provisions of this subpart shall not apply with respect to the importation into the United States of any antique firearm.

(d) Firearms and ammunition are not imported into the United States, and the provisions of this subpart shall not apply, when such firearms and ammunition are brought into the United States by:

   (1) A nonresident of the United States for legitimate hunting or lawful
Bureau of Alcohol, Tobacco, Firearms, and Explosives, Justice

§ 478.117

sporting purposes, and such firearms and such ammunition as remains following such shooting activity are to be taken back out of the territorial limits of the United States by such person upon conclusion of the shooting activity;

(2) Foreign military personnel on official assignment to the United States who bring such firearms or ammunition into the United States for their exclusive use while on official duty in the United States, and such firearms and unexpended ammunition are taken back out of the territorial limits of the United States by such foreign military personnel when they leave the United States;

(3) Official representatives of foreign governments who are accredited to the U.S. Government or are en route to or from other countries to which accredited, and such firearms and unexpended ammunition are taken back out of the territorial limits of the United States by such official representatives of foreign governments when they leave the United States;

(4) Officials of foreign governments and distinguished foreign visitors who have been so designated by the Department of State, and such firearms and unexpended ammunition are taken back out of the territorial limits of the United States by such foreign governments and distinguished foreign visitors when they leave the United States; and

(5) Foreign law enforcement officers of friendly foreign governments entering the United States on official law enforcement business, and such firearms and unexpended ammunition are taken back out of the territorial limits of the United States by such foreign law enforcement officers when they leave the United States.

e) Notwithstanding the provisions of paragraphs (d) (1), (2), (3), (4) and (5) of this section, the Secretary of the Treasury or his delegate may in the interest of public safety and necessity require a permit for the importation or bringing into the United States of any firearms or ammunition.

§ 478.116 Conditional importation.

The Director shall permit the conditional importation or bringing into the United States or any possession thereof of any firearm, firearm barrel, ammunition, or ammunition feeding device as defined in § 478.119(b) for the purpose of examining and testing the firearm, firearm barrel, ammunition, or ammunition feeding device in connection with making a determination as to whether the importation or bringing in of such firearm, firearm barrel, ammunition, or ammunition feeding device will be authorized under this part. An application on ATF Form 6 for such conditional importation shall be filed, in duplicate, with the Director. The Director may impose conditions upon any importation under this section including a requirement that the firearm, firearm barrel, ammunition, or ammunition feeding device be shipped directly from Customs custody to the Director and that the person importing or bringing in the firearm, firearm barrel, ammunition, or ammunition feeding device must agree to either export the firearm, firearm barrel, ammunition, or ammunition feeding device or destroy same if a determination is made that the firearm, firearm barrel, ammunition, or ammunition feeding device may not be imported or brought in under this part. A firearm, firearm barrel, ammunition, or ammunition feeding device imported or brought into the United States or any possession thereof under the provisions of this section shall be released from Customs custody upon the payment of customs duties, if applicable, and in the manner prescribed in the conditional authorization issued by the Director.

§ 478.117 Function outside a customs territory.

In the insular possessions of the United States outside customs territory, the functions performed by U.S.
§ 478.118 Importation of certain firearms classified as curios or relics.

Notwithstanding any other provision of this part, a licensed importer may import all rifles and shotguns classified by the Director as curios or relics, and all handguns classified by the Director as curios or relics that are determined to be generally suitable for or readily adaptable to sporting purposes. The importation of such curio or relic firearms must be in accordance with the applicable importation provisions of this part and the importation provisions of 27 CFR part 447. Curios or relics which fall within the definition of “firearm” under 26 U.S.C. 5845(a) must also meet the importation provisions of 27 CFR part 479 before they may be imported.

[T.D. ATF–202, 50 FR 14383, Apr. 12, 1985]

§ 478.119 Importation of ammunition feeding devices.

(a) No ammunition feeding device shall be imported or brought into the United States unless the Director has authorized the importation of such device.

(b) For purposes of this section, an “ammunition feeding device” is a magazine, belt, drum, feed strip, or similar device for a firearm that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition. The term does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition, or a fixed device for a manually operated firearm, or a fixed device for a firearm listed in 18 U.S.C. 922, appendix A.

(c) An application for a permit, ATF Form 6, to import or bring an ammunition feeding device into the United States or a possession thereof under this section shall be filed, in triplicate, with the Director. The application shall contain:

(1) The name and address of the person importing the device,

(2) A description of the device to be imported, including type and cartridge capacity, model and caliber of firearm for which the device was made, country of manufacture, and name of the manufacturer if known,

(3) The unit cost of the device to be imported,

(4) The country from which to be imported,

(5) The name and address of the foreign seller and the foreign shipper,

(6) Verification that such device will be marked as required by this part, and

(7) A statement by the importer that the device is being imported for sale to purchasers specified in §478.40a(b) or physical or reasonable documentary evidence establishing that the magazine was manufactured on or before September 13, 1994. Any one of the following examples, which are not meant to be exhaustive, may be sufficient to establish the time of manufacture:

(i) Permanent markings or physical characteristics which establish that the magazine was manufactured on or before September 13, 1994;

(ii) A certification from the importer, under penalty of perjury, that the importer maintained continuous custody beginning on a date prior to September 14, 1994, and continuing until the date of the certification. Such certification shall also be supported by reasonable documentary evidence, such as commercial records;

(iii) A certification from the importer, under penalty of perjury, that the magazines sought to be imported were in the custody and control of a foreign Government on or before September 13, 1994, along with reasonable documentary evidence to support the certification; or

(iv) A certification from the importer, under penalty of perjury, that the magazine was in the possession of a foreign arms supplier on or before September 13, 1994, along with reasonable documentary evidence to support the certification.
§ 478.120 Firearms or ammunition imported by or for a nonimmigrant alien.

(a) General. A nonimmigrant alien temporarily importing or bringing firearms or ammunition into the United States for lawful hunting or sporting purposes must first obtain an approved ATF Form 6NIA (5330.3D).

(b) Aliens admitted to the United States under a nonimmigrant visa. (1) Any alien lawfully admitted to the United States under a nonimmigrant visa who completes an ATF Form 6NIA to import firearms or ammunition into the United States, or any licensee who completes an ATF Form 6 to import firearms or ammunition for such nonimmigrant alien, must attach applicable documentation to the Form 6NIA or Form 6 establishing the nonimmigrant alien falls within an exception specified in 18 U.S.C. 922(y)(2) (e.g., a hunting license or permit lawfully issued in the United States) or has obtained a waiver as specified in 18 U.S.C. 922(y)(3).

(2) Aliens admitted to the United States under a nonimmigrant visa importing or bringing firearms or ammunition into the United States must provide the United States Customs and Border Protection with applicable documentation (e.g., a hunting license or permit lawfully issued in the United States) establishing the nonimmigrant alien falls within an exception specified in 18 U.S.C. 922(y)(2) or has obtained a waiver as specified in 18 U.S.C. 922(y)(3).
Form 6 is needed to bring the firearms or ammunition into the United States. (Approved by the Office of Management and Budget under control number 1140–0060) [T.D. ATF–24F, 77 FR 33629, June 7, 2012]

Subpart H—Records

§ 478.121 General.

(a) The records pertaining to firearms transactions prescribed by this part shall be retained on the licensed premises in the manner prescribed by this subpart and for the length of time prescribed by §478.129. The records pertaining to ammunition prescribed by this part shall be retained on the licensed premises in the manner prescribed by §478.125.

(b) ATF officers may, for the purposes and under the conditions prescribed in §478.23, enter the premises of any licensed importer, licensed manufacturer, licensed dealer, or licensed collector for the purpose of examining or inspecting any record or document required by or obtained under this part. Section 923(g) of the Act requires licensed importers, licensed manufacturers, licensed dealers, and licensed collectors to make such records available for such examination or inspection during business hours or, in the case of licensed collectors, hours of operation, as provided in §478.23.

(c) Each licensed importer, licensed manufacturer, licensed dealer, and licensed collector shall maintain such records of importation, production, shipment, receipt, sale, or other disposition, whether temporary or permanent, of firearms and such records of the disposition of ammunition as the regulations contained in this part prescribe. Section 922(m) of the Act makes it unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector knowingly to make any false entry in, to fail to make appropriate entry in, or to fail to properly maintain any such record.

(d) For recordkeeping requirements for sales by licensees at gun shows see §478.100(c).

(Information collection requirements in paragraph (a) approved by the Office of Management and Budget under control number 1140–0020; information collection requirements in paragraphs (b) and (c) approved by the Office of Management and Budget under control number 1140–0032)

§ 478.122 Records maintained by importers.

(a) Each licensed importer shall, within 15 days of the date of importation or other acquisition, record the type, model, caliber or gauge, manufacturer, country of manufacture, and the serial number of each firearm imported or otherwise acquired, and the date such importation or other acquisition was made.

(b) A record of firearms disposed of by a licensed importer to another licensee and a separate record of armor piercing ammunition dispositions to governmental entities, for exportation, or for testing or experimentation authorized under the provisions of §478.149 shall be maintained by the licensed importer on the licensed premises. For firearms, the record shall show the quantity, type, manufacturer, country of manufacture, caliber or gauge, model, serial number of the firearms so transferred, the name and license number of the licensee to whom the firearms were transferred, and the date of the transaction. For armor piercing ammunition, the record shall show the date of the transaction, manufacturer, caliber or gauge, quantity of projectiles, and the name and address of the purchaser. The information required by this paragraph shall be entered in the proper record book not later than the seventh day following the date of the transaction, and such information shall be recorded under the following formats:

VerDate Sep<11>2014 14:08 May 31, 2016 Jkt 238113 PO 00000 Frm 00078 Fmt 8010 Sfmt 8010 Y:\SGML\238113.XXX 238113ehiers on DSK5VPTVN1PROD with CFR
§478.123 Records maintained by manufacturers.

(a) Each licensed manufacturer shall record the type, model, caliber or gauge, and serial number of each complete firearm manufactured or otherwise acquired, and the date such manufacture or other acquisition was made.

(b) A record of firearms disposed of by a licensed importer to another licensee and a separate record of armor piercing ammunition dispositions to governmental entities, for exportation, or for testing or experimentation authorized under the provision of §478.149 shall be maintained by the licensed manufacturer on the licensed premises. For firearms, the record shall show the quantity, type, model, manufacturer, caliber, size or gauge, serial number of the firearms so transferred, the name and license number of the licensee to whom the firearms were transferred, and the date of the transaction. For armor piercing ammunition, the record shall show the manufacturer, caliber or gauge, quantity, the name and address of the transferee to whom the armor piercing ammunition was transferred, and the date of the transaction. The information required by this paragraph shall be entered in the proper record book not later than the seventh day following the date of the transaction, and such information shall be recorded under the format prescribed by §478.122, except that the name of the manufacturer of a firearm or armor piercing ammunition need not be recorded if the firearm or armor piercing ammunition is of the manufacturer's own manufacture.

(c) Notwithstanding the provisions of paragraph (b) of this section, the Director of Industry Operations may authorize alternate records to be maintained by a licensed importer to record the disposal of firearms and armor piercing ammunition when it is shown by the licensed importer that such alternate records will accurately and readily disclose the information required by paragraph (b) of this section. A licensed importer who proposes to use alternate records shall submit a letter application, in duplicate, to the Director of Industry Operations and shall describe the proposed alternate records and the need therefor. Such alternate records shall not be employed by the licensed importer until approval in such regard is received from the Director of Industry Operations.

(d) Each licensed importer shall maintain separate records of the sales or other dispositions made of firearms to nonlicensees. Such records shall be maintained in the form and manner as prescribed by §§478.124 and 478.125 in regard to firearms transaction records and records of acquisition and disposition of firearms.

(Approved by the Office of Management and Budget under control number 1140–0032)

§ 478.124 Firearms transaction record.

(a) A licensed importer, licensed manufacturer, or licensed dealer shall not sell or otherwise dispose, temporarily or permanently, of any firearm to any person, other than another licensee, unless the licensee records the transaction on a firearms transaction record, Form 4473: Provided, That a firearms transaction record, Form 4473, shall not be required to record the disposition made of a firearm delivered to a licensee for the sole purpose of repair or customizing when such firearm or a replacement firearm is returned to the person from whom received.

(b) A licensed manufacturer, licensed importer, or licensed dealer shall retain in alphabetical (by name of purchaser), chronological (by date of disposition), or numerical (by transaction serial number) order, and as a part of the required records, each Form 4473 obtained in the course of transferring custody of the firearms.

(c) (1) Prior to making an over-the-counter transfer of a firearm to a non-licensee who is a resident of the State in which the licensee’s business premises is located, the licensed importer, licensed manufacturer, or licensed dealer so transferring the firearm shall obtain a Form 4473 from the transferee showing the transferee’s name, sex, residence address (including county or similar political subdivision), date and place of birth; height, weight and race of the transferee; the transferee’s country of citizenship; the transferee’s INS-issued alien number or admission number; the transferee’s State of residence; and certification by the transferee that the transferee is not prohibited by the Act from transporting or shipping a firearm in interstate or foreign commerce or receiving a firearm which has been shipped or transported in interstate or foreign commerce or possessing a firearm in or affecting commerce.

(2) In order to facilitate the transfer of a firearm and enable NICS to verify the identity of the person acquiring the firearm, ATF Form 4473 also requests certain optional information. This information includes the transferee’s social security number. Such information may help avoid the possibility of the transferee being misidentified as a felon or other prohibited person.

(3) After the transferee has executed the Form 4473, the licensee:

(i) Shall verify the identity of the transferee by examining the identification document (as defined in § 478.11) presented, and shall note on the Form 4473 the type of identification used;

(ii) [Reserved]

(iii) Must, in the case of a transferee who is an alien admitted to the United States under a nonimmigrant visa who states that he or she falls within an exception to, or has a waiver from, the prohibition in section 922(g)(5)(B) of the Act, have the transferee present applicable documentation establishing the exception or waiver, note on the Form 4473 the type of documentation provided, and attach a copy of the documentation to the Form 4473; and

(iv) Shall comply with the requirements of § 478.102 and record on the form the date on which the licensee contacted the NICS, as well as any response provided by the system, including any identification number provided by the system.

(4) The licensee shall identify the firearm to be transferred by listing on the Form 4473 the name of the manufacturer, the name of the importer (if any), the type, model, caliber or gauge, and the serial number of the firearm.

(5) The licensee shall sign and date the form if the licensee does not know
or have reasonable cause to believe that the transferee is disqualified by law from receiving the firearm and transfer the firearm described on the Form 4473.

(d) Prior to making an over-the-counter transfer of a shotgun or rifle under the provisions contained in §478.96(c) to a nonlicensee who is not a resident of the State in which the licensee’s business premises is located, the licensee so transferring the shotgun or rifle, and such transferee, shall comply with the requirements of paragraph (c) of this section.

(e) Prior to making a transfer of a firearm to any nonlicensee who is not a resident of the State in which the licensee’s business premises is located, and such nonlicensee is acquiring the firearm by loan or rental from the licensee for temporary use for lawful sporting purposes, the licensed importer, licensed manufacturer, or licensed dealer so furnishing the firearm, and such transferee, shall comply with the provisions of paragraph (c) of this section.

(f) Form 4473 shall be submitted, in duplicate, to a licensed importer, licensed manufacturer, or licensed dealer by a transferee who is purchasing or otherwise acquiring a firearm by other than an over-the-counter transaction, who is not subject to the provisions of §478.102(a), and who is a resident of the State in which the licensee’s business premises are located. The Form 4473 shall show the name, address, date and place of birth, height, weight, and race of the transferee; and the title, name, and address of the principal law enforcement officer of the locality to which the firearm will be delivered. The transferee also must date and execute the sworn statement contained on the form showing, in case the firearm to be transferred is a firearm other than a shotgun or rifle, the transferee is 21 years or more of age; in case the firearm to be transferred is a shotgun or rifle, the transferee is 18 years or more of age; whether the transferee is a citizen of the United States; the transferee’s State of residence; the transferee is not prohibited by the provisions of the Act from shipping or transporting a firearm in interstate or foreign commerce or receiving a firearm which has been shipped or transported in interstate or foreign commerce or possessing a firearm in or affecting commerce; and the transferee’s receipt of the firearm would not be in violation of any statute of the State or published ordinance applicable to the locality in which the transferee resides. Upon receipt of such Forms 4473, the licensee shall identify the firearm to be transferred by listing in the Forms 4473 the name of the manufacturer, the name of the importer (if any), the type, model, caliber or gauge, and the serial number of the firearm to be transferred. The licensee shall prior to shipment or delivery of the firearm to such transferee, forward by registered or certified mail (return receipt requested) a copy of the Form 4473 to the principal law enforcement officer named in the Form 4473 by the transferee, and shall delay shipment or delivery of the firearm to the transferee for a period of at least 7 days following receipt by the licensee of the return receipt evidencing delivery of the copy of the Form 4473 to such principal law enforcement officer, or the return of the copy of the Form 4473 to the licensee due to the refusal of such principal law enforcement officer to accept same in accordance with U.S. Postal Service regulations. The original Form 4473, and evidence of receipt or rejection of delivery of the copy of the Form 4473 sent to the principal law enforcement officer, shall be retained by the licensee as a part of the records required to be kept under this subpart.

(g) A licensee who sells or otherwise disposes of a firearm to a nonlicensee who is other than an individual, shall obtain from the transferee the information required by this section from an individual authorized to act on behalf of the transferee. In addition, the licensee shall obtain from the individual acting on behalf of the transferee a written statement, executed under the penalties of perjury, that the firearm is being acquired for the use of and will be the property of the transferee, and showing the name and address of that transferee.

(h) The requirements of this section shall be in addition to any other recordkeeping requirement contained in this part.
§ 478.125 Record of receipt and disposition.

(a) Armor piercing ammunition sales by licensed collectors to nonlicensees. The sale or other disposition of armor piercing ammunition by licensed collectors shall be recorded in a bound record at the time a transaction is made. The bound record shall be maintained in chronological order by date of sale or disposition of the armor piercing ammunition, and shall be retained on the licensed premises of the licensee for a period not less than two years following the date of the recorded sale or disposition of the armor piercing ammunition. The bound record entry shall show:

1. The date of the transaction;
2. The name of the manufacturer;
3. The caliber or gauge;
4. The quantity of projectiles;
5. The name, address, and date of birth of the nonlicensee; and
6. The method used to establish the identity of the armor piercing ammunition purchaser.

The format required for the bound record is as follows:

<table>
<thead>
<tr>
<th>Date</th>
<th>Manufacturer</th>
<th>Caliber or gauge</th>
<th>Quantity of projectiles</th>
<th>Purchaser</th>
<th>Enter a (x) in the “known” column if purchaser is personally known to you. Otherwise, establish the purchaser’s identification</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Name and address</td>
<td>Date of birth</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Known</td>
<td>Driver’s license</td>
</tr>
</tbody>
</table>

However, when a commercial record is made at the time a transaction is made, a licensee may delay making an entry into the bound record if the provisions of paragraph (d) of this section are complied with.

(b) Armor piercing ammunition sales by licensed collectors to licensees. Sales or other dispositions of armor piercing ammunition from a licensed collector to another licensee shall be recorded and maintained in the manner prescribed in § 478.122(b) for importers: Provided, That the license number of the transferee may be recorded in lieu of the transferee’s address.

(c) Armor piercing ammunition sales by licensed dealers to governmental entities. A record of armor piercing ammunition disposed of by a licensed dealer to a governmental entity pursuant to § 478.99(e) shall be maintained by the licensed dealer on the licensed premises and shall show the name of the manufacturer, the caliber or gauge, the quantity, the name and address of the entity to which the armor piercing ammunition was transferred, and the date of the transaction. Such information shall be recorded under the format prescribed by § 478.122(b). Each licensed dealer disposing of armor piercing ammunition pursuant to § 478.99(e) shall also maintain a record showing the date of acquisition of such ammunition which shall be filed in an orderly manner separate from other commercial records maintained and be readily available for inspection. The records required by this paragraph shall be retained on the licensed premises of the licensee for a period not less than two years.
years following the date of the recorded sale or disposition of the armor piercing ammunition.

(d) Commercial records of armor piercing ammunition transactions. When a commercial record is made at the time of sale or other disposition of armor piercing ammunition, and such record contains all information required by the bound record prescribed by paragraph (a) of this section, the licensed collector transferring the armor piercing ammunition may, for a period not exceeding 7 days following the date of such transfer, delay making the required entry into such bound record: Provided, That the commercial record pertaining to the transfer is:

(1) Maintained by the licensed collector separate from other commercial documents maintained by such licensee, and

(2) Is readily available for inspection on the licensed premises until such time as the required entry into the bound record is made.

(e) Firearms receipt and disposition by dealers. Each licensed dealer shall enter into a record each receipt and disposition of firearms. In addition, before commencing or continuing a firearms business, each licensed dealer shall inventory the firearms possessed for such business and shall record same in the record required by this paragraph. The record required by this paragraph shall be maintained in bound form under the format prescribed below. The purchase or other acquisition of a firearm shall, except as provided in paragraph (g) of this section, be recorded not later than the close of the next business day following the date of such purchase or acquisition. The record shall show the date of receipt, the name and address or the name and license number of the person from whom received, the name of the manufacturer and importer (if any), the model, serial number, type, and the caliber or gauge of the firearm. The sale or other disposition of a firearm shall be recorded by the licensed dealer not later than 7 days following the date of such transaction. When such disposition is made to a non-licensee, the firearms transaction record, Form 4473, obtained by the licensed dealer shall be retained, until the transaction is recorded, separate from the licensee’s Form 4473 file and be readily available for inspection. When such disposition is made to a licensee, the commercial record of the transaction shall be retained, until the transaction is recorded, separate from other commercial documents maintained by the licensed dealer, and be readily available for inspection. The record shall show the date of the sale or other disposition of each firearm, the name and address of the person to whom the firearm is transferred, or the name and license number of the person to whom transferred if such person is a licensee, or the firearms transaction record, Form 4473, serial number if the licensed dealer transferring the firearm serially numbers the Forms 4473 and files them numerically. The format required for the record of receipt and disposition of firearms is as follows:

FIREARMS ACQUISITION AND DISPOSITION RECORD

<table>
<thead>
<tr>
<th>Description of firearm</th>
<th>Receipt</th>
<th>Disposition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manufacturer and/or Importer</td>
<td>Model</td>
<td>Serial No.</td>
</tr>
</tbody>
</table>

(f) Firearms receipt and disposition by licensed collectors. (1) Each licensed collector shall enter into a record each receipt and disposition of firearms curios or relics. The record required by this paragraph shall be maintained in bound form under the format prescribed below. The purchase or other acquisition of a curio or relic shall, except as provided in paragraph (g) of this section, be recorded not later than the close of the next business day following the date of such purchase or other acquisition. The record shall show the date of receipt, the name and
§ 478.125

address or the name and license number of the person from whom received, the name of the manufacturer and importer (if any), the model, serial number, type, and the caliber or gauge of the firearm curio or relic. The sale or other disposition of a curio or relic shall be recorded by the licensed collector not later than 7 days following the date of such transaction. When such disposition is made to a licensee, the commercial record of the transaction shall be retained, until the transaction is recorded, separate from other commercial documents maintained by the licensee, and be readily available for inspection. The record shall show the date of the sale or other disposition of each firearm curio or relic, the name and address of the person to whom the firearm curio or relic is transferred, or the name and license number of the person to whom transferred if such person is a licensee, and the date of birth of the transferee if other than a licensee. In addition, the licensee shall cause the transferee, if other than a licensee, to be identified in any manner customarily used in commercial transactions (e.g., a driver’s license), and note on the record the method used.

(2) The format required for the record of receipt and disposition of firearms by collectors is as follows:

<table>
<thead>
<tr>
<th>Description of firearm</th>
<th>Receipt</th>
<th>Disposition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manufacturer and/or importer</td>
<td>Model</td>
<td>Serial No.</td>
</tr>
</tbody>
</table>

(g) Commercial records of firearms received. When a commercial record is held by a licensed dealer or licensed collector showing the acquisition of a firearm or firearm curio or relic, and such record contains all acquisition information required by the bound record prescribed by paragraphs (e) and (f) of this section, the licensed dealer or licensed collector acquiring such firearm or curio or relic, may, for a period not exceeding 7 days following the date of such acquisition, delay making the required entry into such bound record: Provided, That the commercial record is, until such time as the required entry into the bound record is made, (1) maintained by the licensed dealer or licensed collector separate from other commercial documents maintained by such licensee, and (2) readily available for inspection on the licensed premises: Provided further, That when disposition is made of a firearm or firearm curio or relic not entered in the bound record under the provisions of this paragraph, the licensed dealer or licensed collector making such disposition shall enter all required acquisition information regarding the firearm or firearm curio or relic in the bound record at the time such transfer or disposition is made.

(h) Alternate records. Notwithstanding the provisions of paragraphs (a), (e), and (f) of this section, the Director of Industry Operations may authorize alternate records to be maintained by a licensed dealer or licensed collector to record the acquisition and disposition of firearms or curios or relics and the disposition of armor piercing ammunition when it is shown by the licensed dealer or the licensed collector that such alternate records will accurately and readily disclose the required information. A licensed dealer or licensed collector who proposes to use alternate records shall submit a letter application, in duplicate, to the Director of Industry Operations and shall describe the proposed alternate records and the need therefor. Such alternate records shall not be employed by the licensed dealer or licensed collector until approval in such regard is received from the Director of Industry Operations.

(1) Requirements for importers and manufacturers. Each licensed importer and
licensed manufacturer selling or otherwise disposing of firearms or armor piercing ammunition to nonlicensees shall maintain such records of such transactions as are required of licensed dealers by this section.

(Approved by the Office of Management and Budget under control number 1140–0032)


§ 478.125a Personal firearms collection.

(a) Notwithstanding any other provision of this subpart, a licensed manufacturer, licensed importer, or licensed dealer is not required to comply with the provisions of § 478.102 or record on a firearms transaction record, Form 4473, the sale or other disposition of a firearm maintained as part of the licensee’s personal firearms collection: Provided, That

(1) The licensee has maintained the firearm as part of such collection for 1 year from the date the firearm was transferred from the business inventory into the personal collection or otherwise acquired as a personal firearm,

(2) The licensee recorded in the bound record prescribed by § 478.125(e) the receipt of the firearm into the business inventory or other acquisition,

(3) The licensee recorded the firearm as a disposition in the bound record prescribed by § 478.125(e) when the firearm was transferred from the business inventory into the personal firearms collection or otherwise acquired as a personal firearm,

(4) The licensee enters the sale or other disposition of the firearm from the personal firearms collection into a bound record, under the format prescribed below, identifying the firearm transferred by recording the name of the manufacturer and importer (if any), the model, serial number, type, and the caliber or gauge, and showing the date of the sale or other disposition, the name and address of the transferee, or the name and business address of the transferee if such person is a licensee, and the date of birth of the transferee if other than a licensee. In addition, the licensee shall cause the transferee, if other than a licensee, to be identified in any manner customarily used in commercial transactions (e.g., a drivers license). The format required for the disposition record of personal firearms is as follows:

<table>
<thead>
<tr>
<th>Manufacturer and/or importer</th>
<th>Model</th>
<th>Serial No.</th>
<th>Type</th>
<th>Caliber or gauge</th>
<th>Date</th>
<th>Name and address (business address if licensee)</th>
<th>Date of birth if non-licensee</th>
</tr>
</thead>
</table>

(b) Any licensed manufacturer, licensed importer, or licensed dealer selling or otherwise disposing of a firearm from the licensee’s personal firearms collection under this section shall be subject to the restrictions imposed by the Act and this part on the dispositions of firearms by persons other than licensed manufacturers, licensed importers, and licensed dealers.

(Approved by the Office of Management and Budget under control number 1140–0032)


§ 478.126 Furnishing transaction information.

(a) Each licensee shall, when required by letter issued by the Director of Industry Operations, and until notified to the contrary in writing by such officer,
§ 478.126a Reporting multiple sales or other disposition of pistols and revolvers.

Each licensee shall prepare a report of multiple sales or other disposition whenever the licensee sells or otherwise disposes of, at one time or during any five consecutive business days, two or more pistols, or revolvers, or any combination of pistols and revolvers totaling two or more, to an unlicensed person: Provided, That a report need not be made where pistols or revolvers, or any combination thereof, are returned to the same person from whom they were received. The report shall be prepared on Form 3310.4, Report of Multiple Sale or Other Disposition of Pistols and Revolvers. Not later than the close of business on the day that the multiple sale or other disposition occurs, the licensee shall forward two copies of Form 3310.4 to the ATF office specified thereon and one copy to the State police or to the local law enforcement agency in which the sale or other disposition took place. Where the State or local law enforcement officials have notified the licensee that a particular official has been designated to receive Forms 3310.4, the licensee shall forward such forms to that designated official. The licensee shall retain one copy of Form 3310.4 and attach it to the firearms transaction record, Form 4473, executed upon delivery of the pistols or revolvers.

Example 1. A licensee sells a pistol and revolver in a single transaction to an unlicensed person. This is a multiple sale and must be reported not later than the close of business on the date of the transaction.

Example 2. A licensee sells a pistol on Monday and sells a revolver on the following Friday to the same unlicensed person. This is a multiple sale and must be reported not later than the close of business on Friday. If the licensee sells the same unlicensed person another pistol or revolver on the following Monday, this would constitute an additional multiple sale and must also be reported.

Example 3. A licensee maintaining business hours on Monday through Saturday sells a revolver to an unlicensed person on Monday and sells another revolver to the same person on the following Saturday. This does not constitute a multiple sale and need not be reported since the sales did not occur during five consecutive business days.

(Approved by the Office of Management and Budget under control number 1140–0032)


§ 478.127 Discontinuance of business.

Where a licensed business is discontinued and succeeded by a new licensee, the records prescribed by this subpart shall appropriately reflect such facts and shall be delivered to the successor. Where discontinuance of the business is absolute, the records shall be delivered within 30 days following the business discontinuance to the ATF Out-of-Business Records Center, 244 Needy Road, Martinsburg, West Virginia 25405, or to any ATF office in the division in which the business was located: Provided, however, Where State law or local ordinance requires the delivery of
records to other responsible authority, the Chief, Federal Firearms Licensing Center may arrange for the delivery of the records required by this subpart to such authority: Provided further, That where a licensed business is discontinued and succeeded by a new licensee, the records may be delivered within 30 days following the business discontinuance to the ATF Out-of-Business Records Center or to any ATF office in the division in which the business was located.


§ 478.128 False statement or representation.

(a) Any person who knowingly makes any false statement or representation in applying for any license or exemption or relief from disability, under the provisions of the Act, shall be fined not more than $5,000 or imprisoned not more than 5 years, or both.

(b) Any person other than a licensed manufacturer, licensed importer, licensed dealer, or licensed collector who knowingly makes any false statement or representation with respect to any information required by the provisions of the Act or this part to be kept in the records of a person licensed under the Act or this part to be kept in the records of a person licensed under the Act or this part shall be fined not more than $5,000 or imprisoned not more than 5 years, or both.

(c) Any licensed manufacturer, licensed importer, licensed dealer, or licensed collector who knowingly makes any false statement or representation with respect to any information required by the provisions of the Act or this part to be kept in the records of a person licensed under the Act or this part shall be fined not more than $1,000 or imprisoned not more than 1 year, or both.


§ 478.129 Record retention.

(a) Records prior to Act. Licensed importers and licensed manufacturers may dispose of records of sale or other disposition of firearms prior to December 15, 1968. Licensed dealers and licensed collectors may dispose of all records of firearms transactions that occurred prior to December 16, 1968.

(b) Firearms transaction record. Licensees shall retain each Form 4473 and Form 4473(LV) for a period of not less than 20 years after the date of sale or disposition. Where a licensee has initiated a NICS check for a proposed firearms transaction, but the sale, delivery, or transfer of the firearm is not made, the licensee shall record any transaction number on the Form 4473, and retain the Form 4473 for a period of not less than 5 years after the date of the NICS inquiry. Forms 4473 shall be retained in the licensee’s records as provided in §478.124(b): Provided, That Forms 4473 with respect to which a sale, delivery or transfer did not take place shall be separately retained in alphabetical (by name of transferee) or chronological (by date of transferee’s certification) order.

(c) Statement of intent to obtain a handgun, reports of multiple sales or other disposition of pistols and revolvers, and reports of theft or loss of firearms. Licensees shall retain each Form 5300.35 (Statement of Intent to Obtain a Handgun(s)) for a period of not less than 5 years after notice of the intent to obtain the handgun was forwarded to the chief law enforcement officer, as defined in §478.150(c). Licensees shall retain each copy of Form 3310.4 (Report of Multiple Sale or Other Disposition of Pistols and Revolvers) for a period of not less than 5 years after the date of sale or other disposition. Licensees shall retain each copy of Form 3310.11 (Federal Firearms Licensee Theft/Loss Report) for a period of not less than 5 years after the date the theft or loss was reported to ATF.

(d) Records of importation and manufacture. Licensees will maintain permanent records of the importation, manufacture, or other acquisition of firearms, including ATF Forms 6 and 6A as required by subpart G of this part. Licensed importers' records and licensed manufacturers' records of the sale or other disposition of firearms after December 15, 1968, shall be retained through December 15, 1988, after which records of transactions over 20 years of age may be discarded.

(e) Records of dealers and collectors under the Act. The records prepared by
§478.131 Firearms transactions not subject to a NICS check.

(a)(1) A licensed importer, licensed manufacturer, or licensed dealer whose sale, delivery, or transfer of a firearm is made pursuant to the alternative provisions of §478.102(d) and is not subject to the NICS check prescribed by §478.102(a) shall maintain the records required by paragraph (a) of this section.

(2) If the transfer is pursuant to a permit or license in accordance with §478.102(d)(1), the licensee shall either retain a copy of the purchaser’s permit or license and attach it to the firearms transaction record, Form 4473, any identifying number, the date of issuance, and the expiration date (if provided) from the permit or license.

(3) If the transfer is pursuant to a certification by ATF in accordance with §§478.102(d)(3) and 478.150, the licensee shall maintain the certification as part of the records required to be kept under this subpart and for the period prescribed for the retention of Form 5300.35 in §478.129(c).

(b) The requirements of this section shall be in addition to any other recordkeeping requirements contained in this part.

(Paragraph (b) approved by the Office of Management and Budget under control number 1140–0045)


§478.132 Dispositions of semiautomatic assault weapons and large capacity ammunition feeding devices to law enforcement officers for official use and to employees or contractors of nuclear facilities.

Licensed manufacturers, licensed importers, and licensed dealers in semiautomatic assault weapons, as well as persons who manufacture, import, or deal in large capacity ammunition feeding devices, may transfer such weapons and devices manufactured after September 13, 1994, to law enforcement officers and to employees or contractors of nuclear facilities with the following documentation:

(a) Law enforcement officers. (1) A written statement from the purchasing officer, under penalty of perjury, stating that the weapon or device is being purchased for use in performing official duties and that the weapon or device is not being acquired for personal use or for purposes of transfer or resale; and

(2) A written statement from a supervisor of the purchasing officer, on agency letterhead, under penalty of perjury, stating that the purchasing officer is acquiring the weapon or device for use in official duties, that the firearm is suitable for use in performing official duties, and that the weapon or device is not being acquired for personal use or for purposes of transfer or resale.

(b) Employees or contractors of nuclear facilities. (1) Evidence that the employee is employed by a nuclear facility licensed pursuant to 42 U.S.C. 2133 or evidence that the contractor has a valid contract with such a facility.

(2) A written statement from the purchasing employee or contractor under penalty of perjury, stating that the
weapon or device is being purchased for one of the purposes authorized in §§ 478.40(b)(7) and 478.40(b)(3), i.e., on-site physical protection, on-site or off-site training, or off-site transportation of nuclear materials.

(3) A written statement from a supervisor of the purchasing employee or contractor, on agency or company letterhead, under penalty of perjury, stating that the purchasing employee or contractor is acquiring the weapon or device for use in official duties, and that the weapon or device is not being acquired for personal use or for purposes of transfer or resale.

(Approved by the Office of Management and Budget under control number 1140–0041)


§ 478.133 Records of transactions in semiautomatic assault weapons.

The evidence specified in §478.40(c), relating to transactions in semiautomatic assault weapons, shall be retained in the permanent records of the manufacturer or dealer and in the records of the licensee to whom the weapons are transferred.

(Approved by the Office of Management and Budget under control number 1140–0041)


§ 478.134 Sale of firearms to law enforcement officers.

(a) Law enforcement officers purchasing firearms for official use who provide the licensee with a certification on agency letterhead, signed by a person in authority within the agency (other than the officer purchasing the firearm), stating that the officer will use the firearm in official duties and that a records check reveals that the purchasing officer has no convictions for misdemeanor crimes of domestic violence are not required to complete Form 4473 or Form 5300.35. The law enforcement officer purchasing the firearm may purchase a firearm from a licensee in another State, regardless of where the officer resides or where the agency is located.

(b)(1) The following individuals are considered to have sufficient authority to certify that law enforcement officers purchasing firearms will use the firearms in the performance of official duties:

(i) In a city or county police department, the director of public safety or the chief or commissioner of police.

(ii) In a sheriff’s office, the sheriff.

(iii) In a State police or highway patrol department, the superintendent or the supervisor in charge of the office to which the State officer or employee is assigned.

(iv) In Federal law enforcement offices, the supervisor in charge of the office to which the Federal officer or employee is assigned.

(2) An individual signing on behalf of the person in authority is acceptable, provided there is a proper delegation of authority.

(c) Licensees are not required to prepare a Form 4473 or Form 5300.35 covering sales of firearm made in accordance with paragraph (a) of this section to law enforcement officers for official use. However, disposition to the officer must be entered into the licensee’s permanent records, and the certification letter must be retained in the licensee’s files.

[T.D. ATF–401, 63 FR 35523, June 30, 1998]

Subpart I—Exemptions, Seizures, and Forfeitures

§ 478.141 General.

With the exception of §§ 478.32(a)(9) and (d)(9) and 478.99(c)(9), the provisions of this part shall not apply with respect to:

(a) The transportation, shipment, receipt, possession, or importation of any firearm or ammunition imported for, sold or shipped to, or issued for the use of, the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof.

(b) The shipment or receipt of firearms or ammunition when sold or issued by the Secretary of the Army pursuant to section 4308 of Title 10, U.S.C., and the transportation of any such firearm or ammunition carried
§ 478.142 Effect of pardons and expunctions of convictions.

(a) A pardon granted by the President of the United States regarding a Federal conviction for a crime punishable by imprisonment for a term exceeding 1 year shall remove any disability which otherwise would be imposed by the provisions of this part with respect to that conviction.

(b) A pardon granted by the Governor of a State or other State pardoning authority or by the pardoning authority of a foreign jurisdiction with respect to a conviction, or any expunction, reversal, setting aside of a conviction, or other proceeding rendering a conviction nugatory, or a restoration of civil rights shall remove any disability which otherwise would be imposed by the provisions of this part with respect to the conviction, unless:

(1) The pardon, expunction, setting aside, or other proceeding rendering a conviction nugatory, or restoration of civil rights expressly provides that the person may not ship, transport, possess or receive firearms or;

(2) The pardon, expunction, setting aside, or other proceeding rendering a conviction nugatory, or restoration of civil rights did not fully restore the rights of the person to possess or receive firearms under the law of the jurisdiction where the conviction occurred.

§ 478.143 Relief from disabilities incurred by indictment.

A licensed importer, licensed manufacturer, licensed dealer, or licensed collector who is indicted for a crime punishable by imprisonment for a term exceeding 1 year may, notwithstanding any other provision of the Act, continue operations pursuant to his existing license during the term of such indictment and until any conviction pursuant to the indictment becomes final:

Provided, That if the term of the license expires during the period between the date of the indictment and the date the conviction thereunder becomes final, such importer, manufacturer, dealer, or collector must file a timely application for the renewal of his license in order to continue operations. Such application shall show that the applicant is under indictment for a crime punishable by imprisonment for a term exceeding 1 year.

§ 478.144 Relief from disabilities under the Act.

(a) Any person may make application for relief from the disabilities under section 922 (g) and (n) of the Act (see § 478.32).

(b) An application for such relief shall be filed, in triplicate, with the Director. It shall include the information required by this section and such other
supporting data as the Director and the applicant deem appropriate.

(c) Any record or document of a court or other government entity or official required by this paragraph to be furnished by an applicant in support of an application for relief shall be certified by the court or other government entity or official as a true copy. An application shall include:

(1) In the case of an applicant who is an individual, a written statement from each of 3 references, who are not related to the applicant by blood or marriage and have known the applicant for at least 3 years, recommending the granting of relief;

(2) Written consent to examine and obtain copies of records and to receive statements and information regarding the applicant’s background, including records, statements and other information concerning employment, medical history, military service, and criminal record;

(3) In the case of an applicant under indictment, a copy of the indictment or information;

(4) In the case of an applicant having been convicted of a crime punishable by imprisonment for a term exceeding 1 year, a copy of the indictment or information on which the applicant was convicted, the judgment of conviction or record of any plea of nolo contendere or plea of guilty or finding of guilt by the court, and any pardon, expunction, setting aside or other record purporting to show that the conviction was rendered nugatory or that civil rights were restored;

(5) In the case of an applicant who has been adjudicated a mental defective or committed to a mental institution, a copy of the order of a court, board, commission, or other lawful authority that made the adjudication or ordered the commitment, any petition that sought to have the applicant so adjudicated or committed, any medical records reflecting the reasons for commitment and diagnoses of the applicant, and any court order or finding of a court, board, commission, or other lawful authority showing the applicant’s discharge from commitment, restoration of mental competency and the restoration of rights;

(6) In the case of an applicant who has been discharged from the Armed Forces under dishonorable conditions, a copy of the applicant’s summary of service record (Department of Defense Form 214), charge sheet (Department of Defense Form 458), and final court martial order;

(7) In the case of an applicant who, having been a citizen of the United States, has renounced his or her citizenship, a copy of the formal renunciation of nationality before a diplomatic or consular officer of the United States in a foreign state or before an officer designated by the Attorney General when the United States was in a state of war (see 8 U.S.C. 1481(a) (5) and (6)); and

(8) In the case of an applicant who has been convicted of a misdemeanor crime of domestic violence, a copy of the indictment or information on which the applicant was convicted, the judgment of conviction or record of any plea of nolo contendere or plea of guilty or finding of guilt by the court, and any pardon, expunction, setting aside or other record purporting to show that the conviction was rendered nugatory or that civil rights were restored.

(d) The Director may grant relief to an applicant if it is established to the satisfaction of the Director that the circumstances regarding the disability, and the applicant’s record and reputation, are such that the granting of the relief would not be contrary to the public interest. The Director will not ordinarily grant relief if the applicant has not been discharged from parole or probation for a period of at least 2 years. Relief will not be granted to an applicant who is prohibited from possessing all types of firearms by the law of the State where such applicant resides.

(e) In addition to meeting the requirements of paragraph (d) of this section, an applicant who has been adjudicated a mental defective or committed to a mental institution will not be granted relief unless the applicant was subsequently determined by a court, board, commission, or other lawful authority to have been restored to
mental competency, to be no longer suffering from a mental disorder, and to have had all rights restored.

(f) Upon receipt of an incomplete or improperly executed application for relief, the applicant shall be notified of the deficiency in the application. If the application is not corrected and returned within 30 days following the date of notification, the application shall be considered as having been abandoned.

(g) Whenever the Director grants relief to any person pursuant to this section, a notice of such action shall be promptly published in the FEDERAL REGISTER, together with the reasons therefor.

(h) A person who has been granted relief under this section shall be relieved of any disabilities imposed by the Act with respect to the acquisition, receipt, transfer, shipment, transportation, or possession of firearms or ammunition and incurred by reason of such disability.

(i)(1) A licensee who incurs disabilities under the Act (see §478.32(a)) during the term of a current license or while the licensee has pending a license renewal application, and who files an application for removal of such disabilities, shall not be barred from licensed operations for 30 days following the date on which the applicant was first subject to such disabilities (or 30 days after the date upon which the conviction for a crime punishable by imprisonment for a term exceeding 1 year becomes final), and if the licensee files the application for relief as provided by this section within such 30-day period, the licensee may further continue licensed operations during the pendency of the application. A licensee who does not file such application within such 30-day period shall not continue licensed operations beyond 30 days following the date on which the licensee was first subject to such disabilities (or 30 days from the date the conviction for a crime punishable by imprisonment for a term exceeding 1 year becomes final).

(2) In the event the term of a license of a person expires during the 30-day period specified in paragraph (i)(1) of this section, or during the pendency of the application for relief, a timely application for renewal of the license must be filed in order to continue licensed operations. Such license application shall show that the applicant is subject to Federal firearms disabilities, shall describe the event giving rise to such disabilities, and shall state when the disabilities were incurred.

(3) A licensee shall not continue licensed operations beyond 30 days following the date the Director issues notification that the licensee’s applications for removal of disabilities has been denied.

(4) When as provided in this paragraph a licensee may no longer continue licensed operations, any application for renewal of license filed by the licensee during the pendency of the application for removal of disabilities shall be denied by the Director of Industry Operations.


§478.145 Research organizations.

The provisions of §478.98 with respect to the sale or delivery of destructive devices, machine guns, short-barreled shotguns, and short-barreled rifles shall not apply to the sale or delivery of such devices and weapons to any research organization designated by the Director to receive same. A research organization desiring such designation shall submit a letter application, in duplicate, to the Director. Such application shall contain the name and address of the research organization, the names and addresses of the persons directing or controlling, directly or indirectly, the policies and management of such organization, the nature and purpose of the research being conducted, a description of the devices and weapons to be received, and the identity of the person or persons from whom such devices and weapons are to be received.


§478.146 Deliveries by mail to certain persons.

The provisions of this part shall not be construed as prohibiting a licensed importer, licensed manufacturer, or licensed dealer from depositing a firearm
for conveyance in the mails to any officer, employee, agent, or watchman who, pursuant to the provisions of section 1715 of title 18, U.S.C., is eligible to receive through the mails pistols, revolvers, and other firearms capable of being concealed on the person, for use in connection with his official duties.

§ 478.147 Return of firearm.

A person not otherwise prohibited by Federal, State or local law may ship a firearm to a licensed importer, licensed manufacturer, or licensed dealer for any lawful purpose, and, notwithstanding any other provision of this part, the licensed manufacturer, licensed importer, or licensed dealer may return in interstate or foreign commerce to that person the firearm or a replacement firearm of the same kind and type. See §478.124(a) for requirements of a Form 4473 prior to return. A person not otherwise prohibited by Federal, State or local law may ship a firearm curio or relic to a licensed collector for any lawful purpose, and, notwithstanding any other provision of this part, the licensed collector may return in interstate or foreign commerce to that person the firearm curio or relic.


§ 478.148 Armor piercing ammunition intended for sporting or industrial purposes.

The Director may exempt certain armor piercing ammunition from the requirements of this part. A person who desires to obtain an exemption under this section for any such ammunition which is primarily intended for sporting purposes or intended for industrial purposes, including charges used in oil and gas well perforating devices, shall submit a written request to the Director. Each request shall be executed under the penalties of perjury and contain a complete and accurate description of the ammunition, the name and address of the manufacturer or importer, the purpose of and use for which it is designed and intended, and any photographs, diagrams, or drawings as may be necessary to enable the Director to make a determination. The Director may require that a sample of the ammunition be submitted for examination and evaluation.


§ 478.149 Armor piercing ammunition manufactured or imported for the purpose of testing or experimentation.

The provisions of §§478.37 and 478.99(d) with respect to the manufacture or importation of armor piercing ammunition and the sale or delivery of armor piercing ammunition by manufacturers and importers shall not apply to the manufacture, importation, sale or delivery of armor piercing ammunition for the purpose of testing or experimentation as authorized by the Director. A person desiring such authorization to receive armor piercing ammunition shall submit a letter application, in duplicate, to the Director. Such application shall contain the name and addresses of the persons directing or controlling, directly or indirectly, the policies and management of the applicant, the nature or purpose of the testing or experimentation, a description of the armor piercing ammunition to be received, and the identity of the manufacturer or importer from whom such ammunition is to be received. The approved application shall be submitted to the manufacturer or importer who shall retain a copy as part of the records required by subpart H of this part.


§ 478.150 Alternative to NICS in certain geographical locations.

(a) The provisions of §478.102(d)(3) shall be applicable when the Director has certified that compliance with the provisions of §478.102(a)(1) is impracticable because:

(1) The ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

(2) The business premises of the licensee at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer; and

(3) There is an absence of telecommunications facilities in the geographical area in which the business premises are located.
§ 478.151  

(b) A licensee who desires to obtain a certification under this section shall submit a written request to the Director. Each request shall be executed under the penalties of perjury and contain information sufficient for the Director to make such certification. Such information shall include statistical data, official reports, or other statements of government agencies pertaining to the ratio of law enforcement officers to the number of square miles of land area of a State and statements of government agencies and private utility companies regarding the absence of telecommunications facilities in the geographical area in which the licensee’s business premises are located.

(c) For purposes of this section and §478.129(c), the “chief law enforcement officer” means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

(Paragraph (b) approved by the Office of Management and Budget under control number 1140–0037)


§ 478.152  Seizure and forfeiture.

(a) Any firearm or ammunition involved in or used in any knowing violation of subsections (a)(4), (a)(6), (f), (g), (h), (i), (j), or (k) of section 922 of the Act, or knowingly importation or bringing into the United States or any possession thereof any firearm or ammunition in violation of section 922(1) of the Act, or knowing violation of section 924 of the Act, or willful violation of any other provision of the Act or of this part, or any violation of any other criminal law of the United States, or any firearm or ammunition intended to be used in any offense referred to in paragraph (c) of this section, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1986 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of the Act: Provided, That upon acquitted of the owner or possessor, or dismissal of the charges against such person other than upon motion of the Government prior to trial, or lapse of or court termination of the restraining order to which he is subject, the seized or relinquished firearms or ammunition shall be returned forthwith to the owner or possessor or to a person delegated by the owner or possessor unless the return of the firearms or ammunition would place the owner or possessor or the delegate of the owner or possessor in violation of law. Any action or proceeding for the forfeiture of firearms or ammunition shall be commenced within 120 days of such seizure.

(b) Only those firearms or quantities of ammunition particularly named and individually identified as involved in or used in any violation of the provisions of the Act or this part, or any other criminal law of the United States or as available for examination and evaluation.
intended to be used in any offense referred to in paragraph (c) of this section, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure, forfeiture and disposition.

(c) The offenses referred to in paragraphs (a) and (b) of this section for which firearms and ammunition intended to be used in such offenses are subject to seizure and forfeiture are:

(1) Any crime of violence, as that term is defined in section 924(c)(3) of the Act;
(2) Any offense punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.);
(3) Any offense described in section 922(a)(1), 922(a)(3), 922(a)(5), or 922(b)(3) of the Act, where the firearm or ammunition intended to be used in such offense is involved in a pattern of activities which includes a violation of any offense described in section 922(a)(1), 922(a)(3), 922(a)(5), or 922(b)(3) of the Act;
(4) Any offense described in section 922(d) of the Act where the firearm or ammunition is intended to be used by the transferor of such firearm or ammunition;
(5) Any offense described in section 922(1), 922(1), 922(1), or 922(b) of the Act; and
(6) Any offense which may be prosecuted in a court of the United States which involves the exportation of firearms or ammunition.


§ 478.153 Semiautomatic assault weapons and large capacity ammunition feeding devices manufactured or imported for the purposes of testing or experimentation.

The provisions of § 478.40 with respect to the manufacture, transfer, or possession of a semiautomatic assault weapon, and § 478.40a with respect to large capacity ammunition feeding devices, shall not apply to the manufacture, transfer, or possession of such weapons or devices by a manufacturer or importer for the purposes of testing or experimentation as authorized by the Director. A person desiring such authorization shall submit a letter application, in duplicate, to the Director. Such application shall contain the name and addresses of the persons directing or controlling, directly or indirectly, the policies and management of the applicant, the nature or purpose of the testing or experimentation, a description of the weapons or devices to be manufactured or imported, and the source of the weapons or devices. The approved application shall be retained as part of the records required by subpart H of this part.

[T.D. ATF–363, 60 FR 17456, Apr. 6, 1995]

Subpart J [Reserved]

Subpart K—Exportation

§ 478.171 Exportation.

Firearms and ammunition shall be exported in accordance with the applicable provisions of section 38 of the Arms Export Control Act (22 U.S.C. 2778) and regulations thereunder. However, licensed manufacturers, licensed importers, and licensed dealers exporting firearms shall maintain records showing the manufacture or acquisition of the firearms as required by this part and records showing the name and address of the foreign consignee of the firearms and the date the firearms were exported. Licensed manufacturers and licensed importers exporting armor piercing ammunition and semiautomatic assault weapons manufactured after September 13, 1994, shall maintain records showing the name and address of the foreign consignee and the date the armor piercing ammunition or semiautomatic assault weapons were exported.

[T.D. ATF–270, 53 FR 10507, Apr. 6, 1995]
Pt. 479

Subpart B—Definitions

479.11 Meaning of terms.

Subpart C—Administrative and Miscellaneous Provisions

479.21 Forms prescribed.
479.22 Right of entry and examination.
479.23 Restrictive use of required information.
479.24 Destructive device determination.
479.25 Collector’s items.
479.26 Alternate methods or procedures; emergency variations from requirements.

Subpart D—Special (Occupational) Taxes

479.31 Liability for tax.
479.32 Special (occupational) tax rates.
479.32a Reduced rate of tax for small importers and manufacturers.
479.33 Special exemption.
479.34 Special tax registration and return.
479.35 Employer identification number.
479.36 The special tax stamp, receipt for special (occupational) taxes.
479.37 Certificates in lieu of stamps lost or destroyed.
479.38 Engaging in business at more than one location.
479.39 Engaging in more than one business at the same location.
479.40 Partnership liability.
479.41 Single sale.

CHANGE OF OWNERSHIP

479.42 Changes through death of owner.
479.43 Changes through bankruptcy of owner.
479.44 Change in partnership or unincorporated association.
479.45 Changes in corporation.

CHANGE OF BUSINESS LOCATION

479.46 Notice by taxpayer.

CHANGE OF TRADE NAME

479.47 Notice by taxpayer.

PENALTIES AND INTEREST

479.48 Failure to pay special (occupational) tax.
479.49 Failure to register change or removal.
479.50 Delinquency.
479.51 Fraudulent return.

APPLICATION OF STATE LAWS

479.52 State regulations.

Subpart E—Tax on Making Firearms

479.61 Rate of tax.

APPLICATION TO MAKE A FIREARM

479.62 Application to make.
479.63 Identification of applicant.
479.64 Procedure for approval of application.
479.65 Denial of application.
479.66 Subsequent transfer of firearms.
479.67 Cancellation of stamp.

EXCEPTIONS TO TAX ON MAKING FIREARMS

479.68 Qualified manufacturer.
479.69 Making a firearm for the United States.
479.70 Certain government entities.

REGISTRATION

479.71 Proof of registration.

Subpart F—Transfer Tax

479.81 Scope of tax.
479.82 Rate of tax.
479.83 Transfer tax in addition to import duty.

APPLICATION AND ORDER FOR TRANSFER OF FIREARM

479.84 Application to transfer.
479.85 Identification of transferee.
479.86 Action on application.
479.87 Cancellation of stamp.

EXEMPTIONS RELATING TO TRANSFERS OF FIREARMS

479.88 Special (occupational) taxpayers.
479.89 Transfers to the United States.
479.90 Certain government entities.
479.90a Estates.
479.91 Unserviceable firearms.
479.92 Transportation of firearms to effect transfer.

OTHER PROVISIONS

479.93 Transfers of firearms to certain persons.

Subpart G—Registration and Identification of Firearms

479.101 Registration of firearms.
479.102 How must firearms be identified?
479.103 Registration of firearms manufactured.
479.104 Registration of firearms by certain governmental entities.

MACHINE GUNS

479.105 Transfer and possession of machine guns.

Subpart H—Importation and Exportation

IMPORTATION

479.111 Procedure.
479.112 Registration of imported firearms.
479.113 Conditional importation.
Subpart A—Scope of Regulations

§ 479.1 General.

This part contains the procedural and substantive requirements relative to the importation, manufacture, making, exportation, identification and registration of, and the dealing in, machine guns, destructive devices and certain other firearms under the provisions of the National Firearms Act (26 U.S.C. Chapter 53).

Subpart B—Definitions

§ 479.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms “includes” and “including” do not exclude other things not enumerated which are in the same general class or are otherwise within the scope thereof.

Antique firearm. Any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

Any other weapon. Any weapon or device capable of being concealed on the
person from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such term shall not include a pistol or a revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.

ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Customs officer. Any officer of U.S. Customs and Border Protection, any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law to perform the duties of a customs officer.

Dealer. Any person, not a manufacturer or importer, engaged in the business of selling, renting, leasing, or loaning firearms and shall include pawnbrokers who accept firearms as collateral for loans.

Destructive device. (a) Any explosive, incendiary, or poison gas (1) bomb, (2) grenade, (3) rocket having a propellant charge of more than 4 ounces, (4) missile having an explosive or incendiary charge of more than one-quarter ounce, (5) mine, or (6) similar device; (b) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half inch in diameter, except a shotgun or shotgun shell which the Director finds is generally recognized as particularly suitable for sporting purposes; and (c) any combination of parts either designed or intended for use in converting any device into a destructive device as described in paragraphs (a) and (b) of this definition and from which a destructive device may be readily assembled. The term shall not include any device which is neither designed or redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army under 10 U.S.C. 4684(2), 4685, or 4686, or any device which the Director finds is not likely to be used as a weapon, or is an antique or is a rifle which the owner intends to use solely for sporting purposes.

Director. The Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives, the Department of Justice, Washington, DC.

District director. A district director of the Internal Revenue Service in an internal revenue district.

Exportation. The severance of goods from the mass of things belonging to this country with the intention of uniting them to the mass of things belonging to some foreign country.

Exporter. Any person who exports firearms from the United States.

Firearm. (a) A shotgun having a barrel or barrels of less than 18 inches in length; (b) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (c) a rifle having a barrel or barrels of less than 16 inches in length; (d) a weapon made from a
rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (e) any other weapon, as defined in this subpart; (f) a machine gun; (g) a muffler or a silencer for any firearm whether or not such firearm is included within this definition; and (h) a destructive device. The term shall not include an antique firearm or any device (other than a machine gun or destructive device) which, although designed as a weapon, the Director finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector’s item and is not likely to be used as a weapon. For purposes of this definition, the length of the barrel having an integral chamber(s) on a shotgun or rifle shall be determined by measuring the distance between the muzzle and the face of the bolt, breech, or breech block when closed and when the shotgun or rifle is cocked. The overall length of a weapon made from a shotgun or rifle is the distance between the extreme ends of the weapon measured along a line parallel to the center line of the bore.

Fixed ammunition. That self-contained unit consisting of the case, primer, propellant charge, and projectile or projectiles.

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.

Importation. The bringing of a firearm within the limits of the United States or any territory under its control or jurisdiction, from a place outside thereof (whether such place be a foreign country or territory subject to the jurisdiction of the United States), with intent to unlade. Except that, bringing a firearm from a foreign country or a territory subject to the jurisdiction of the United States into a foreign trade zone for storage pending shipment to a foreign country or subsequent importation into this country, under Title 26 of the United States Code, and this part, shall not be deemed importation.

Importer. Any person who is engaged in the business of importing or bringing firearms into the United States.

Machine gun. Any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machine gun, and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.

Make. This term and the various derivatives thereof shall include manufacturing (other than by one qualified to engage in such business under this part), putting together, altering, any combination of these, or otherwise producing a firearm.

Manual reloading. The inserting of a cartridge or shell into the chamber of a firearm either with the hands or by means of a mechanical device controlled and energized by the hands.

Manufacturer. Any person who is engaged in the business of manufacturing firearms.

Muffler or silencer. Any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for the use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.

Person. A partnership, company, association, trust, estate, or corporation, as well as a natural person.

Pistol. A weapon originally designed, made, and intended to fire a projectile (bullet) from one or more barrels when held in one hand, and having (a) a chamber(s) as an integral part(s) of, or permanently aligned with, the bore(s); and (b) a short stock designed to be gripped by one hand and at an angle to and extending below the line of the bore(s).

Revolver. A projectile weapon, of the pistol type, having a breechloading chambered cylinder so arranged that the cocking of the hammer or movement of the trigger rotates it and
brings the next cartridge in line with the barrel for firing.

Rifle. A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed cartridge.

Shotgun. A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed shotgun shell.

Transfer. This term and the various derivatives thereof shall include selling, assigning, pledging, leasing, loaning, giving away, or otherwise disposing of.

United States. The States and the District of Columbia.


Unserviceable firearm. A firearm which is incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition.


Effective date note: At 41 FR 2721, Jan. 15, 2016, §479.11 is amended by revising the definition for “Person” and adding a new definition for the term “Responsible person”, effective July 13, 2016. For the convenience of the user, the added and revised text is set forth as follows:

§479.11 Meaning of terms.

Person. A partnership, company, association, trust, corporation, including each responsible person associated with such an entity; an estate; or an individual.

* * * * *

Responsible person. In the case of an unlicensed entity, including any trust, partnership, association, company (including any Limited Liability Company (LLC)), or corporation, any individual who possesses, directly or indirectly, the power or authority to direct the management and policies of the trust or entity to receive, possess, ship, transport, deliver, transfer, or otherwise dispose of a firearm for, or on behalf of, the trust or legal entity. In the case of a trust, those persons with the power or authority to direct the management and policies of the trust include 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 capability to exercise the powers or authorities enumerated in this section.

Subpart C—Administrative and Miscellaneous Provisions

§479.21 Forms prescribed.

(a) The Director is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part. Each form requiring that it be executed under penalties of perjury shall be executed under penalties of perjury.

(b) Requests for forms should be submitted to the ATF Distribution Center.
§ 479.22 Right of entry and examination.

Any ATF officer or employee of the Bureau of Alcohol, Tobacco, Firearms, and Explosives duly authorized to perform any function relating to the administration or enforcement of this part may enter during business hours the premises (including places of storage) of any importer or manufacturer of or dealer in firearms, to examine any books, papers, or records required to be kept pursuant to this part, and any firearms kept by such importer, manufacturer or dealer on such premises, and may require the production of any books, papers, or records necessary to determine any liability for tax under 26 U.S.C. Chapter 53, or the observance of 26 U.S.C. Chapter 53, and this part.

§ 479.23 Restrictive use of required information.

No information or evidence obtained from an application, registration, or record required to be submitted or retained by a natural person in order to comply with any provision of 26 U.S.C. Chapter 53, or this part or section 207 of the Gun Control Act of 1968 shall be used, directly or indirectly, as evidence against that person in a criminal proceeding with respect to a violation of law occurring prior to or concurrently with the filing of the application or registration, or the compiling of the record containing the information or evidence: Provided, however, That the provisions of this section shall not preclude the use of any such information or evidence in a prosecution or other action under any applicable provision of law with respect to the furnishing of false information.

§ 479.24 Destructive device determination.

The Director shall determine in accordance with 26 U.S.C. 5845(f), whether a device is excluded from the definition of a destructive device. A person who desires to obtain a determination under that provision of law for any device which he believes is not likely to be used as a weapon shall submit a written request, in triplicate, for a ruling thereon to the Director. Each such request shall be executed under the penalties of perjury and contain a complete and accurate description of the device, the name and address of the manufacturer or importer thereof, the purpose of and use for which it is intended, and such photographs, diagrams, or drawings as may be necessary to enable the Director to make his determination. The Director may require the submission to him, of a sample of such device for examination and evaluation. If the submission of such device is impracticable, the person requesting the ruling shall so advise the Director and designate the place where the device will be available for examination and evaluation.

§ 479.25 Collector’s items.

The Director shall determine in accordance with 26 U.S.C. 5845(a), whether a firearm or device, which although originally designed as a weapon, is by reason of the date of its manufacture, value, design, and other characteristics primarily a collector’s item and is not likely to be used as a weapon. A person who desires to obtain a determination under that provision of law shall follow the procedures prescribed in § 479.24 relating to destructive device determinations, and shall include information as to date of manufacture, value, design and other characteristics which would sustain a finding that the firearm or device is primarily a collector’s item.
§ 479.26 Alternate methods or procedures; emergency variations from requirements.

(a) Alternate methods or procedures. Any person subject to the provisions of this part, on specific approval by the Director as provided in this paragraph, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in this part. The Director may approve an alternate method or procedure, subject to stated conditions, when it is found that:

(1) Good cause is shown for the use of the alternate method or procedure;

(2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure and that the alternate method or procedure is substantially equivalent to that specifically prescribed method or procedure; and

(3) The alternate method or procedure will not be contrary to any provision of law and will not result in an increase in cost to the Government or hinder the effective administration of this part. Where such person desires to employ an alternate method or procedure, a written application shall be submitted to the appropriate Director, Industry Operations, for transmittal to the Director. The application shall specifically describe the proposed alternate method or procedure and shall set forth the reasons for it. Alternate methods or procedures may not be employed until the application is approved by the Director. Such person shall, during the period of authorization of an alternate method or procedure, comply with the terms of the approved application. Authorization of any alternate method or procedure may be withdrawn whenever, in the judgment of the Director, the effective administration of this part is hindered by the continuation of the authorization.

(b) Emergency variations from requirements. The Director may approve a method of operation other than as specified in this part, where it is found that an emergency exists and the proposed variation from the specified requirements are necessary and the proposed variations (1) will not hinder the effective administration of this part, and (2) will not be contrary to any provisions of law. Variations from requirements granted under this paragraph are conditioned on compliance with the procedures, conditions, and limitations set forth in the approval of the application. Failure to comply in good faith with the procedures, conditions, and limitations shall automatically terminate the authority for the variations, and the person granted the variance shall fully comply with the prescribed requirements of regulations from which the variations were authorized. Authority for any variation may be withdrawn whenever, in the judgment of the Director, the effective administration of this part is hindered by the variations. Variations may not be employed until the application is approved. Variations may not be employed until the application is approved.

(c) Retention of approved variations. The person granted the variance shall retain and make available for examination by ATF officers any application approved by the Director under this section.


Subpart D—Special (Occupational) Taxes

§ 479.31 Liability for tax.

(a) General. Every person who engages in the business of importing, manufacturing, or dealing in (including pawnbrokers) firearms in the United States shall pay a special (occupational) tax at a rate specified by §479.32. The tax shall be paid on or before the date of commencing the taxable business, and thereafter every year on or before July 1. Special (occupational) tax shall not be prorated. The
tax shall be computed for the entire tax year (July 1 through June 30), regardless of the portion of the year during which the taxpayer engages in business. Persons commencing business at any time after July 1 in any year are liable for the special (occupational) tax for the entire tax year.

(b) Each place of business taxable. An importer, manufacturer, or dealer in firearms incurs special tax liability at each place of business where an occupation subject to special tax is conducted. A place of business means the entire office, plant or area of the business in any one location under the same proprietorship. Passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises are not sufficient separation to require additional special tax, if the divisions of the premises are otherwise contiguous. See also §§ 479.38–479.39.


§ 479.32 Special (occupational) tax rates.

(a) Prior to January 1, 1988, the special (occupational) tax rates were as follows:

<table>
<thead>
<tr>
<th>Class</th>
<th>Description</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Importer of firearms</td>
<td>$500</td>
</tr>
<tr>
<td>2</td>
<td>Manufacturer of firearms</td>
<td>$500</td>
</tr>
<tr>
<td>3</td>
<td>Dealer in firearms</td>
<td>$200</td>
</tr>
<tr>
<td>4</td>
<td>Importer only of weapons classified as “any other weapon”</td>
<td>$25</td>
</tr>
<tr>
<td>5</td>
<td>Manufacturer only of weapons classified as “any other weapon”</td>
<td>$25</td>
</tr>
<tr>
<td>6</td>
<td>Dealer only in weapons classified as “any other weapon”</td>
<td>$10</td>
</tr>
</tbody>
</table>

(b) Except as provided in § 479.32a, the special (occupational) tax rates effective January 1, 1988, are as follows:

<table>
<thead>
<tr>
<th>Class</th>
<th>Description</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Importer of firearms (including an importer only of weapons classified as “any other weapon”)</td>
<td>$1,000</td>
</tr>
<tr>
<td>2</td>
<td>Manufacturer of firearms (including a manufacturer only of weapons classified as “any other weapon”)</td>
<td>$1,000</td>
</tr>
<tr>
<td>3</td>
<td>Dealer in firearms (including a dealer only of weapons classified as “any other weapon”)</td>
<td>$500</td>
</tr>
</tbody>
</table>

(c) A taxpayer who was engaged in a business on January 1, 1988, for which a special (occupational) tax was paid for a taxable period which began before January 1, 1988, and included that date, shall pay an increased special tax for the period January 1, 1988, through June 30, 1988. The increased tax shall not exceed one-half the excess (if any) of (1) the rate of special tax in effect on January 1, 1988, over (2) the rate of such tax in effect on December 31, 1987. The increased special tax shall be paid on or before April 1, 1988.


§ 479.32a Reduced rate of tax for small importers and manufacturers.

(a) General. Effective January 1, 1988, 26 U.S.C. 5801(b) provides for a reduced rate of special tax with respect to any importer or manufacturer whose gross receipts (for the most recent taxable year ending before the first day of the taxable period to which the special tax imposed by § 479.32 relates) are less than $500,000. The rate of tax for such an importer or manufacturer is $500 per year or fraction thereof. The “taxable year” to be used for determining gross receipts is the taxpayer’s income tax year. All gross receipts of the taxpayer shall be included, not just the gross receipts of the business subject to special tax. Proprietors of new businesses that have not yet begun a taxable year, as well as proprietors of existing businesses that have not yet ended a taxable year, who commence a new activity subject to special tax, qualify for the reduced special (occupational) tax rate, unless the business is a member of a “controlled group”; in that case, the rules of paragraph (b) of this section shall apply.

(b) Controlled group. All persons treated as one taxpayer under 26 U.S.C. 5061(e)(3) shall be treated as one taxpayer for the purpose of determining gross receipts under paragraph (a) of this section. “Controlled group” means a controlled group of corporations, as defined in 26 U.S.C. 1563 and implementing regulations in 26 CFR 1.1563–1 through 1.1563–4, except that the words “at least 80 percent” shall be replaced by the words “more than 50 percent” in each place they appear in subsection (a) of 26 U.S.C. 1563, as well as in the
implementing regulations. Also, the rules for a “controlled group of corporations” apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group are one taxpayer for the purpose of this section.

(c) Short taxable year. Gross receipts for any taxable year of less than 12 months shall be annualized by multiplying the gross receipts for the short period by 12 and dividing the result by the number of months in the short period, as required by 26 U.S.C. 448(c)(3).

(d) Returns and allowances. Gross receipts for any taxable year shall be reduced by returns and allowances made during that year under 26 U.S.C. 448(c).

(26 U.S.C. 448, 5061, 5801)


§ 479.34 Special tax registration and return.

(a) General. Special tax shall be paid by return. The prescribed return is ATF Form 5630.7, Special Tax Registration and Return. Special tax returns, with payment of tax, shall be filed with ATF in accordance with instructions on the form. Properly completing, signing, and timely filing of a return (Form 5630.7) constitutes compliance with 26 U.S.C. 5802.

(b) Preparation of ATF Form 5630.7. All of the information called for on Form 5630.7 shall be provided, including:

(1) The true name of the taxpayer.

(2) The trade name(s) (if any) of the business(es) subject to special tax.

(3) The employer identification number (see §479.35).

(4) The exact location of the place of business, by name and number of building or street, or if these do not exist, by some description in addition to the post office address. In the case of one return for two or more locations, the address to be shown shall be the taxpayer’s principal place of business (or principal office, in the case of a corporate taxpayer).

(5) The class(es) of special tax to which the taxpayer is subject.

(6) Ownership and control information: That is, the name, position, and residence address of every owner of the business and of every person having power to control its management and policies with respect to the activity subject to special tax. “Owner of the business” shall include every partner, if the taxpayer is a partnership, and every person owning 10% or more of its stock, if the taxpayer is a corporation. However, the ownership and control information required by this paragraph need not be stated if the same information has been previously provided to ATF in connection with a license application under Part 478 of this chapter, and if the information previously provided is still current.

(c) Multiple locations and/or classes of tax. A taxpayer subject to special tax for the same period at more than one location or for more than one class of tax shall—

(1) File one special tax return, ATF Form 5630.7, with payment of tax, to
cover all such locations and classes of tax; and

(2) Prepare, in duplicate, a list identified with the taxpayer’s name, address (as shown on ATF Form 5630.7), employer identification number, and period covered by the return. The list shall show, by States, the name, address, and tax class of each location for which special tax is being paid. The original of the list shall be filed with ATF in accordance with instructions on the return, and the copy shall be retained at the taxpayer’s principal place of business (or principal office, in the case of a corporate taxpayer) for not less than 3 years.

(d) Signing of ATF Forms 5630.7—(1) Ordinary returns. The return of an individual proprietor shall be signed by the individual. The return of a partnership shall be signed by a general partner. The return of a corporation shall be signed by any officer. In each case, the person signing the return shall designate his or her capacity as “individual owner,” “member of firm,” or, in the case of a corporation, the title of the officer.

(2) Fiduciaries. Receivers, trustees, assignees, executors, administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased person, etc., shall indicate the fiduciary capacity in which they act.

(3) Agent or attorney in fact. If a return is signed by an agent or attorney in fact, the signature shall be preceded by the name of the principal and followed by the title of the agent or attorney in fact. A return signed by a person as agent will not be accepted unless there is filed, with the ATF office with which the return is required to be filed, a power of attorney authorizing the agent to perform the act.

(4) Perjury statement. ATF Forms 5630.7 shall contain or be verified by a written declaration that the return has been executed under the penalties of perjury.

(e) Identification of taxpayer. If the taxpayer is an individual, with the initial return such person shall securely attach to Form 5630.7 a photograph of the individual 2 x 2 inches in size, clearly showing a full front view of the features of the individual with head bare, with the distance from the top of the head to the point of the chin approximately 1 1/4 inches, and which shall have been taken within 6 months prior to the date of completion of the return. The individual shall also attach to the return a properly completed FBI Form FD-258 (Fingerprint Card). The fingerprints must be clear for accurate classification and should be taken by someone properly equipped to take them: Provided, That the provisions of this paragraph shall not apply to individuals who have filed with ATF a properly executed Application for License under 18 U.S.C. Chapter 44, Firearms, ATF Form 7 (5310.12), as specified in §478.44(a).

(26 U.S.C. 5142, 5802, 5846, 6061, 6065, 6151)


§ 479.35 Employer identification number.

(a) Requirement. The employer identification number (defined in 26 CFR 301.7701–12) of the taxpayer who has been assigned such a number shall be shown on each special tax return, including amended returns, filed under this subpart. Failure of the taxpayer to include the employer identification number may result in the imposition of the penalty specified in §70.113 of this chapter.

(b) Application for employer identification number. Each taxpayer who files a special tax return, who has not already been assigned an employer identification number, shall file IRS Form SS–4 to apply for one. The taxpayer shall apply for and be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file a special tax return. The employer identification number shall be applied for no later than 7 days after the filing of the taxpayer’s first special tax return. IRS Form SS–4 may be obtained from the director of an IRS service center or from any IRS district director.

(c) Preparation and filing of IRS Form SS–4. The taxpayer shall prepare and file IRS Form SS–4, together with any
§ 479.36 Supplementary statement, in accordance with the instructions on the form or issued in respect to it.

(26 U.S.C. 6109)


§ 479.37 Certificates in lieu of stamps lost or destroyed.

When a special tax stamp has been lost or destroyed, such fact should be reported immediately to the Chief, National Firearms Act Branch who issued the stamp. A certificate in lieu of the lost or destroyed stamp will be issued to the taxpayer upon the submission of an affidavit showing to the satisfaction of the Chief, National Firearms Act Branch that the stamp was lost or destroyed.


§ 479.38 Engaging in business at more than one location.

A person shall pay the special (occupational) tax for each location where he engages in any business taxable under 26 U.S.C. 5801. However, a person paying a special (occupational) tax covering his principal place of business may utilize other locations solely for storage of firearms without incurring special (occupational) tax liability at such locations. A manufacturer, upon the single payment of the appropriate special (occupational) tax, may sell firearms, if such firearms are of his own manufacture, at the place of manufacture and at his principal office or place of business if no such firearms, except samples, are kept at such office or place of business. When a person changes the location of a business for which he has paid the special (occupational) tax, he will be liable for another such tax unless the change is properly registered with the Chief, National Firearms Act Branch for the region in which the special tax stamp was issued, as provided in § 479.46.


§ 479.39 Engaging in more than one business at the same location.

If more than one business taxable under 26 U.S.C. 5801, is carried on at the same location during a taxable year, the special (occupational) tax imposed on each such business must be paid. This section does not require a qualified manufacturer or importer to qualify as a dealer if such manufacturer or importer also engages in business on his qualified premises as a dealer. However, a qualified manufacturer who engages in business as an importer must also qualify as an importer. Further, a qualified dealer is not entitled to engage in business as a manufacturer or importer.


§ 479.40 Partnership liability.

Any number of persons doing business in partnership at any one location shall be required to pay but one special (occupational) tax.

§ 479.41 Single sale.

A single sale, unattended by circumstances showing the one making the sale to be engaged in business, does not create special (occupational) tax liability.
§ 479.42 Changes through death of owner.

Whenever any person who has paid special (occupational) tax dies, the surviving spouse or child, or executors or administrators, or other legal representatives, may carry on this business for the remainder of the term for which tax has been paid and at the place (or places) for which the tax was paid, without any additional payment, subject to the following conditions. If the surviving spouse or child, or executor or administrator, or other legal representative of the deceased taxpayer continues the business, such person shall, within 30 days after the date on which the successor begins to carry on the business, file a new return, Form 5630.7, with ATF in accordance with the instructions on the form. The return thus executed shall show the name of the original taxpayer, together with the basis of the succession. (As to liability in case of failure to register, see § 479.49.)

§ 479.43 Changes through bankruptcy of owner.

A receiver or referee in bankruptcy may continue the business under the stamp issued to the taxpayer at the place and for the period for which the tax was paid. An assignee for the benefit of creditors may continue business under his assignor's special tax stamp without incurring additional special (occupational) tax liability. In such cases, the change shall be registered with ATF in a manner similar to that required by § 479.42.

§ 479.44 Change in partnership or unincorporated association.

When one or more members withdraw from a partnership or an unincorporated association, the remaining member, or members, may, without incurring additional special (occupational) tax liability, carry on the same business at the same location for the balance of the taxable period for which special (occupational) tax was paid, provided any such change shall be registered in the same manner as required by § 479.42. Where new member(s) are taken into a partnership or an unincorporated association, the new firm so constituted may not carry on business under the special tax stamp of the old firm. The new firm must file a return, pay the special (occupational) tax and register in the same manner as a person who first engages in business is required to do under § 479.34 even though the name of the new firm may be the same as that of the old. Where the members of a partnership or an unincorporated association, which has paid special (occupational) tax, form a corporation to continue the business, a new special tax stamp must be taken out in the name of the corporation.

§ 479.45 Changes in corporation.

Additional special (occupational) tax is not required by reason of a mere change of name or increase in the capital stock of a corporation if the laws of the State of incorporation provide for such change or increase without the formation of a new corporation. A stockholder in a corporation who after its dissolution continues the business, incurs new special (occupational) tax liability.

CHANGE OF BUSINESS LOCATION

§ 479.46 Notice by taxpayer.

Whenever during the taxable year a taxpayer intends to remove his business to a location other than specified in his last special (occupational) tax return (see § 479.34), he shall file with ATF (a) a return, Form 5630.7, bearing the notation “Removal Registry,” and showing the new address intended to be used, (b) his current special tax stamp, and (c) a letter application requesting the amendment of his registration. The Chief, National Firearms Act Branch, upon approval of the application, shall return the special tax stamp, amended to show the new business location. Firearms operations shall not be commenced at the new business location by
the taxpayer prior to the required approval of his application to so change his business location.

§ 479.47 Notice by taxpayer.

Whenever during the taxable year a taxpayer intends to change the name of his business, he shall file with ATF (a) a return, Form 5630.7, bearing the notation "Amended," and showing the trade name intended to be used, (b) his current special tax stamp, and (c) a letter application requesting the amendment of his registration. The Chief, National Firearms Act Branch, upon approval of the application, shall return the special tax stamp, amended to show the new trade name. Firearms operations shall not be commenced under the new trade name by the taxpayer prior to the required approval of his application to so change the trade name.

§ 479.48 Failure to pay special (occupational) tax.

Any person who engages in a business taxable under 26 U.S.C. 5801, without timely payment of the tax imposed with respect to such business (see § 479.34) shall be liable for such tax, plus the interest and penalties thereon (see 26 U.S.C. 6601 and 6651). In addition, such person may be liable for criminal penalties under 26 U.S.C. 5871.

§ 479.49 Failure to register change or removal.

Any person succeeding to and carrying on a business for which special (occupational) tax has been paid without registering such change within 30 days thereafter, and any taxpayer removing his business with respect to which special (occupational) tax has been paid to a place other than that for which tax was paid without obtaining approval therefor (see § 479.46), will incur liability to an additional payment of the tax, addition to tax and interest, as provided in sections 5801, 6651, and 6601, respectively, I.R.C., for failure to make return (see § 479.50) or pay tax, as well as criminal penalties for carrying on business without payment of special (occupational) tax (see section 5871 I.R.C.).

§ 479.50 Delinquency.

Any person liable for special (occupational) tax under section 5801, I.R.C., who fails to file a return (Form 5630.7), as prescribed, will be liable for a delinquency penalty computed on the amount of tax due unless a return (Form 5630.7) is later filed and failure to file the return timely is shown to the satisfaction of the Chief, National Firearms Act Branch, to be due to reasonable cause. The delinquency penalty to be added to the tax is 5 percent if the failure is for not more than 1 month, with an additional 5 percent for each additional month or fraction thereof during which failure continues, not to exceed 25 percent in the aggregate (section 6651, I.R.C.). However, no delinquency penalty is assessed where the 50 percent addition to tax is assessed for fraud (see § 479.51).

§ 479.51 Fraudulent return.

If any part of any underpayment of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 50 percent of the underpayment, but no delinquency penalty shall be assessed with respect to the same underpayment (section 6653, I.R.C.).

APPLICATION OF STATE LAWS

§ 479.52 State regulations.

Special tax stamps are merely receipts for the tax. Payment of tax under Federal law confers no privilege
Subpart E—Tax on Making Firearms

§ 479.61 Rate of tax.

Except as provided in this subpart, there shall be levied, collected, and paid upon the making of a firearm a tax at the rate of $200 for each firearm made. This tax shall be paid by the person making the firearm. Payment of the tax on the making of a firearm shall be represented by a $200 adhesive stamp bearing the words “National Firearms Act.” The stamps are maintained by the Director.


APPLICATION TO MAKE A FIREARM

§ 479.62 Application to make.

No person shall make a firearm unless the person has filed with the Director a written application on Form 1 (Firearms), Application to Make and Register a Firearm, in duplicate, executed under the penalties of perjury, to make and register the firearm and has received the approval of the Director to make the firearm which approval shall effectuate registration of the weapon to the applicant. The application shall identify the firearm to be made by serial number, type, model, caliber or gauge, length of barrel, other marks of identification, and the name and address of original manufacturer (if the applicant is not the original manufacturer). The applicant must be identified on the Form 1 (Firearms) by name and address and, if other than a natural person, the name and address of the principal officer or authorized representative and the employer identification number and, if an individual, the identification must include the date and place of birth and the information prescribed in §479.63. Each applicant shall identify the Federal firearms license and special (occupational) tax stamp issued to the applicant, if any. The applicant shall also show required information evidencing that making or possession of the firearm would not be in violation of law. If the making is taxable, a remittance in the amount of $200 shall be submitted with the application in accordance with the instructions on the form. If the making is taxable and the application is approved, the Director will affix a National Firearms Act stamp to the original application in the space provided therefor and properly cancel the stamp (see §479.67). The approved application will be returned to the applicant. If the making of the firearm is tax exempt under this part, an explanation of the basis of the exemption shall be attached to the Form 1 (Firearms).


EFFECTIVE DATE NOTE: At 81 FR 2721, Jan. 15, 2016, §479.62 is revised, effective July 13, 2016. For the convenience of the user, the revised text is set forth as follows:

§ 479.62 Application to make.

(a) General. No person shall make a firearm unless the person has filed with the Director a completed application on ATF Form 1 (5320.1). Application to Make and Register a Firearm, in duplicate, executed under the penalties of perjury, to make and register the firearm and has received the approval of the Director to make the firearm, which approval shall effectuate registration of the firearm to the applicant. If the applicant is not a licensed manufacturer, importer, or dealer qualified under this part and is a partnership, company (including a Limited Liability Company (LLC)), association, trust, or corporation, all information on the Form 1 application shall be furnished for each responsible person of the applicant.

(b) Preparation of ATF Form 1. All of the information called for on Form 1 shall be provided, including:

(1) The type of application, i.e., tax paid or tax exempt. If the making of the firearm is
§ 479.63 Identification of applicant.

(a) If the applicant is an individual, the applicant shall:

(1) Securely attach to each copy of the Form 1 (Firearms), in the space provided on the form, a photograph of the applicant 2 x 2 inches in size, clearly showing a full front view of the features of the applicant with head bare, with the distance from the top of the head to the point of the chin approximately 1⅛ inches, and which shall have been taken within 1 year prior to the date of the application. The applicant shall attach two properly completed FBI Forms FD–258 (Fingerprint Card) to the application. The fingerprints must be clear for accurate classification and should be taken by someone properly equipped to take them. A certificate of the local chief of police, sheriff of the county, head of the State police, State or local district attorney or prosecutor, or such other person whose certificate may in a particular case be acceptable to the Director, shall be completed on each copy of the Form 1 (Firearms). The certificate shall state that the certifying official is satisfied that the fingerprints and photograph accompanying the application are those of the applicant and that the certifying official has no information indicating that possession of the firearm by the maker would be in violation of State or local law or that the maker will use the firearm for other than lawful purposes.


Effective Date Note: At 81 FR 2721, Jan. 13, 2016. § 479.63 is revised, effective July 13, 2016. For the convenience of the user, the revised text is set forth as follows:

§ 479.63 Identification of applicant.

(a) If the applicant is an individual, the applicant shall:

(1) Securely attach to each copy of the Form 1, in the space provided on the form, a 2 x 2-inch photograph of the applicant, clearly showing a full front view of the features of the applicant with head bare, with the distance from the top of the head to the point of the chin approximately 1⅛ inches, and which shall have been taken within 1 year prior to the date of the application; and

(2) Attach to the application two properly completed FBI Forms FD–258 (Fingerprint Card). The fingerprints must be clear for accurate classification and should be taken by someone properly equipped to take them.

(b) If the applicant is not a licensed manufacturer, importer, or dealer qualified under this part and is a partnership, company (including a Limited Liability Company (LLC)),
association, trust, or corporation, the applicant shall:

(1) Be identified on the Form 1 by the name and exact location of the place of business, including the name and number of the building and street, and the name of the county in which the business is located or, in the case of a trust, the primary location at which the firearm will be maintained. In the case of two or more locations, the address shown shall be the principal place of business (or principal office, in the case of a corporation) or, in the case of a trust, the primary location at which the firearm will be maintained;

(2) Except as provided in paragraph (c) of this section, attach to the application—

(i) Documentation evidencing the existence and validity of the entity, which includes complete and unredacted copies of partnership agreements, articles of incorporation, corporate registration, and declarations of trust, with any trust schedules, attachments, exhibits, and enclosures;

(ii) A completed ATF Form 5320.23 for each responsible person. Form 5320.23 requires certain identifying information, including each responsible person’s full name, position, home address, date of birth, and country of citizenship if other than the United States;

(iii) In the space provided on Form 5320.23, a 2 x 2-inch photograph of each responsible person, clearly showing a full front view of the features of the responsible person with head bare, with the distance from the top of the head to the point of the chin approximately 1½ inches, and which shall have been taken within 1 year prior to the date of the application;

(iv) Two properly completed FBI Forms FD–258 (Fingerprint Card) for each responsible person. The fingerprints must be clear for accurate classification and should be taken by someone properly equipped to take them.

(c) If the applicant entity has had an application approved as a maker or transferee within the preceding 24 months, and there has been no change to the documentation previously provided, the entity may provide a certification that the information has not been changed since the prior approval and shall identify the application for which the documentation had been submitted by form number, serial number, and date approved.

§ 479.64 Procedure for approval of application.

The application to make a firearm, Form 1 (Firearms), must be forwarded directly, in duplicate, by the maker of the firearm to the Director in accordance with the instructions on the form. The Director will consider the application for approval or disapproval. If the application is approved, the Director will return the original thereof to the maker of the firearm and retain the duplicate. Upon receipt of the approved application, the maker is authorized to make the firearm described therein. The maker of the firearm shall not, under any circumstances, make the firearm until the application, satisfactorily executed, has been forwarded to the Director and has been approved and returned by the Director with the National Firearms Act stamp affixed. If the application is disapproved, the original Form 1 (Firearms) and the remittance submitted by the applicant for the purchase of the stamp will be returned to the applicant with the reason for disapproval stated on the form.


§ 479.65 Denial of application.

An application to make a firearm shall not be approved by the Director if the making or possession of the firearm would place the person making the firearm in violation of law.

§ 479.66 Subsequent transfer of firearms.

Where a firearm which has been made in compliance with 26 U.S.C. 5821, and the regulations contained in this part, is to be transferred subsequently, the transfer provisions of the firearms laws and regulations must be complied with. (See subpart F of this part).


§ 479.67 Cancellation of stamp.

The person affixing to a Form 1 (Firearms) a “National Firearms Act” stamp shall cancel it by writing or stamping thereon, in ink, his initials, and the day, month and year, in such manner as to render it unfit for reuse. The cancellation shall not so deface the stamp as to prevent its denomination and genuineness from being readily determined.

EXCEPTIONS TO TAX ON MAKING FIREARMS

§ 479.68 Qualified manufacturer.

A manufacturer qualified under this part to engage in such business may
§ 479.69 Making a firearm for the United States.

A firearm may be made by, or on behalf of, the United States or any department, independent establishment, or agency thereof without payment of the making tax. However, if a firearm is to be made on behalf of the United States, the maker must file an application, in duplicate, on Form 1 (Firearms) and obtain the approval of the Director in the manner prescribed in § 479.62.

§ 479.70 Certain government entities.

A firearm may be made without payment of the making tax by, or on behalf of, any State, or possession of the United States, any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations. Any person making a firearm under this exemption shall first file an application, in duplicate, on Form 1 (Firearms) and obtain the approval of the Director as prescribed in § 479.62.

REGISTRATION

§ 479.71 Proof of registration.

The approval by the Director of an application, Form 1 (Firearms), to make a firearm under this subpart shall effectuate registration of the firearm described in the Form 1 (Firearms) to the person making the firearm. The original Form 1 (Firearms) showing approval by the Director shall be retained by the maker to establish proof of his registration of the firearm described therein, and shall be made available to any ATF officer on request.

Subpart F—Transfer Tax

§ 479.81 Scope of tax.

Except as otherwise provided in this part, each transfer of a firearm in the United States is subject to a tax to be represented by an adhesive stamp of the proper denomination bearing the words “National Firearms Act” to be affixed to the Form 4 (Firearms), Application for Transfer and Registration of Firearm, as provided in this subpart.

§ 479.82 Rate of tax.

The transfer tax imposed with respect to firearms transferred within the United States is at the rate of $200 for each firearm transferred, except that the transfer tax on any firearm classified as “any other weapon” shall be at the rate of $5 for each such firearm transferred. The tax imposed on the transfer of the firearm shall be paid by the transferee.

§ 479.83 Transfer tax in addition to import duty.

The transfer tax imposed by section 5811, I.R.C., is in addition to any import duty.

APPLICATION AND ORDER FOR TRANSFER OF FIREARM

§ 479.84 Application to transfer.

Except as otherwise provided in this subpart, no firearm may be transferred in the United States unless an application, Form 4 (Firearms), Application for Transfer and Registration of Firearm, in duplicate, executed under the penalties of perjury to transfer the firearm and register it to the transferee has been filed with and approved by the Director. The application, Form 4 (Firearms), shall be filed by the transferee and shall identify the firearm to be transferred by type; serial number; name and address of the manufacturer and importer, if known; model; caliber, gauge or size; in the case of a short-barreled shotgun or a short-barreled rifle, the length of the barrel; in the case of a weapon made from a rifle or shotgun, the overall length of the weapon and the length of the barrel; and any other identifying marks on the firearm. In the event the firearm does not bear a serial number, the applicant shall obtain a serial number from the Special Agent in Charge and shall stamp (impress) or otherwise conspicuously place such serial number
on the firearm in a manner not susceptible of being readily obliterated, altered or removed. The application, Form 4 (Firearms), shall identify the transferee by name and address; shall identify the transferee’s Federal firearms license and special (occupational) tax stamp, if any; and if the transferee is other than a natural person, shall show the title or status of the person executing the application. The application also shall identify the transferee by name and address, and, if the transferee is a natural person not qualified as a manufacturer, importer or dealer under this part, he shall be further identified in the manner prescribed in §479.85. The application also shall identify the special (occupational) tax stamp and Federal firearms license of the transferee, if any. Any tax payable on the transfer must be represented by an adhesive stamp of proper denomination being affixed to the application, Form 4 (Firearms), properly cancelled.


EFFECTIVE DATE: At 81 FR 2722, Jan. 15, 2016, §479.84 is revised, effective July 13, 2016. For the convenience of the user, the revised text is set forth as follows:

§479.84 Application to transfer.

(a) General. Except as otherwise provided in this subpart, no firearm may be transferred in the United States unless an application, Form 4 (5320.4), Application for Tax Paid Transfer and Registration of Firearm, in duplicate, executed under the penalties of perjury, to transfer the firearm and register it to the transferee has been filed with and approved by the Director. The application shall be filed by the transferee. If the transferee is not a licensed manufacturer, importer, or dealer qualified under this part and is a partnership, company (including a Limited Liability Company (LLC)), association, trust, or corporation, all information on the Form 4 application shall be furnished for each responsible person of the transferee.

(b) Preparation of ATF Form 4. All of the information called for on Form 4 shall be provided, including:

(1) The type of firearm being transferred. If the firearm is other than one classified as “any other weapon,” the applicant shall submit a remittance in the amount of $50 with the application in accordance with the instructions on the form. If the firearm is classified as “any other weapon,” the applicant shall submit a remittance in the amount of $5;

(2) The identity of the transferee by name and address and, if the transferee is other than a natural person, the title or legal status of the person executing the application in relation to the transferee;

(3) The transferee’s Federal firearms license number (if any);

(4) The transferee’s special (occupational) tax stamp (if any);

(5) The identity of the transferee by name and address and, if the transferee is a person not qualified as a manufacturer, importer, or dealer under this part, the transferee shall further identified in the manner prescribed in §479.85;

(6) The transferee’s Federal firearms license number (if any);

(7) The transferee’s special (occupational) tax stamp (if applicable); and

(8) A description of the firearm to be transferred by name and address of the manufacturer or importer (if known); caliber, gauge, or size; model; serial number; in the case of a short-barreled shotgun or a short-barreled rifle, the length of the barrel; in the case of a weapon made from a rifle or shotgun, the overall length of the weapon and the length of the barrel; and any other identifying marks on the firearm. In the event the firearm does not bear a serial number, the applicant shall obtain a serial number from ATF and shall stamp (impress) or otherwise conspicuously place such serial number on the firearm in a manner not susceptible of being readily obliterated, altered, or removed.

(9) If the transferee (including, if other than an individual, any responsible person) is an alien admitted under a nonimmigrant visa, applicable documentation demonstrating that the nonimmigrant alien falls within an exception to 18 U.S.C. 922(g)(5)(B) under 18 U.S.C. 922(y)(2), or has obtained a waiver of that provision under 18 U.S.C. 922(y)(3).

(c) Notification of chief law enforcement officer. Prior to the submission of the application to the Director, all transferees and responsible persons shall forward a completed copy of Form 4 or a completed copy of Form 5320.23, respectively, to the chief law enforcement officer of the locality in which the transferee or responsible person is located. The chief law enforcement officer is the local chief of police, county sheriff, head of the State police, State or local district attorney or prosecutor. If the transferee is not a licensed manufacturer, importer, or dealer qualified under this part and is a partnership, company, association, or corporation, for purposes of this section, it is considered located at its principal office or principal place of business; if the transferee is not a licensed manufacturer, importer, or dealer...
§ 479.85 Identification of transferee.

If the transferee is an individual, such person shall securely attach to each copy of the application, Form 4 (Firearms), in the space provided on the form, a photograph of the applicant 2 x 2 inches in size, clearly showing a full front view of the features of the applicant with head bare, with the distance from the top of the head to the point of the chin approximately 1 ¼ inches, and which shall have been taken within 1 year prior to the date of the application. The transferee shall attach two properly completed FBI Forms FD–258 (Fingerprint Card) to the application. The fingerprints must be clear for accurate classification and should be taken by someone properly equipped to take them. A certificate of the local chief of police, sheriff of the county, head of the State police, State or local district attorney or prosecutor, or such other person whose certification may in a particular case be acceptable to the Director, shall be completed on each copy of the Form 4 (Firearms). The certificate shall state that the certifying official is satisfied that the fingerprints and photograph accompanying the application are those of the applicant and that the certifying official has no information indicating that the receipt or possession of the firearm would place the transferee in violation of State or local law or that the transferee will use the firearm for other than lawful purposes.


Effective Date Note: At 81 FR 2722, Jan. 15, 2016, §479.85 is revised, effective July 13, 2016. For the convenience of the user, the revised text is set forth as follows:

§ 479.85 Identification of transferee.

(a) If the transferee is an individual, such person shall:

(1) Securely attach to each copy of the Form 4, in the space provided on the form, a 2 x 2-inch photograph of the applicant, clearly showing a full front view of the features of the applicant with head bare, with the distance from the top of the head to the point of the chin approximately 1 ¼ inches, and which shall have been taken within 1 year prior to the date of the application; and

(2) Attach to the application two properly completed FBI Forms FD–258 (Fingerprint Card). The fingerprints must be clear for accurate classification and should be taken by someone properly equipped to take them.

(b) If the transferee is not a licensed manufacturer, importer, or dealer qualified under this part and is a partnership, company, association, trust, or corporation, such person shall:

(1) Be identified on the Form 4 by the name and exact location of the place of business, including the name and number of the building and street, and the name of the county in which the business is located or, in the case of a trust, the primary location at which the firearm will be maintained. In the case of two or more locations, the address shown shall be the principal place of business (or principal office, in the case of a corporation) or, in the case of a trust, the primary location at which the firearm will be maintained;

(2) Except as provided in paragraph (c) of this section, attach to the application—

(i) Documentation evidencing the existence and validity of the entity, which includes complete and unredacted copies of partnership agreements, articles of incorporation, corporate registration, and declarations of trust, with any trust schedules, attachments, exhibits, and enclosures;

(ii) A completed ATF Form 5320.23 for each responsible person. Form 5320.23 requires certain identifying information, including the responsible person’s full name, position, home address, date of birth, and country of citizenship if other than the United States;

(iii) In the space provided on Form 5320.23, a 2 x 2-inch photograph of each responsible person, clearly showing a full front view of the features of the responsible person with head bare, with the distance from the top of the head to the point of the chin approximately 1 ¼ inches, and which shall have been taken within 1 year prior to the date of the application; and

(iv) Two properly completed FBI Forms FD–258 (Fingerprint Card) for each responsible person. The fingerprints must be clear for accurate classification and should be taken by someone properly equipped to take them.

(c) If the applicant entity has had an application approved as a maker or transferee within the preceding 24 months, and there has been no change to the documentation previously provided, the entity may provide a certification that the information has not been changed since the prior approval and shall identify the application for which the...
§ 479.86 Action on application.

The Director will consider a completed and properly executed application, Form 4 (Firearms), to transfer a firearm. If the application is approved, the Director will affix the appropriate National Firearms Act stamp, cancel it, and return the original application showing approval to the transferor who may then transfer the firearm to the transferee along with the approved application. The approval of an application, Form 4 (Firearms), by the Director will effectuate registration of the firearm to the transferee. The transferee shall not take possession of a firearm until the application, Form 4 (Firearms), for the transfer filed by the transferor has been approved by the Director and registration of the firearm is effectuated to the transferee. The transferee shall retain the approved application as proof that the firearm described therein is registered to the transferee, and shall make the approved Form 4 (Firearms) available to any ATF officer on request. If the application, Form 4 (Firearms), to transfer a firearm is disapproved by the Director, the original application and the remittance for purchase of the stamp will be returned to the transferor with reasons for the disapproval stated on the application. An application, Form 4 (Firearms), to transfer a firearm shall be denied if the transfer, receipt, or possession of a firearm would place the transferee in violation of law. In addition to any other records checks that may be conducted to determine whether the transfer, receipt, or possession of a firearm would place the transferee in violation of law, the Director shall contact the National Instant Criminal Background Check System.


§ 479.87 Cancellation of stamp.

The method of cancellation of the stamp required by this subpart as prescribed in §479.67 shall be used.

EXEMPTIONS RELATING TO TRANSFERS OF FIREARMS

§ 479.88 Special (occupational) taxpayers.

(a) A firearm registered to a person qualified under this part to engage in business as an importer, manufacturer, or dealer may be transferred by that person without payment of the transfer tax to any other person qualified under this part to manufacture, import, or deal in firearms.

(b) The exemption provided in paragraph (a) of this section shall be obtained by the transferor of the firearm filing with the Director an application, Form 3 (Firearms), Application for Tax-exempt Transfer of Firearm and Registration to Special (Occupational) Taxpayer, in duplicate, executed under the penalties of perjury. The application, Form 3 (Firearms), shall (1) show the name and address of the transferor and of the transferee, (2) identify the Federal firearms license and special (occupational) tax stamp of the transferor and of the transferee, (3) show the name and address of the manufacturer and the importer of the firearm, if known, (4) show the type, model, overall length (if applicable), length of barrel, caliber, gauge or size, serial number, and other marks of identification of the firearm, and (5) contain a statement by the transferor that he is entitled to the exemption because the transferee is a person qualified under this part to manufacture, import, or deal in firearms. If the Director approves an application, Form 3 (Firearms), he shall return the original Form 3 (Firearms) to the transferee with the approval noted thereon. Approval of an application, Form 3 (Firearms), by the Director shall remove registration of the firearm reported thereon from the transferor and shall effectuate the registration of that firearm to the transferee. Upon receipt of the approved Form 3 (Firearms), the transferor shall deliver same with the firearm to the transferee. The transferor shall not transfer the firearm to the transferee until his application, Form 3 (Firearms), has been approved by the Director and the original thereof has been returned to the transferor.
If the Director disapproves the application, Form 3 (Firearms), he shall return the original Form 3 (Firearms) to the transferor with the reasons for the disapproval stated thereon. (c) The transferor shall be responsible for establishing the exempt status of the transferee before making a transfer under the provisions of this section. Therefore, before engaging in transfer negotiations with the transferee, the transferor should satisfy himself as to the claimed exempt status of the transferee and the bona fides of the transaction. If not fully satisfied, the transferor should communicate with the Director, report all circumstances regarding the proposed transfer, and await the Director’s advice before making application for the transfer. An unapproved transfer or a transfer to an unauthorized person may subject the transferor to civil and criminal liabilities. (See 26 U.S.C. 5852, 5861, and 5871.)

§ 479.89 Transfers to the United States.

A firearm may be transferred to the United States or any department, independent establishment or agency thereof without payment of the transfer tax. However, the procedures for the transfer of a firearm as provided in § 479.90 shall be followed in a tax-exempt transfer of a firearm under this section, unless the transferor is relieved of such requirement under other provisions of this part.

§ 479.90 Certain government entities.

(a) A firearm may be transferred without payment of the transfer tax to or from any State, possession of the United States, any political subdivision thereof, or any official police organization of such a governmental entity engaged in criminal investigations.

(b) The exemption provided in paragraph (a) of this section shall be obtained by the transferor of the firearm filing with the Director an application, Form 5 (Firearms), Application for Tax-exempt Transfer and Registration of Firearm, in duplicate, executed under the penalties of perjury. The application shall (1) show the name and address of the transferor and of the transferee, (2) identify the Federal firearms license and special (occupational) tax stamp, if any, of the transferor and of the transferee, (3) show the name and address of the manufacturer and the importer of the firearm, if known, (4) show the type, model, overall length (if applicable), length of barrel, caliber, gauge or size, serial number, and other marks of identification of the firearm, and (5) contain a statement by the transferor that the transferor is entitled to the exemption because either the transferor or the transferee is a governmental entity coming within the purview of paragraph (a) of this section. In the case of a transfer of a firearm by a governmental entity to a transferee who is a natural person not qualified as a manufacturer, importer, or dealer under this part, the transferee shall be further identified in the manner prescribed in § 479.85. If the Director approves an application, Form 5 (Firearms), the original Form 5 (Firearms) shall be returned to the transferor with the approval noted thereon. Approval of an application, Form 5 (Firearms), by the Director shall effectuate the registration of that firearm to the transferee. Upon receipt of the approved Form 5 (Firearms), the transferor shall deliver same with the firearm to the transferee. The transferor shall not transfer the firearm to the transferee until the application, Form 5 (Firearms), has been approved by the Director and the original thereof has been returned to the transferor. If the Director disapproves the application, Form 5 (Firearms), the original Form 5 (Firearms) shall be returned to the transferor with the reasons for the disapproval stated thereon. Approval of an application, Form 5 (Firearms), by the Director shall effectuate the registration of that firearm to the transferee. Upon receipt of the approved Form 5 (Firearms), the transferor shall deliver same with the firearm to the transferee. The transferor shall not transfer the firearm to the transferee until the application, Form 5 (Firearms), has been approved by the Director and the original thereof has been returned to the transferor. If the Director disapproves the application, Form 5 (Firearms), the original Form 5 (Firearms) shall be returned to the transferor with the reasons for the disapproval stated thereon. Application by a governmental entity to transfer a firearm shall be denied if the transfer, receipt, or possession of a firearm would place the transferee in violation of law. (c) The transferor shall be responsible for establishing the exempt status of the transferee before making a transfer under the provisions of this section. Therefore, before engaging in transfer negotiations with the transferee, the transferor should satisfy
himself of the claimed exempt status of the transferee and the bona fides of the transaction. If not fully satisfied, the transferor should communicate with the Director, report all circumstances regarding the proposed transfer, and await the Director's advice before making application for transfer. An unapproved transfer or a transfer to an unauthorized person may subject the transferor to civil and criminal liabilities. (See 26 U.S.C. 5852, 5861, and 5871.)

§ 479.92 Transportation of firearms to effect transfer.

Notwithstanding any provision of § 478.28 of this chapter, it shall not be...
§ 479.93 Transfers of firearms to certain persons.

Where the transfer of a destructive device, machine gun, short-barreled shotgun, or short-barreled rifle is to be made by a person licensed under the provisions of Title I of the Gun Control Act of 1968 (82 Stat. 1213) to a person not so licensed, the sworn statement required by §478.98 of this chapter shall be attached to and accompany the transfer application required by this subpart.

Subpart G—Registration and Identification of Firearms

§ 479.101 Registration of firearms.

(a) The Director shall maintain a central registry of all firearms in the United States which are not in the possession of or under the control of the United States. This registry shall be known as the National Firearms Registration and Transfer Record and shall include:

(1) Identification of the firearm as required by this part;

(2) Date of registration; and

(3) Identification and address of person entitled to possession of the firearm as required by this part.

(b) Each manufacturer, importer, and maker shall register each firearm he manufactures, imports, or makes in the manner prescribed by this part. Each firearm transferred shall be registered to the transferee by the transferor in the manner prescribed by this part. No firearm may be registered by a person unlawfully in possession of the firearm except during an amnesty period established under section 207 of the Gun Control Act of 1968.

(c) A person shown as possessing firearms by the records maintained by the Director pursuant to the National Firearms Act (26 U.S.C. Chapter 53) in force on October 31, 1968, shall be considered to have registered the firearms in his possession which are disclosed by that record as being in his possession on October 31, 1968.

(d) The National Firearms Registration and Transfer Record shall include firearms registered to the possessors thereof under the provisions of section 207 of the Gun Control Act of 1968.

(e) A person possessing a firearm registered to him shall retain proof of registration which shall be made available to any ATF officer upon request.

(f) A firearm not identified as required by this part shall not be registered.

§ 479.102 How must firearms be identified?

(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 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 inch 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 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 inch and in a print size no smaller than 3/16 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 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 inch. 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).

(c) The Director may authorize other means of identification upon receipt of a letter application from you, submitted in duplicate, showing that such other identification is reasonable and will not hinder the effective administration of this part.

(d) In the case of a destructive device, the Director may authorize other means of identifying that weapon upon receipt of a letter application from you, submitted in duplicate, showing that engraving, casting, or stamping (impressing) such a weapon would be dangerous or impracticable.

(e) A firearm frame or receiver that is not a component part of a complete weapon at the time it is sold, shipped, or otherwise disposed of by you must be identified as required by this section.

(f)(1) Any part defined as a machine gun, muffler, or silencer for the purposes of this part that is not a component part of a complete firearm at the time it is sold, shipped, or otherwise disposed of by you must be identified as required by this section.

(2) The Director may authorize other means of identification of parts defined as machine guns other than frames or receivers and parts defined as mufflers or silencers upon receipt of a letter application from you, submitted in duplicate, showing that such other identification is reasonable and will not hinder the effective administration of this part.

(Approved by the Office of Management and Budget under control number 1140–0050)

§ 479.103 Registration of firearms manufactured.

Each manufacturer qualified under this part shall file with the Director an accurate notice on Form 2 (Firearms), Notice of Firearms Manufactured or Imported, executed under the penalties of perjury, to show his manufacture of firearms. The notice shall set forth the name and address of the manufacturer, identify his special (occupational) tax stamp and Federal firearms license, and show the date of manufacture, the type, model, length of barrel, overall length, caliber, gauge or size, serial numbers, and other marks of identification of the firearms he manufactures, and the place where the manufactured firearms will be kept. All firearms manufactured by him during a single day shall be included on one notice, Form 2 (Firearms), filed by the manufacturer no later than the close of the next business day. The manufacturer shall prepare the notice, Form 2 (Firearms), in duplicate, file the original notice as prescribed herein and keep the copy with the records required by subpart I of this part at the premises covered by his special (occupational) tax stamp. Receipt of the notice, Form 2 (Firearms), by the Director shall effectuate the registration of the firearms listed on that notice. The requirements of this part relating to the transfer of a firearm are applicable to transfers by qualified manufacturers.
§ 479.104 Registration of firearms by certain governmental entities.

Any State, any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations, which acquires for official use a firearm not registered to it, such as by abandonment or by forfeiture, will register such firearm with the Director by filing Form 10 (Firearms), Registration of Firearms Acquired by Certain Governmental Entities, and such registration shall become a part of the National Firearms Registration and Transfer Record. The application shall identify the applicant, describe each firearm covered by the application, show the location where each firearm usually will be kept, and, if the firearm is unserviceable, the application shall show how the firearm was made unserviceable. This section shall not apply to a firearm merely being held for use as evidence in a criminal proceeding. The Form 10 (Firearms) shall be executed in duplicate in accordance with the instructions thereon. Upon registering the firearm, the Director shall return the original Form 10 (Firearms) to the registrant with notification thereon that registration of the firearm has been made. The registration of any firearm under this section is for official use only and a subsequent transfer will be approved only to other governmental entities for official use.


MACHINE GUNS

§ 479.105 Transfer and possession of machine guns.

(a) General. As provided by 26 U.S.C. 5812 and 26 U.S.C. 5822, an application to make or transfer a firearm shall be denied if the making, transfer, receipt, or possession of the firearm would place the maker or transferee in violation of law. Section 922(o), Title 18, U.S.C., makes it unlawful for any person to transfer or possess a machine gun, except a transfer to or by, or possession by or under the authority of, the United States or any department or agency thereof or a State, or a department, agency, or political subdivision thereof, or any lawful transfer or lawful possession of a machine gun that was lawfully possessed before May 19, 1986. Therefore, notwithstanding any other provision of this part, no application to make, transfer, or import a machine gun will be approved except as provided by this section.

(b) Machine guns lawfully possessed prior to May 19, 1986. A machine gun possessed in compliance with the provisions of this part prior to May 19, 1986, may continue to be lawfully possessed by the person to whom the machine gun is registered and may, upon compliance with the provisions of this part, be lawfully transferred to and possessed by the transferee.

(c) Importation and manufacture. Subject to compliance with the provisions of this part, importers and manufacturers qualified under this part may import and manufacture machine guns on or after May 19, 1986, for sale or distribution to any department or agency of the United States or any State or political subdivision thereof, or for use by dealers qualified under this part as sales samples as provided in paragraph (d) of this section. The registration of such machine guns under this part and their subsequent transfer shall be conditioned upon and restricted to the sale or distribution of such weapons for the official use of Federal, State or local governmental entities. Subject to compliance with the provisions of this part, manufacturers qualified under this part may manufacture machine guns on or after May 19, 1986, for exportation in compliance with the Arms Export Control Act (22 U.S.C. 2778) and regulations prescribed thereunder by the Department of State.

(d) Dealer sales samples. Subject to compliance with the provisions of this part, applications to transfer and register a machine gun manufactured or imported on or after May 19, 1986, to dealers qualified under this part will be approved if it is established by specific information the expected governmental customers who would require a demonstration of the weapon, information as to the availability of the machine gun to fill subsequent orders, and letters from governmental entities expressing a need for a particular model.
Bureau of Alcohol, Tobacco, Firearms, and Explosives, Justice  §479.111

or interest in seeing a demonstration of a particular weapon. Applications to transfer more than one machine gun of a particular model to a dealer must also establish the dealer’s need for the quantity of samples sought to be transferred.

(e) The making of machine guns on or after May 19, 1986. Subject to compliance with the provisions of this part, applications to make and register machine guns on or after May 19, 1986, for the benefit of a Federal, State or local governmental entity (e.g., an invention for possible future use of a governmental entity or the making of a weapon in connection with research and development on behalf of such an entity) will be approved if it is established by specific information that the machine gun is particularly suitable for use by Federal, State or local governmental entities and that the making of the weapon is at the request and on behalf of such an entity.

(f) Discontinuance of business. Since section 922(o), Title 18, U.S.C., makes it unlawful to transfer or possess a machine gun except as provided in the law, any qualified manufacturer, importer, or dealer intending to discontinue business shall, prior to going out of business, transfer in compliance with the provisions of this part any machine gun manufactured or imported after May 19, 1986, to a Federal, State or local governmental entity, qualified manufacturer, qualified importer, or, subject to the provisions of paragraph (d) of this section, dealer qualified to possess such, machine gun.


Subpart H—Importation and Exportation

Importation

§479.111 Procedure.

(a) No firearm shall be imported or brought into the United States or any territory under its control or jurisdiction unless the person importing or bringing in the firearm establishes to the satisfaction of the Director that the firearm to be imported or brought in is being imported or brought in for:

(1) The use of the United States or any department, independent establishment, or agency thereof or any State or possession or any political subdivision thereof; or

(2) Scientific or research purposes; or

(3) Testing or use as a model by a registered manufacturer or solely for use as a sample by a registered importer or registered dealer.

The burden of proof is affirmatively on any person importing or bringing the firearm into the United States or any territory under its control or jurisdiction to show that the firearm is being imported or brought in under one of the above paragraphs. Any person desiring to import or bring a firearm into the United States under this paragraph shall file with the Director an application on Form 6 (Firearms), Application and Permit for Importation of Firearms, Ammunition and Implements of War, in triplicate, executed under the penalties of perjury. The application shall show the information required by subpart G of Part 478 of this chapter. A detailed explanation of why the importation of the firearm falls within the standards set out in this paragraph shall be attached to the application. The person seeking to import or bring in the firearm will be notified of the approval or disapproval of his application. If the application is approved, the original Form 6 (Firearms) will be returned to the applicant showing such approval and he will present the approved application, Form 6 (Firearms), to the Customs officer at the port of importation. The approval of an application to import a firearm shall be automatically terminated at the expiration of two years from the date of approval unless, upon request, it is further extended by the Director. If the firearm described in the approved application is not imported prior to the expiration of the approval, the Director shall be so notified.

Customs officers will not permit release of a firearm from Customs custody, except for exportation, unless covered by an application which has been approved by the Director and which is currently effective. The importation or bringing in of a firearm not covered by an approved application may subject the person responsible to civil and criminal liabilities. (26 U.S.C. 5861, 5871, and 5872.)
(b) Part 478 of this chapter also contains requirements and procedures for the importation of firearms into the United States. A firearm may not be imported into the United States under this part unless those requirements and procedures are also complied with by the person importing the firearm.

(c) The provisions of this subpart shall not be construed as prohibiting the return to the United States or any territory under its control or jurisdiction of a firearm by a person who can establish to the satisfaction of Customs that (1) the firearm was taken out of the United States or any territory under its control or jurisdiction by such person, (2) the firearm is registered to that person, and (3) if appropriate, the authorization required by Part 478 of this chapter for the transportation of such a firearm in interstate or foreign commerce has been obtained by such person.

§ 479.112 Registration of imported firearms.

(a) Each importer shall file with the Director an accurate notice on Form 2 (Firearms), Notice of Firearms Manufactured or Imported, executed under the penalties of perjury, showing the importation of a firearm. The notice shall set forth the name and address of the importer, identify the importer’s special (occupational) tax stamp and Federal firearms license, and show the import permit number, the date of release from Customs custody, the type, model, length of barrel, overall length, caliber, gauge or size, serial number, and other marks of identification of the firearm imported, and the place where the imported firearm will be kept. The Form 2 (Firearms) covering an imported firearm shall be filed by the importer no later than fifteen (15) days from the date the firearm was released from Customs custody. The importer shall prepare the notice, Form 2 (Firearms), in duplicate, file the original return as prescribed herein, and keep the copy with the records required by subpart I of this part at the premises covered by the special (occupational) tax stamp. The timely receipt by the Director of the notice, Form 2 (Firearms), and the timely receipt by the Director of the copy of Form 6A (Firearms), Release and Receipt of Imported Firearms, Ammunition and Implements of War, required by § 478.112 of this chapter, covering the weapon reported on the Form 2 (Firearms) by the qualified importer, shall effectuate the registration of the firearm to the importer.

(b) The requirements of this part relating to the transfer of a firearm are applicable to the transfer of imported firearms by a qualified importer or any other person.

(c) Subject to compliance with the provisions of this part, an application, Form 6 (Firearms), to import a firearm by an importer or dealer qualified under this part, for use as a sample in connection with sales of such firearms to Federal, State or local governmental entities, will be approved if it is established by specific information attached to the application that the firearm is suitable or potentially suitable for use by such entities. Such information must show why a sales sample of a particular firearm is suitable for such use and the expected governmental customers who would require a demonstration of the firearm. Information as to the availability of the firearm to fill subsequent orders and letters from governmental entities expressing a need for a particular model or interest in seeing a demonstration of a particular firearm would establish suitability for governmental use. Applications to import more than one firearm of a particular model for use as a sample by an importer or dealer must also establish the importer’s or dealer’s need for the quantity of samples sought to be imported.

(d) Subject to compliance with the provisions of this part, an application, Form 6 (Firearms), to import a firearm by an importer or dealer qualified under this part, for use as a sample in connection with sales of such firearms to Federal, State or local governmental entities, will be approved if it is established by specific information attached to the application that the firearm is particularly suitable for use.
by such entities. Such information must show why a sales sample of a particular firearm is suitable for such use and the expected governmental customers who would require a demonstration of the firearm. Information as to the availability of the firearm to fill subsequent orders and letters from governmental entities expressing a need for a particular model or interest in seeing a demonstration of a particular firearm would establish suitability for governmental use. Applications to import more than one firearm of a particular model for use as a sample by an importer or dealer must also establish the importer’s or dealer’s need for the quantity of samples sought to be imported.


§ 479.113 Conditional importation.

The Director shall permit the conditional importation or bringing into the United States of any firearm for the purpose of examining and testing the firearm in connection with making a determination as to whether the importation or bringing in of such firearm will be authorized under this subpart. An application under this section shall be filed on Form 6 (Firearms), in triplicate, with the Director. The Director may impose conditions upon any importation under this section including a requirement that the firearm be shipped directly from Customs custody to the Director and that the person importing or bringing in the firearm must agree to either export the weapon or destroy it if a final determination is made that it may not be imported or brought in under this subpart. An application under this section shall be filed on Form 6 (Firearms), in triplicate, with the Director. The Director may impose conditions upon any importation under this section including a requirement that the firearm be shipped directly from Customs custody to the Director and that the person importing or bringing in the firearm must agree to either export the weapon or destroy it if a final determination is made that it may not be imported or brought in under this subpart. A firearm so imported or brought into the United States may be released from Customs custody in the manner prescribed by the conditional authorization of the Director.


§ 479.114 Application and permit for exportation of firearms.

Any person desiring to export a firearm without payment of the transfer tax must file with the Director an application on Form 9 (Firearms), Application and Permit for Exportation of Firearms, in quadruplicate, for a permit providing for deferment of tax liability. Part 1 of the application shall show the name and address of the foreign consignee, number of firearms covered by the application, the intended port of exportation, a complete description of each firearm to be exported, the name, address, State Department license number (or date of application if not issued), and identification of the special (occupational) tax stamp of the transferor. Part 1 of the application shall be executed under the penalties of perjury by the transferor and shall be supported by a certified copy of a written order or contract of sale or other evidence showing that the firearm is to be shipped to a foreign designation. Where it is desired to make a transfer free of tax to another person who in turn will export the firearm, the transferor shall likewise file an application supported by evidence that the transfer will start the firearm in course of exportation, except, however, that where such transferor and exporter are registered special-taxpayers the transferor will not be required to file an application on Form 9 (Firearms).

§ 479.115 Action by Director.

If the application is acceptable, the Director will execute the permit, Part 2 of Form 9 (Firearms), to export the firearm described on the form and return three copies thereof to the applicant. Issuance of the permit by the Director will suspend assertion of tax liability for a period of six (6) months from the date of issuance. If the application is disapproved, the Director will indicate thereon the reason for such action and return the forms to the applicant.

§ 479.116 Procedure by exporter.

Shipment may not be made until the permit, Form 9 (Firearms), is received from the Director. If exportation is to be made by means other than by parcel post, two copies of the form must be addressed to the District Director of Customs at the port of exportation, and must precede or accompany the...
shipment in order to permit appropriate inspection prior to lading. If exportation is to be made by parcel post, one copy of the form must be presented to the postmaster at the office receiving the parcel who will execute Part 4 of such form and return the form to the exporter for transmittal to the Director. In the event exportation is not effected, all copies of the form must be immediately returned to the Director for cancellation.

§ 479.117 Action by Customs.

Upon receipt of a permit, Form 9 (Firearms), in duplicate, authorizing the exportation of firearms, the District Director of Customs may order such inspection as deemed necessary prior to lading of the merchandise. If satisfied that the shipment is proper and the information contained in the permit to export is in agreement with information shown in the shipper's export declaration, the District Director of Customs will, after the merchandise has been duly exported, execute the certificate of exportation (Part 3 of Form 9 (Firearms)). One copy of the form will be retained with the shipper's export declaration and the remaining copy thereof will be transmitted to the Director.

§ 479.118 Proof of exportation.

Within a six-month's period from date of issuance of the permit to export firearms, the exporter shall furnish or cause to be furnished to the Director (a) the certificate of exportation (Part 3 of Form 9 (Firearms)) executed by the District Director of Customs as provided in §479.117, or (b) the certificate of mailing by parcel post (Part 4 of Form 9 (Firearms)) executed by the postmaster of the post office receiving the parcel containing the firearm, or (c) a certificate of landing executed by a Customs officer of the foreign country to which the firearm is exported, or (d) a sworn statement of the foreign consignee covering the receipt of the firearm, or (e) the return receipt, or a reproduced copy thereof, signed by the addressee or his agent, where the shipment of a firearm was made by insured or registered parcel post. Issuance of a permit to export a firearm and furnishing of evidence establishing such exportation under this section will relieve the actual exporter and the person selling to the exporter for exportation from transfer tax liability. Where satisfactory evidence of exportation of a firearm is not furnished within the stated period, the transfer tax will be assessed.

§ 479.119 Transportation of firearms to effect exportation.

Notwithstanding any provision of §478.28 of this chapter, it shall not be required that authorization be obtained from the Director for the transportation in interstate or foreign commerce of a firearm in order to effect the exportation of a firearm authorized under the provisions of this subpart.


§ 479.120 Refunds.

Where, after payment of tax by the manufacturer, a firearm is exported, and satisfactory proof of exportation (see §479.118) is furnished, a claim for refund may be submitted on Form 843 (see §479.172). If the manufacturer waives all claim for the amount to be refunded, the refund shall be made to the exporter. A claim for refund by an exporter of tax paid by a manufacturer should be accompanied by waiver of the manufacturer and proof of tax payment by the latter.

§ 479.121 Insular possessions.

Transfers of firearms to persons in the insular possessions of the United States are exempt from transfer tax, provided title in cases involving change of title (and custody or control, in cases not involving change of title), does not pass to the transferee or his agent in the United States. However, such exempt transactions must be covered by approved permits and supporting documents corresponding to those required in the case of firearms exported to foreign countries (see §§479.114 and 479.115), except that the Director may vary the requirements herein set forth in accordance with the requirements of the governing authority of the insular possession. Shipments to the insular possessions will not be authorized without compliance with the requirements of the governing authorities thereof. In the case of a
nontaxable transfer to a person in such insular possession, the exemption extends only to such transfer and not to prior transfers.

**Arms Export Control Act**

§ 479.122 Requirements.

(a) Persons engaged in the business of importing firearms are required by the Arms Export Control Act (22 U.S.C. 2778) to register with the Director. (See Part 447 of this chapter.)

(b) Persons engaged in the business of exporting firearms caliber .22 or larger are subject to the requirements of a license issued by the Secretary of State. Application for such license should be made to the Office of Munitions Control, Department of State, Washington, DC 20502, prior to exporting firearms.


**Subpart I—Records and Returns**

§ 479.131 Records.

For the purposes of this part, each manufacturer, importer, and dealer in firearms shall keep and maintain such records regarding the manufacture, importation, acquisition (whether by making, transfer, or otherwise), receipt, and disposition of firearms as are prescribed, and in the manner and place required, by part 478 of this chapter. In addition, each manufacturer, importer, and dealer shall maintain, in chronological order, at his place of business a separate record consisting of the documents required by this part showing the registration of any firearm to him. If firearms owned or possessed by a manufacturer, importer, or dealer are stored or kept on premises other than the place of business shown on his special (occupational) tax stamp, the record establishing registration shall show where such firearms are stored or kept. The records required by this part shall be readily accessible for inspection at all reasonable times by ATF officers.

(Approved by the Office of Management and Budget under control number 1140–0032)


**Subpart J—Stolen or Lost Firearms or Documents**

§ 479.141 Stolen or lost firearms.

Whenever any registered firearm is stolen or lost, the person losing possession thereof will, immediately upon discovery of such theft or loss, make a report to the Director showing the following:

(a) Name and address of the person in whose name the firearm is registered, (b) kind of firearm, (c) serial number, (d) model, (e) caliber, (f) manufacturer of the firearm, (g) date and place of theft or loss, and (h) complete statement of facts and circumstances surrounding such theft or loss.

§ 479.142 Stolen or lost documents.

When any Forms 1, 2, 3, 4, 5, 6A, or 10 (Firearms) evidencing possession of a firearm is stolen, lost, or destroyed, the person losing possession will immediately upon discovery of the theft, loss, or destruction report the matter to the Director. The report will show in detail the circumstances of the theft, loss, or destruction and will include all known facts which may serve to identify the document. Upon receipt of the report, the Director will make such investigation as appears appropriate and may issue a duplicate document upon such conditions as the circumstances warrant.

**Subpart K—Examination of Books and Records**

§ 479.151 Failure to make returns: Substitute returns.

If any person required by this part to make returns shall fail or refuse to make any such return within the time prescribed by this part or designated by the Director, then the return shall be made by an ATF officer upon inspection of the books, but the making of
§ 479.152 Penalties (records and returns).

Any person failing to keep records or make returns, or making, or causing the making of, a false entry on any application, return or record, knowing such entry to be false, is liable to fine and imprisonment as provided in section 5871, I.R.C.

(53 Stat. 437; 26 U.S.C. 6020)

§ 479.152 Penalties (records and returns).

Any person failing to keep records or make returns, or making, or causing the making of, a false entry on any application, return or record, knowing such entry to be false, is liable to fine and imprisonment as provided in section 5871, I.R.C.

(53 Stat. 437; 26 U.S.C. 6020)

§ 479.161 National Firearms Act stamps.

“National Firearms Act” stamps evidencing payment of the transfer tax or tax on the making of a firearm are maintained by the Director. The remittance for purchase of the appropriate tax stamp shall be submitted with the application. Upon approval of the application, the Director will cause the appropriate tax to be paid by affixing the appropriate stamp to the application.


§ 479.162 Stamps authorized.

Adhesive stamps of the $5 and $200 denomination, bearing the words “National Firearms Act,” have been prepared and only such stamps shall be used for the payment of the transfer tax and for the tax on the making of a firearm.


§ 479.163 Reuse of stamps prohibited.

A stamp once affixed to one document cannot lawfully be removed and affixed to another. Any person willfully reusing such a stamp shall be subject to the penalty prescribed by 26 U.S.C. 7208.


§ 479.171 Redemption of or allowance for stamps.

Where a National Firearms Act stamp is destroyed, mutilated or rendered useless after purchase, and before liability has been incurred, such stamp may be redeemed by giving another stamp in lieu thereof. Claim for redemption of the stamp should be filed on ATF Form 2635 (5620.8) with the Director. Such claim shall be accompanied by the stamp or by a satisfactory explanation of the reasons why the stamp cannot be returned, and shall be filed within 3 years after the purchase of the stamp.

(68A Stat. 830; 26 U.S.C. 6805)


§ 479.172 Refunds.

As indicated in this part, the transfer tax or tax on the making of a firearm is ordinarily paid by the purchase and affixing of stamps, while special tax stamps are issued in payment of special (occupational) taxes. However, in exceptional cases, transfer tax, tax on the making of firearms, and/or special (occupational) tax may be paid pursuant to assessment. Claims for refunds of such taxes, paid pursuant to assessment, shall be filed on ATF Form 2635 (5620.8) within 3 years next after payment of the taxes. Such claims shall be filed with the Chief, National Firearms Act Branch serving the region in which the tax was paid. (For provisions relating to hand-carried documents and manner of filing, see 26 CFR 301.6091–1(b) and 301.6402–2(a).) When an applicant to make or transfer a firearm wishes a refund of the tax paid on an approved application where the firearm was not made pursuant to an approved Form 1 (Firearms) or transfer of the firearm did not take place pursuant to an approved Form 4 (Firearms), the applicant shall file a claim for refund of the tax on ATF Form 2635 (5620.8) with the Director. The claim shall be accompanied by the approved application bearing the stamp and an explanation why the tax liability was not incurred.
Such claim shall be filed within 3 years next after payment of the tax.

(68A Stat. 808, 830; 26 U.S.C. 6511, 6805)


Subpart N—Penalties and Forfeitures

§ 479.181 Penalties.

Any person who violates or fails to comply with the requirements of 26 U.S.C. Chapter 53 shall, upon conviction, be subject to the penalties imposed under 26 U.S.C. 5871.

[T.D. ATF–48, 44 FR 55843, Sept. 28, 1979]

§ 479.182 Forfeitures.

Any firearm involved in any violation of the provisions of 26 U.S.C. Chapter 53 shall be subject to seizure, and forfeiture under the internal revenue laws: Provided, however, That the disposition of forfeited firearms shall be in conformance with the requirements of 26 U.S.C. 5872. In addition, any vessel, vehicle or aircraft used to transport, carry, convey or conceal or possess any firearm with respect to which there has been committed any violation of any provision of 26 U.S.C. Chapter 53, or the regulations in this part issued pursuant thereto, shall be subject to seizure and forfeiture under the Customs laws, as provided by the act of August 9, 1939 (49 U.S.C. App., Chapter 11).

SUBCHAPTER C—EXPLOSIVES

PART 555—COMMERCE IN EXPLOSIVES

Subpart A—Introduction
Sec.
555.1 Scope of regulations.
555.2 Relation to other provisions of law.

Subpart B—Definitions
555.11 Meaning of terms.

Subpart C—Administrative and Miscellaneous Provisions
555.21 Forms prescribed.
555.22 Alternate methods or procedures; emergency variations from requirements.
555.23 List of explosive materials.
555.24 Right of entry and examination.
555.25 Disclosure of information.
555.26 Prohibited shipment, transportation, receipt, possession, or distribution of explosive materials.
555.27 Out-of-State disposition of explosive materials.
555.28 Stolen explosive materials.
555.29 Unlawful storage.
555.30 Reporting theft or loss of explosive materials.
555.31 Inspection of site of accidents or fires; right of entry.
555.32 Special explosive devices.
555.33 Background checks and clearances (effective May 24, 2003).
555.34 Replacement of stolen or lost ATF Form 5400.30 (Intrastate Purchase of Explosives Coupon (IPEC)).

Subpart D—Licenses and Permits
555.41 General.
555.42 License fees.
555.43 Permit fees.
555.44 License or permit fee not refundable.
555.45 Original license or permit.
555.46 Renewal of license or permit.
555.47 Insufficient fee.
555.48 Abandoned application.
555.49 Issuance of license or permit.
555.50 Correction of error on license or permit.
555.51 Duration of license or permit.
555.52 Limitations on license or permit.
555.53 License and permit not transferable.
555.54 Change of address.
555.55 Change in trade name.
555.56 Change in control, change in responsible persons, and change of employees.
555.58 Continuing partnerships.
555.59 Right of succession by certain persons.
555.60 Certain continuances of business or operations.
555.61 Discontinuance of business or operations.
555.62 State or other law.
555.63 Explosives magazine changes.

Subpart E—License and Permit Proceedings
555.71 Opportunity for compliance.
555.72 Denial of initial application.
555.73 Hearing after initial application is denied.
555.74 Denial of renewal application or revocation of license or permit.
555.75 Hearing after denial of renewal application or revocation of license or permit.
555.76 Action by Director, Industry Operations.
555.77 Designated place of hearing.
555.78 Representation at a hearing.
555.79 Appeal on petition to the Director.
555.80 Court review.
555.81 Service on applicant, licensee, or permittee.
555.82 Provisions of part 200 made applicable.
555.83 Operations by licensees or permittees after notice of denial or revocation.

Subpart F—Conduct of Business or Operations
555.101 Posting of license or user permit.
555.102 Authorized operations by permittees.
555.103 Transactions among licensees/permittees and transactions among licensees and holders of user permits.
555.104 Certified copy of license or permit.
555.105 Distributions to nonlicensees, nonpermittees, and limited permittees.
555.106 Certain prohibited distributions.
555.107 Record of transactions.
555.108 Importation.
555.109 Identification of explosive materials.
555.110 Furnishing of samples (Effective on and after January 24, 2003).

Subpart G—Records and Reports
555.121 General.
555.122 Records maintained by licensed importers.
555.123 Records maintained by licensed manufacturers.
555.124 Records maintained by licensed dealers.
555.125 Records maintained by permittees.
555.126 Explosives transaction record for distribution of explosive materials prior

(b) Procedural and substantive requirements. This part contains the procedural and substantive requirements relative to:

1. The interstate or foreign commerce in explosive materials;
2. The licensing of manufacturers and importers of, and dealers in, explosive materials;
3. The issuance of permits;
4. The conduct of business by licensees and operations by permittees;
5. The storage of explosive materials;
6. The records and reports required of licensees and permittees;
7. Relief from disabilities under this part;
8. Exemptions, unlawful acts, penalties, seizures, and forfeitures; and
9. The marking of plastic explosives.

§ 555.222 Table of distances between fireworks process buildings and between fireworks process and fireworks nonprocess buildings.

§ 555.223 Table of distances between fireworks process buildings and other specified areas.

§ 555.224 Table of distances for the storage of display fireworks (except bulk salutes).


§ 555.2 Relation to other provisions of law.

The provisions in this part are in addition to, and are not in lieu of, any other provision of law, or regulations, respecting commerce in explosive materials. For regulations applicable to commerce in firearms and ammunition, see Part 478 of this chapter. For regulations applicable to traffic in machine guns, destructive devices, and certain other firearms, see Part 479 of this chapter. For statutes applicable to the registration and licensing of persons engaged in the business of manufacturing, importing or exporting arms, ammunition, or implements of war, see section 38 of the Arms Export Control Act (22 U.S.C. 2778), and regulations of Part 447 of this chapter and in Parts 121 through 128 of Title 22, Code of Federal Regulations. For statutes applicable to nonmailable materials, see 18 U.S.C. 1716 and implementing regulations. For statutes applicable to water quality standards, see 33 U.S.C. 1341.

Subpart B—Definitions

§ 555.11 Meaning of terms.

When used in this part, terms are defined as follows in this section. Words in the plural form include the singular, and vice versa, and words indicating the masculine gender include the feminine. The terms “includes” and “including” do not exclude other things not named which are in the same general class or are otherwise within the scope of the term defined.


Adjudicated as a mental defective. (a) A determination by a court, board, commission, or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease:
(1) Is a danger to himself or to others; or
(2) Lacks the mental capacity to conduct or manage his own affairs.
(b) The term will include—
(1) A finding of insanity by a court in a criminal case; and
(2) Those persons found incompetent to stand trial or found not guilty by reason of lack of mental responsibility by any court or pursuant to articles 50a and 76b of the Uniform Code of Military Justice, 10 U.S.C. 850a, 876b.

Alien. Any person who is not a citizen or national of the United States.

Ammunition. Small arms ammunition or cartridge cases, primers, bullets, or smokeless propellants designed for use in small arms, including percussion caps, and 3/2 inch and other external burning pyrotechnic hobby fuses. The term does not include black powder.

Appropriate identifying information. The term means, in relation to an individual:
(a) The full name, date of birth, place of birth, sex, race, street address, State of residence, telephone numbers (home and work), country or countries of citizenship, and position at the employer’s business or operations of responsible persons and employees authorized to possess explosive materials;
(b) The business name, address, and license or permit number with which the responsible person or employee is affiliated;
(c) If an alien, INS-issued alien number or admission number; and
(d) Social security number, as optional information (this information is not required but is helpful in avoiding misidentification when a background check is conducted).

Approved storage facility. A place where explosive materials are stored, consisting of one or more approved magazines, conforming to the requirements of this part and covered by a license or permit issued under this part.

Articles pyrotechnic. Pyrotechnic devices for professional use similar to consumer fireworks in chemical composition and construction but not intended for consumer use. Such articles meeting the weight limits for consumer fireworks but not labeled as such and classified by U.S. Department of Transportation regulations in 49 CFR 172.101 as UN0431 or UN0432.

Artificial barricade. An artificial mound or revetted wall of earth of a minimum thickness of three feet, or any other approved barricade that offers equivalent protection.

ATF. (a) Prior to January 24, 2003, The Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, Washington, DC.
(b) On and after January 24, 2003. The Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice, Washington, DC.

ATF officer. (a) Prior to January 24, 2003. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

(b) On and after January 24, 2003. An officer or employee of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Authority having jurisdiction for fire safety. The fire department having jurisdiction over sites where explosives are manufactured or stored.

Barricaded. The effective screening of a magazine containing explosive materials from another magazine, a building, a railway, or a highway, either by a natural barricade or by an artificial barricade. To be properly barricaded, a straight line from the top of any sidewall of the magazine containing explosive materials to the eave line of any other magazine or building, or to a point 12 feet above the center of a railway or highway, will pass through the natural or artificial barricade.

Blasting agent. Any material or mixture, consisting of fuel and oxidizer, that is intended for blasting and not otherwise defined as an explosive; if the finished product, as mixed for use or shipment, cannot be detonated by means of a number 8 test blasting cap when unconfined. A number 8 test blasting cap is one containing 2 grams of a mixture of 90 percent mercury fulminate and 20 percent potassium chlorate, or a blasting cap of equivalent strength. An equivalent strength cap comprises 0.40–0.45 grams of PETN base charge pressed in an aluminum shell with bottom thickness not to exceed to 0.08 of an inch, to a specific gravity of not less than 1.4 g/cc., and primed with standard weights of primer depending on the manufacturer.

Bulk salutes. Salute components prior to final assembly into aerial shells, and finished salute shells held separately prior to being packed with other types of display fireworks.
§ 555.11

Consumer fireworks. Any small firework device designed to produce visible effects by combustion and which must comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Product Safety Commission, as set forth in title 16, Code of Federal Regulations, parts 1500 and 1507. Some small devices designed to produce audible effects are included, such as whistling devices, ground devices containing 50 mg or less of explosive materials, and aerial devices containing 120 mg or less of explosive materials. Consumer fireworks are classified as fireworks UN0336, and UN0337 by the U.S. Department of Transportation at 49 CFR 172.101. This term does not include fused setpieces containing components which together exceed 50 mg of salute powder.

Controlled substance. A drug or other substance, or immediate precursor, as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802. The term includes, but is not limited to, marijuana, depressants, stimulants, and narcotic drugs. The term does not include distilled spirits, wine, malt beverages, or tobacco, as those terms are defined or used in Subtitle E of the Internal Revenue Code of 1986, as amended.

Crime punishable by imprisonment for a term exceeding one year. Any offense for which the maximum penalty, whether or not imposed, is capital punishment or imprisonment in excess of one year. The term does not include (a) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or (b) any State offense (other than one involving a firearm or explosive) classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

Customs officer. Any officer of U.S. Customs and Border Protection, any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law to perform the duties of a customs officer.

Dealer. Any person engaged in the business of distributing explosive materials at wholesale or retail.

Detonator. Any device containing a detonating charge that is used for initiating detonation in an explosive. The term includes, but is not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses, detonating-cord delay connectors, and nonelectric instantaneous and delay blasting caps.

Director. (a) Prior to January 24, 2003. The Director, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, Washington, DC.

(b) On and after January 24, 2003. The Director, Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice, Washington, DC.

Director, Industry Operations. The principal regional official responsible for administering regulations in this part.

Discharged under dishonorable conditions. Separation from the U.S. Armed Forces resulting from a dishonorable discharge or dismissal adjudged by general court-martial. The term does not include any separation from the Armed Forces resulting from any other discharge, e.g., a bad conduct discharge.

Display fireworks. Large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation. This term includes, but is not limited to, salutes containing more than 2 grains (130 mg) of explosive materials, aerial shells containing more than 40 grams of pyrotechnic compositions, and other display pieces which exceed the limits of explosive materials for classification as "consumer fireworks." Display fireworks are classified as fireworks UN0333, UN0334 or UN0335 by the U.S. Department of Transportation at 49 CFR 172.101. This term also includes fused setpieces containing components which together exceed 50 mg of salute powder.

Distribute. To sell, issue, give, transfer, or otherwise dispose of. The term does not include a mere change of possession from a person to his agent or employee in connection with the agency or employment.

Executed under penalties of perjury. Signed with the required declaration under the penalties of perjury as provided on or with respect to the return, form, or other document or, where no form of declaration is required, with the declaration:
§ 555.11

"I declare under the penalties of perjury that this—(insert type of document, such as, statement, application, request, certificate), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete".

**Explosive actuated device.** Any tool or special mechanized device which is actuated by explosives, but not a propellant actuated device.

**Explosive materials.** Explosives, blasting agents, water gels and detonators. Explosive materials include, but are not limited to, all items in the "List of Explosive Materials" provided for in §555.23.

**Explosives.** Any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. The term includes, but is not limited to, dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters.

**Fireworks.** Any composition or device designed to produce a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of "consumer fireworks" or "display fireworks" as defined by this section.

**Fireworks mixing building.** Any building or area used for mixing and blending pyrotechnic compositions except wet sparkler mix.

**Fireworks nonprocess building.** Any office building or other building or area in a fireworks plant where no fireworks, pyrotechnic compositions or explosive materials are processed or stored.

**Fireworks plant.** All land and buildings thereon used for or in connection with the assembly or processing of fireworks, including warehouses used with or in connection with fireworks plant operations.

**Fireworks plant warehouse.** Any building or structure used exclusively for the storage of materials which are neither explosive materials nor pyrotechnic compositions used to manufacture or assemble fireworks.

**Fireworks process building.** Any mixing building; any building in which pyrotechnic compositions or explosive materials is pressed or otherwise prepared for finished and assembly; or any finishing or assembly building.

**Fireworks shipping building.** A building used for the packing of assorted display fireworks into shipping cartons for individual public displays and for the loading of packaged displays for shipment to purchasers.

**Flash powder.** An explosive material intended to produce an audible report and a flash of light when ignited which includes but is not limited to oxidizers such as potassium chlorate or potassium perchlorate, and fuels such as sulfur or aluminum powder.

**Fugitive from justice.** Any person who has fled from the jurisdiction of any court of record to avoid prosecution for any crime or to avoid giving testimony in any criminal proceeding. The term also includes any person who has been convicted of any crime and has fled to avoid imprisonment.

**Hardwood.** Oak, maple, ash, hickory, or other hard wood, free from loose knots, spaces, or similar defects.

**Highway.** Any public street, public alley, or public road, including a privately financed, constructed, or maintained road that is regularly and openly traveled by the general public.

**Identification document.** A document containing the name, residence address, date of birth, and photograph of the holder and which was made or issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, a political subdivision of a foreign government, an international governmental or an international quasi-governmental organization which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

**Importer.** Any person engaged in the business of importing or bringing explosive materials into the United States for purposes of sale or distribution.

**Indictment.** Includes an indictment or information in any court under which a crime punishable by imprisonment for a term exceeding one year may be prosecuted.

**Inhabited building.** Any building regularly occupied in whole or in part as a
habitation for human beings, or any church, schoolhouse, railroad station, store, or other structure where people are accustomed to assemble, except any building occupied in connection with the manufacture, transportation, storage, or use of explosive materials.

Interstate or foreign commerce. Commerce between any place in a State and any place outside of that State, or within any possession of the United States or the District of Columbia, and commerce between places within the same State but through any place outside of that State.

Licensed dealer. A dealer licensed under this part.

Licensed importer. An importer licensed under this part.

Licensed manufacturer. A manufacturer licensed under this part to engage in the business of manufacturing explosive materials for purposes of sale or distribution or for his own use.

Licensee. Any importer, manufacturer, or dealer licensed under this part.

Limited permit. A permit issued to a person authorizing him to receive for his use explosive materials from a licensee or permittee in his state of residence on no more than 6 occasions during the 12-month period in which the permit is valid. A limited permit does not authorize the receipt or transportation of explosive materials in interstate or foreign commerce.

Magazine. Any building or structure, other than an explosives manufacturing building, used for storage of explosive materials.

Manufacturer. Any person engaged in the business of manufacturing explosive materials for purposes of sale or distribution or for his own use.

Mass detonation (mass explosion). Explosive materials mass detonate (mass explode) when a unit or any part of a larger quantity of explosive material explodes and causes all or a substantial part of the remaining material to detonate or explode.

Mental institution. Includes mental health facilities, mental hospitals, sanitariums, psychiatric facilities, and other facilities that provide diagnoses by licensed professionals of mental retardation or mental illness, including a psychiatric ward in a general hospital.

Natural barricade. Natural features of the ground, such as hills, or timber of sufficient density that the surrounding exposures which require protection cannot be seen from the magazine when the trees are bare of leaves.

Number 8 test blasting cap. (See definition of "blasting agent.")

Permittee. Any user of explosives for a lawful purpose who has obtained either a user permit or a limited permit under this part.

Person. Any individual, corporation, company, association, firm, partnership, society, or joint stock company.

Plywood. Exterior, construction grade (laminated wood) plywood.

Propellant actuated device. (a) Any tool or special mechanized device or gas generator system that is actuated by a propellant or which releases and directs work through a propellant charge.

(b) The term does not include—

(1) Hobby rocket motors consisting of ammonium perchlorate composite propellant, black powder, or other similar low explosives, regardless of amount; and

(2) Rocket-motor reload kits that can be used to assemble hobby rocket motors containing ammonium perchlorate composite propellant, black powder, or other similar low explosives, regardless of amount.

Pyrotechnic compositions. A chemical mixture which, upon burning and without explosion, produces visible, brilliant displays, bright lights, or sounds.

Railway. Any steam, electric, or other railroad or railway which carries passengers for hire.

Region. A geographical region of the Bureau of Alcohol, Tobacco and Firearms.

Renounced U.S. citizenship. (a) A person has renounced his U.S. citizenship if the person, having been a citizen of the United States, has renounced citizenship either—

(1) Before a diplomatic or consular officer of the United States in a foreign state pursuant to 8 U.S.C. 1481(a)(5); or

(2) Before an officer designated by the Attorney General when the United States is in a state of war pursuant to 8 U.S.C. 1481(a)(6).

(b) The term will not include any renunciation of citizenship that has been
reversed as a result of administrative or judicial appeal.

**Responsible person.** An individual who has the power to direct the management and policies of the applicant pertaining to explosive materials. Generally, the term includes partners, sole proprietors, site managers, corporate officers and directors, and majority shareholders.

**Salute.** An aerial shell, classified as a display firework, that contains a charge of flash powder and is designed to produce a flash of light and a loud report as the pyrotechnic effect.

**Screen barricade.** Any barrier that will contain the embers and debris from a fire or deflagration in a process building, thus preventing propagation of fire to other buildings or areas. Such barriers shall be constructed of metal roofing, ¼ to ½ inch (6 to 13 mm) mesh screen, or equivalent material. The barrier extends from floor level to a height such that a straight line from the top of any side wall of the donor building to the eave line of any exposed building intercepts the screen at a point not less than 5 feet (1.5 m) from the top of the screen. The top 5 feet (1.5 m) of the screen is inclined towards the donor building at an angle of 30 to 45 degrees.

**Softwood.** Fir, pine, or other soft wood, free from loose knots, spaces, or similar defects.

**State.** A State of the United States. The term includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

**State of residence.** The State in which an individual regularly resides or maintains his home. Temporary stay in a State does not make the State of temporary stay the State of residence.

**Theatrical flash powder.** Flash powder commercially manufactured in premeasured kits not exceeding 1 ounce and mixed immediately prior to use and intended for use in theatrical shows, stage plays, band concerts, magic acts, thrill shows, and clown acts in circuses.

**Unlawful user of or addicted to any controlled substance.** A person who uses a controlled substance and has lost the power of self-control with reference to the use of a controlled substance; and any person who is a current user of a controlled substance in a manner other than as prescribed by a licensed physician. Such use is not limited to the use of drugs on a particular day, or within a matter of days or weeks before possession of the explosive materials, but rather that the unlawful use has occurred recently enough to indicate that the individual is actively engaged in such conduct. A person may be an unlawful current user of a controlled substance even though the substance is not being used at the precise time the person seeks to acquire explosive materials or receives or possesses explosive materials. An inference of current use may be drawn from evidence of a recent use or possession of a controlled substance or a pattern of use or possession that reasonably covers the present time, e.g., a conviction for use or possession of a controlled substance within the past year; multiple arrests for such offenses within the past 5 years if the most recent arrest occurred within the past year; or persons found through a drug test to use a controlled substance unlawfully, provided that the test was administered within the past year. For a current or former member of the Armed Forces, an inference of current use may be drawn from recent disciplinary or other administrative action based on confirmed drug use, e.g., court-martial conviction, non-judicial punishment, or an administrative discharge based on drug use or drug rehabilitation failure.


**User-limited permit.** A user permit valid only for a single purchase transaction, a new permit being required for a subsequent purchase transaction.

**User permit.** A permit issued to a person authorizing him (a) to acquire for his own use explosive materials from a licensee in a State other than the State in which he resides or from a foreign country, and (b) to transport explosive materials in interstate or foreign commerce.

**Water gels.** Explosives or blasting agents that contain a substantial proportion of water.


EDITORIAL NOTE: For Federal Register citations affecting §555.11, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

Subpart C—Administrative and Miscellaneous Provisions

§ 555.21 Forms prescribed.

(a) The Director is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part.

(b) Requests for forms should be submitted to the ATF Distribution Center (http://www.atf.gov) or made by calling (202) 648–6420.


§ 555.22 Alternate methods or procedures; emergency variations from requirements.

(a) Alternate methods or procedures.

The permittee or licensee, on specific approval by the Director as provided by this paragraph, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in this part. The Director may approve an alternate method or procedure, subject to stated conditions, when he finds that:

(1) Good cause is shown for the use of the alternate method or procedure;

(2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure and that the alternate method or procedure is substantially equivalent to that specifically prescribed method or procedure; and

(3) The alternate method or procedure will not be contrary to any provisions of law and will not result in an increase in cost to the Government or hinder the effective administration of this part.

Where the permittee or licensee desires to employ an alternate method or procedure, he shall submit a written application to the Director, Industry Operations, for transmittal to the Director. The application shall specifically describe the proposed alternate method or procedure and shall set forth the reasons for it. Alternate methods or procedures may not be employed until the application is approved by the Director. The permittee or licensee shall, during the period of authorization of an alternate method or procedure, comply with the terms of the approved application. Authorization of any alternate method or procedure may be withdrawn whenever, in the judgment of the Director, the effective administration of this part is hindered by the continuation of the authorization. As used in this paragraph, alternate methods or procedures include alternate construction or equipment.

(b) Emergency variations from requirements.

The Director may approve construction, equipment, and methods of operation other than as specified in this part, where he finds that an emergency exists and the proposed variations from the specified requirements are necessary and the proposed variations:

(1) Will afford security and protection that are substantially equivalent to those prescribed in this part;

(2) Will not hinder the effective administration of this part; and

(3) Will not be contrary to any provisions of law.

Variations from requirements granted under this paragraph are conditioned on compliance with the procedures, conditions, and limitations set forth in the approval of the application. Failure to comply in good faith with the procedures, conditions, and limitations shall automatically terminate the authority for the variations and the licensee or permittee shall fully comply with the prescribed requirements of regulations from which the variations were authorized. Authority for any variation may be withdrawn whenever, in the judgment of the Director, the effective administration of this part is hindered by the continuation of the variation. Where the licensee or permittee desires to employ an emergency variation, he
shall submit a written application to the Director, Industry Operations for transmittal to the Director. The application shall describe the proposed variation and set forth the reasons for it. Variations may not be employed until the application is approved, except when the emergency requires immediate action to correct a situation that is threatening to life or property. Corrective action may then be taken concurrent with the filing of the application and notification of the Director via telephone.

(c) Retention of approved variations. The licensee or permittee shall retain, as part of his records available for examination by ATF officers, any application approved by the Director under this section.

§ 555.23 List of explosive materials.

The Director shall compile a list of explosive materials, which shall be published and revised at least annually in the FEDERAL REGISTER. The “List of Explosive Materials” (ATF Publication 5400.8) is available at no cost upon request from the ATF Distribution Center (See §555.22).

§ 555.24 Right of entry and examination.

(a) Any ATF officer may enter during business hours the premises, including places of storage, of any licensee or holder of a user permit for the purpose of inspecting or examining any records or documents required to be kept under this part, and any facilities in which explosive materials are kept or stored.

(b) Any ATF officer may inspect the places of storage for explosive materials of an applicant for a limited permit or, in the case of a holder of a limited permit, at the time of renewal of such permit.

(c) The provisions of paragraph (b) of this section do not apply to an applicant for the renewal of a limited permit if an ATF officer has, within the preceding 3 years, verified by inspection that the applicant’s place of storage for explosive materials meets the requirements of subpart K of this part.

§ 555.25 Disclosure of information.

Upon receipt of written request from any State or any political subdivision of a State, the Director, Industry Operations may make available to the State or political subdivision any information which the Director, Industry Operations may obtain under the Act with respect to the identification of persons within the State or political subdivision, who have purchased or received explosive materials, together with a description of the explosive materials.

§ 555.26 Prohibited shipment, transportation, receipt, possession, or distribution of explosive materials.

(a) General. No person, other than a licensee or permittee knowingly may transport, ship, cause to be transported, or receive any explosive materials:

Provided, That the provisions of this paragraph (a) do not apply to the lawful purchase by a nonlicensee or nonpermittee of commercially manufactured black powder in quantities not to exceed 50 pounds, if the black powder is intended to be used solely for sporting, recreational, or cultural purposes in antique firearms as defined in 18 U.S.C. 921(a)(16), or in antique devices as exempted from the term “destructive device” in 18 U.S.C. 921(a)(4).

(b) Holders of a limited permit. No person who is a holder of a limited permit may—

(1) Transport, ship, cause to be transported, or receive in interstate or foreign commerce any explosive materials;

(2) Receive explosive materials from a licensee or permittee, whose premises are located outside the State of residence of the limited permit holder; or

(3) Receive explosive materials on more than 6 separate occasions, during the period of the permit, from one or more licensees or permittees whose premises are located within the State.
of residence of the limited permit holder. (See §555.105(b) for the definition of "6 separate occasions.")

(c) Possession by prohibited persons. No person may ship or transport any explosive material in or affecting interstate or foreign commerce or receive or possess any explosive materials which have been shipped or transported in or affecting interstate or foreign commerce who:

1. Is under indictment or information for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;
2. Is a fugitive from justice;
3. Is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802) and §555.11);
4. Has been adjudicated as a mental defective or has been committed to a mental institution;
5. Is an alien, other than an alien who—
   1. Is lawfully admitted for permanent residence (as that term is defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101)); or
   2. Is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or is in asylum status under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), and—
      (A) Is a foreign law enforcement officer of a friendly foreign government, as determined by the Attorney General in consultation with the Secretary of State, entering the United States on official law enforcement business, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of this official law enforcement business;
      (B) Is a person having the power to direct or cause the direction of the management and policies of a corporation, partnership, or association licensed pursuant to section 843(a) of the Act, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of such power;
      (C) Is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Attorney General in consultation with the Secretary of Defense, (whether or not admitted in a nonimmigrant status) who is present in the United States under military orders for training or other military purpose authorized by the United States, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the military purpose; or
   3. Has been discharged from the armed forces under dishonorable conditions; or
   4. Having been a citizen of the United States, has renounced citizenship.

(d) Distribution to prohibited persons. No person may knowingly distribute explosive materials to any individual who:

1. Is under twenty-one years of age;
2. Is under indictment or information for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;
3. Is a fugitive from justice;
4. Is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802) and §555.11);
5. Has been adjudicated as a mental defective or has been committed to a mental institution;
6. Is an alien, other than an alien who—
   1. Is lawfully admitted for permanent residence (as that term is defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101)); or
   2. Is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or is in asylum status under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), and—
      (A) Is a foreign law enforcement officer of a friendly foreign government, as determined by the Attorney General in consultation with the Secretary of State, entering the United States on official law enforcement business, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of this official law enforcement business;
      (B) Is a person having the power to direct or cause the direction of the management and policies of a corporation, partnership, or association licensed pursuant to section 843(a) of the Act, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of such power;
      (C) Is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Attorney General in consultation with the Secretary of State, entering the United States on official law enforcement business, and
the shipping, transporting, possession, or receipt of explosive materials is in furtherance of this official law enforcement business;

(B) Is a person having the power to direct or cause the direction of the management and policies of a corporation, partnership, or association licensed pursuant to section §493(a) of the Act, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of such power; or

(C) Is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Attorney General in consultation with the Secretary of Defense, (whether or not admitted in a nonimmigrant status) who is present in the United States under military orders for training or other military purpose authorized by the United States, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the military purpose; or

(D) Is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation;

(7) Has been discharged from the armed forces under dishonorable conditions; or

(8) Having been a citizen of the United States, has renounced citizenship.

(e) See §555.180 for regulations concerning the prohibited manufacture, importation, exportation, shipment, transportation, receipt, transfer, or possession of plastic explosives that do not contain a detection agent.

[ATF No. 1, 68 FR 13781, Mar. 20, 2003]

§ 555.27 Out-of-State disposition of explosive materials.

(a) No nonlicensee or nonpermittee may distribute any explosive materials to any other nonlicensee or nonpermittee who the distributor knows or who has reasonable cause to believe does not reside in the State in which the distributor resides.

(b) The provisions of this section do not apply on and after May 24, 2003.

[ATF No. 1, 68 FR 13782, Mar. 20, 2003]

§ 555.28 Stolen explosive materials.

No person shall receive, conceal, transport, ship, store, barter, sell, or dispose of any stolen explosive materials knowing or having reasonable cause to believe that the explosive materials were stolen.

§ 555.29 Unlawful storage.

No person shall store any explosive materials in a manner not in conformity with this part.

§ 555.30 Reporting theft or loss of explosive materials.

(a) Any licensee or permittee who has knowledge of the theft or loss of any explosive materials from his stock shall, within 24 hours of discovery, report the theft or loss by telephoning 1–800–800–3855 (nationwide toll free number) and on ATF F 5400.5 (formerly Form 4712) in accordance with the instructions on the form. Theft or loss of any explosive materials shall also be reported to appropriate local authorities.

(b) Any other person, except a carrier of explosive materials, who has knowledge of the theft or loss of any explosive materials from his stock shall, within 24 hours of discovery, report the theft or loss by telephoning 1–800–800–3855 (nationwide toll free number) and in writing to the nearest ATF office. Theft or loss shall be reported to appropriate local authorities.

(c) Reports of theft or loss of explosive materials under paragraphs (a) and (b) of this section must include the following information, if known:

(1) The manufacturer or brand name.

(2) The manufacturer's marks of identification (date and shift code).

(3) Quantity (applicable quantity units, such as pounds of explosives, number of detonators, etc.).

(4) Description (dynamite, blasting agents, detonators, etc.) and United Nations (UN) identification number, hazard division number, and classification letter, e.g., 1.1D, as classified by the U.S. Department of Transportation at 49 CFR 172.101 and 173.52.

(5) Size (length and diameter).

(d) A carrier of explosive materials who has knowledge of the theft or loss of any explosive materials shall, within 24 hours of discovery, report the theft...
or loss by telephoning 1–800–800–3855 (nationwide toll free number). Theft or loss shall also be reported to appropriate local authorities. Reports of theft or loss of explosive materials by carriers shall include the following information, if known:

(1) The manufacturer or brand name.
(2) Quantity (applicable quantity units, such as pounds of explosives, number of detonators, etc.).
(3) Description (United Nations (UN) identification number, hazard division number, and classification letter, e.g., 1.1D) as classified by the U.S. Department of Transportation at 49 CFR 172.101 and 173.52.


§ 555.31 Inspection of site accidents or fires; right of entry.

Any ATF officer may inspect the site of any accident or fire in which there is reason to believe that explosive materials were involved. Any ATF officer may enter into or upon any property where explosive materials have been used, are suspected of having been used, or have been found in an otherwise unauthorized location.

§ 555.32 Special explosive devices.

The Director may exempt certain explosive actuated devices, explosive actuated tools, or similar devices from the requirements of this part. A person who desires to obtain an exemption under this section for any special explosive device, which as designed does not constitute a public safety or security hazard, shall submit a written request to the Director. Each request shall be executed under the penalties of perjury and contain a complete and accurate description of the device, the name and address of the manufacturer or importer, the purpose of and use for which it is intended, and any photographs, diagrams, or drawings as may be necessary to enable the Director to make a determination. The Director may require that a sample of the device be submitted for examination and evaluation. If it is not possible to submit the device, the person requesting the exemption shall advise the Director and designate the place where the device will be available for examination and evaluation.

§ 555.33 Background checks and clearances (effective May 24, 2003).

(a) Background checks. (1) If the Director receives from a licensee or permittee the names and appropriate identifying information of responsible persons and employees who will be authorized by the employer to possess explosive materials in the course of employment, with the employer, the Director will conduct a background check in accordance with this section.

(2) The Director will determine whether the responsible person or employee is one of the persons described in any paragraph of section 842(i) of the Act (see § 555.26). In making such determination, the Director may take into account a letter or document issued under paragraph (a)(3) of this section.

(3)(i) If the Director determines that the responsible person or employee is not one of the persons described in any paragraph of section 842(i) of the Act (see § 555.26), the Director will notify the employer in writing or electronically of the determination and issue to the responsible person or employee, as the case may be, a letter of clearance which confirms the determination.

(ii) If the Director determines that the responsible person or employee is one of the persons described in any paragraph of section 842(i) of the Act (see § 555.26), the Director will notify the employer in writing or electronically of the determination and issue, to the responsible person or employee, as the case may be, a document that confirms the determination; explains the grounds for the determination; provides information on how the disability may be relieved; and explains how the determination may be appealed. The employer will retain the notification as part of his permanent records in accordance with § 555.121. The employer will take immediate steps to remove the responsible person from his position directing the management or policies of the business or operations as they relate to explosive materials or, as the case may be, to remove the employee from a position requiring the possession of explosive materials. Also,
§ 555.34 Replacement of stolen or lost
ATF Form 5400.30 (Intrastate Purchase of Explosives Coupon (IPEC)).

When any Form 5400.30 is stolen, lost, or destroyed, the person losing possession will, upon discovery of the theft, loss, or destruction, immediately but in all cases before 24 hours have
§ 555.41 General.

(a) Licenses and permits issued prior to May 24, 2003. (1) Each person intending to engage in business as an importer or manufacturer of, or a dealer in, explosive materials, including black powder, must, before commencing business, obtain the license required by this subpart for the business to be operated. Each person who intends to acquire for use explosive materials from a licensee in a State other than the State in which he resides, or from a foreign country, or who intends to transport explosive materials in interstate or foreign commerce, must obtain a permit under this subpart; except that it is not necessary to obtain a permit if the user intends to lawfully purchase:

(i) Explosive materials from a licensee in a State contiguous to the user’s State of residence and the user’s State of residence has enacted legislation, currently in force, specifically authorizing a resident of that State to purchase explosive materials in a contiguous State; or

(ii) Commercially manufactured black powder in quantities not to exceed 50 pounds, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or in antique devices.

(2) Each person intending to engage in business as an explosive materials importer, manufacturer, or dealer must file an application, with the required fee (see §555.42), with ATF in accordance with the instructions on the form (see §555.45). A license will, subject to law, entitle the licensee to transport, ship, and receive explosive materials in interstate or foreign commerce, and to engage in the business specified by the license, at the location described on the license. A separate license must be obtained for each business premises at which the applicant is to manufacture, import, or distribute explosive materials except under the following circumstances:

(i) A separate license will not be required for storage facilities operated by the licensee as an integral part of one business premises or to cover a location used by the licensee solely for maintaining the records required by this part.

(ii) A separate license will not be required of a licensed manufacturer with respect to his on-site manufacturing.

(iii) It will not be necessary for a licensed importer or a licensed manufacturer (for purposes of sale or distribution) to also obtain a dealer’s license in order to engage in business on his licensed premises as a dealer in explosive materials.

(iv) A separate license will not be required of licensed manufacturers with respect to their on-site manufacture of theatrical flash powder.

(3) Except as provided in paragraph (a)(1) of this section, each person intending to acquire explosive materials from a licensee in a State other than a State in which he resides, or from a foreign country, or who intends to transport explosive materials in interstate or foreign commerce, must file an application, with the required fee (see §555.43), with ATF in accordance with the instructions on the form (see §555.45). A permit will, subject to law, entitle the permittee to acquire, transport, ship, and receive in interstate or foreign commerce explosive materials. Only one permit is required under this part.

(b) Licenses and permits issued on and after May 24, 2003. (1) In general. (1) Each person intending to engage in business as an importer or manufacturer of, or a dealer in, explosive materials, including black powder, must, before commencing business, obtain the license required by this subpart for the business to be operated.
Bureau of Alcohol, Tobacco, Firearms, and Explosives, Justice  § 555.41

(ii) Each person who intends to acquire for use explosive materials within the State in which he resides on no more than 6 separate occasions during the 12-month period in which the permit is valid must obtain a limited permit under this subpart. (See §555.105(b) for definition of “6 separate occasions.”)

(iii) Each person who intends to acquire for use explosive materials from a licensee or permittee in a State other than the State in which he resides, or from a foreign country, or who intends to transport explosive materials in interstate or foreign commerce, or who intends to acquire for use explosive materials within the State in which he resides on more than 6 separate occasions during a 12-month period, must obtain a user permit under this subpart.

(iv) It is not necessary to obtain a permit if the user intends only to lawfully purchase commercially manufactured black powder in quantities not to exceed 50 pounds, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or in antique devices.

(2) Importers, manufacturers, and dealers. Each person intending to engage in business as an explosive materials importer, manufacturer, or dealer must file an application, with the required fee (see §555.42), with ATF in accordance with the instructions on the form (see §555.45). A license will, subject to law, entitle the holder of such permit to transport, ship, and receive explosive materials in interstate or foreign commerce, and to engage in the business specified by the license, at the location described on the license. A separate license must be obtained for each business premises at which the applicant is to manufacture, import, or distribute explosive materials except under the following circumstances:

(i) A separate license will not be required for storage facilities operated by the licensee as an integral part of one business premises or to cover a location used by the licensee solely for maintaining the records required by this part.

(ii) A separate license will not be required of a licensed manufacturer with respect to his on-site manufacturing.

(iii) It will not be necessary for a licensed importer or a licensed manufacturer (for purposes of sale or distribution) to also obtain a dealer’s license in order to engage in business on his licensed premises as a dealer in explosive materials. No licensee will be required to obtain a user permit to lawfully transport, ship, or receive explosive materials in interstate or foreign commerce.

(iv) A separate license will not be required of licensed manufacturers with respect to their on-site manufacture of theatrical flash powder.

(3) Users of explosive materials. (i) A limited permit will, subject to law, entitle the holder of such permit to receive for his use explosive materials from a licensee or permittee in his state of residence on no more than 6 separate occasions during the 12-month period in which the permit is valid. A limited permit does not authorize the receipt or transportation of explosive materials in interstate or foreign commerce. Holders of limited permits who need to receive explosive materials on more than 6 separate occasions during a 12-month period must obtain a user permit in accordance with this subpart.

(ii) Each person intending to acquire explosive materials from a licensee in a State other than a State in which he resides, or from a foreign country, or who intends to transport explosive materials in interstate or foreign commerce, must file an application for a user permit, with the required fee (see §555.43), with ATF in accordance with the instructions on the form (see §555.45). A user permit will, subject to law, entitle the permittee to transport, ship, and receive in interstate or foreign commerce explosive materials. Only one user permit per person is required under this part, irrespective of the number of locations relating to explosive materials operated by the holder of the user permit.

(Approved by the Office of Management and Budget under control number 1140–0083)

[ATF No. 1, 68 FR 13783, Mar. 20, 2003, as amended by ATF 5F, 70 FR 30633, May 27, 2005]
§ 555.42 License fees.

(a) Each applicant shall pay a fee for obtaining a three-year license, a separate fee being required for each business premises, as follows:

(1) Manufacturer—$200.
(2) Importer—$200.
(3) Dealer—$200.

(b) Each applicant for a renewal of a license shall pay a fee for a three-year license as follows:

(1) Manufacturer—$100.
(2) Importer—$100.
(3) Dealer—$100.

[T.D. ATF–400, 63 FR 45002, Aug. 24, 1998]

§ 555.43 Permit fees.

(a) Each applicant must pay a fee for obtaining a permit as follows:

(1) User—$100 for a three-year period.
(2) User-limited (nonrenewable)—$75.
(3) Limited—$25 for a one-year period.

(b)(1) Each applicant for renewal of a user permit must pay a fee of $50 for a three-year period.
(2) Each applicant for renewal of a limited permit must pay a fee of $12 for a one-year period.

[ATF No. 1, 68 FR 13785, Mar. 20, 2003]

§ 555.44 License or permit fee not refundable.

No refund of any part of the amount paid as a license or permit fee will be made where the operations of the licensee or permittee are, for any reason, discontinued during the period of an issued license or permit. However, the license or permit fee submitted with an application for a license or permit will be refunded if that application is denied, withdrawn, or abandoned, or if a license is cancelled subsequent to having been issued through administrative error.

§ 555.45 Original license or permit.

(a) Licenses issued prior to May 24, 2003. Any person who intends to engage in business as an explosive materials importer, manufacturer, or dealer, or who has not timely submitted application for renewal of a previous license issued under this part, shall file with ATF an application for License, Explosives, ATF F 5400.13 with ATF in accordance with the instructions on the form. The application must be executed under the penalties of perjury and the penalties imposed by 18 U.S.C. 844(a). The application is to be accompanied by the appropriate fee in the form of a money order or check made payable to the Bureau of Alcohol, Tobacco and Firearms. ATF F 5400.13 may be obtained from any ATF office. The Chief, Firearms and Explosives Licensing Center, will not approve an application postmarked on or after March 20, 2003, unless it is submitted with a Responsible Person Questionnaire, ATF Form 5400.23. Form 5400.23 must be completed in accordance with the instructions on the form.

(b) Permits issued prior to May 24, 2003.

Any person, except as provided in §555.41(a), who intends to acquire explosive materials from a licensee in a state other than the State in which that person resides, or from a foreign country, or who intends to transport explosive materials in interstate or foreign commerce, or who has not timely submitted application for renewal of a previous permit issued under this part, shall file an application for Permit, Explosives, ATF F 5400.16 or Permit, User Limited Special Fireworks, ATF F 5400.21 with ATF in accordance with the instructions on the form. The application must be executed under the penalties of perjury and the penalties imposed by 18 U.S.C. 844(a). The application is to be accompanied by the appropriate fee in the form of a money order or check made payable to the Bureau of Alcohol, Tobacco and Firearms. ATF F 5400.16 and ATF F 5400.21 may be obtained from any ATF office. The Chief, Firearms and Explosives Licensing Center, will not approve an application postmarked on or after March 20, 2003, unless it is submitted with a Responsible Person Questionnaire, ATF Form 5400.23. Form 5400.23 must be completed in accordance with the instructions on the form.

(c) Licenses and permits issued on and after May 24, 2003—(1) License. Any person who intends to engage in the business as an importer of, manufacturer of, or dealer in explosive materials, or who has not timely submitted an application for renewal of a previous license issued under this part, must file an application for License, Explosives, ATF
Bureau of Alcohol, Tobacco, Firearms, and Explosives, Justice § 555.46

F 5400.13, with ATF in accordance with the instructions on the form. ATF Form 5400.13 may be obtained by contacting any ATF office. The application must:

(i) Be executed under the penalties of perjury and the penalties imposed by 18 U.S.C. 844(a); (ii) Include appropriate identifying information concerning each responsible person; (iii) Include a photograph and fingerprints for each responsible person; (iv) Include the names of and appropriate identifying information regarding all employees who will be authorized by the applicant to possess explosive materials by submitting ATF F 5400.28 for each employee; and
(v) Include the appropriate fee in the form of money order or check made payable to the Bureau of Alcohol, Tobacco, Firearms and Explosives.

(2) User permit and limited permit. Except as provided in §555.41(b)(1)(iv), any person who intends to acquire explosive materials in the State in which that person resides or acquire explosive materials from a licensee or holder of a user permit in a State other than the State in which that person resides, or who intends to transport explosive materials in interstate or foreign commerce, or who has not timely submitted an application for renewal of a previous permit issued under this part, must file an application for Permit, Explosives, ATF F 5400.16 or Permit, User Limited Display Fireworks, ATF F 5400.21 with ATF in accordance with the instructions on the form. ATF Form 5400.16 and ATF Form 5400.21 may be obtained by contacting any ATF office. The application must:

(i) Be executed under the penalties of perjury and the penalties imposed by 18 U.S.C. 844(a); (ii) Include a photograph, fingerprints, and appropriate identifying information for each responsible person; (iii) Include the names of and appropriate identifying information regarding all employees who will be authorized by the applicant to possess explosive materials by submitting ATF F 5400.28 for each employee; and (iv) Include the appropriate fee in the form of money order or check made payable to the Bureau of Alcohol, Tobacco, Firearms and Explosives.

(3) The Chief, Federal Explosives Licensing Center, will conduct background checks on responsible persons and employees authorized by the applicant to possess explosive materials in accordance with §555.33. If it is determined that any responsible person or employee is described in any paragraph of section 842(i) of the Act, the applicant must submit an amended application indicating removal or reassignment of that person before the license or permit will be issued.

(Approved by the Office of Management and Budget under control number 1140–0083)

§ 555.46 Renewal of license or permit.

(a) If a licensee or permittee intends to continue the business or operation described on a license or permit issued under this part after the expiration date of the license or permit, he shall, unless otherwise notified in writing by the Chief, Federal Explosives Licensing Center, execute and file prior to the expiration of his license or permit an application for license renewal, ATF F 5400.14 (Part III), or an application for permit renewal, ATF F 5400.15 (Part III), accompanied by the required fee, with ATF in accordance with the instructions on the form. In the event the licensee or permittee does not timely file a renewal application, he shall file an original application as required by §555.45, and obtain the required license or permit in order to continue business or operations.

(b) A user-limited permit is not renewable and is valid for a single purchase transaction. Applications for all user-limited permits must be filed on
§ 555.47 Insufficient fee.

If an application is filed with an insufficient fee, the application and fee submitted will be returned to the applicant.


§ 555.48 Abandoned application.

Upon receipt of an incomplete or improperly executed application, the applicant will be notified of the deficiency in the application. If the application is not corrected and returned within 30 days following the date of notification, the application will be considered as having been abandoned and the license or permit fee returned.

§ 555.49 Issuance of license or permit.

(a) Issuance of license or permit prior to May 24, 2003. (1) The Chief, Firearms and Explosives Licensing Center, will issue a license or permit if—

(i) A properly executed application for the license or permit is received; and

(ii) Through further inquiry or investigation, or otherwise, it is found that the applicant is entitled to the license or permit.

(2) The Chief, Firearms and Explosives Licensing Center, will approve a properly executed application for a license or permit, if:

(i) The applicant is 21 years of age or over;

(ii) The applicant (including, in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is not a person to whom distribution of explosive materials is prohibited under the Act;

(iii) The applicant has not willfully violated any provisions of the Act or this part;

(iv) The applicant has not knowingly withheld information or has not made any false or fictitious statement intended or likely to deceive, in connection with his application;

(v) The applicant has in a State, premises from which he conducts business or operations subject to license or permit under the Act or from which he intends to conduct business or operations;

(vi) The applicant has storage for the class (as described in §555.202) of explosive materials described on the application, unless he establishes to the satisfaction of the Chief, Firearms and Explosives Licensing Center, that the business or operations to be conducted will not require the storage of explosive materials;

(vii) The applicant has certified in writing that he is familiar with and understands all published State laws and local ordinances relating to explosive materials for the location in which he intends to do business; and

(viii) The applicant for a license has submitted the certificate required by section 21 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1341).

(3) The Chief, Firearms and Explosives Licensing Center, will approve or the regional director (compliance) will deny any application for a license or permit within the 45-day period beginning on the date a properly executed application was received. However, when an applicant for license or permit renewal is a person who is, under the provisions of §555.83 or §555.142, conducting business or operations under a previously issued license or permit, action regarding the application will be held in abeyance pending the completion of the proceedings against the applicant’s existing license or permit, or renewal application, or final action by the Director on an application for relief submitted under §555.142, as the case may be.

(4) The license or permit and one copy will be forwarded to the applicant, except that in the case of a user-limited permit, the original only will be issued.
§ 555.50 Correction of error on license or permit.

(a) Upon receipt of a license or permit issued under this part, each licensee or permittee shall examine the license or permit to insure that the information on it is accurate. If the license or permit is incorrect, the licensee or permittee shall return the license or permit to the Chief, Federal Explosives Licensing Center, with a statement showing the nature of the error. If the error is a printing error, it may be corrected by the Chief, Federal Explosives Licensing Center.

(b) Issuance of license or permit on and after May 24, 2003. (1) The Chief, Federal Explosives Licensing Center, will issue a license or permit if:

(i) A properly executed application for the license or permit is received; and

(ii) Through further inquiry or investigation, or otherwise, it is found that the applicant is entitled to the license or permit.

(2) The Chief, Federal Explosives Licensing Center, will approve a properly executed application for a license or permit if:

(i) The applicant (or, if the applicant is a corporation, partnership, or association, each responsible person with respect to the applicant) is not a person described in any paragraph of section 842(i) of the Act;

(ii) The applicant has not willfully violated any provisions of the Act or this part;

(iii) The applicant has not knowingly withheld information or has not made any false or fictitious statement intended or likely to deceive, in connection with his application;

(iv) The applicant has in a State, premises from which he conducts business or operations subject to license or permit under the Act or from which he intends to conduct business or operations;

(v) The applicant has storage for the class (as described in §555.202) of explosive materials described on the application;

(vi) The applicant has certified in writing that he is familiar with and understands all published State laws and local ordinances relating to explosive materials for the location in which he intends to do business;

(vii) The applicant for a license has submitted the certificate required by section 21 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1341);

(viii) None of the employees of the applicant who will be authorized by the applicant to possess explosive materials is a person described in any paragraph of section 842(i) of the Act; and

(ix) In the case of an applicant for a limited permit, the applicant has certified in writing that the applicant will not receive explosive materials on more than 6 separate occasions during the 12-month period for which the limited permit is valid.

(3) The Chief, Federal Explosives Licensing Center, will approve or the Director, Industry Operations will deny any application for a license or permit within the 90-day period beginning on the date a properly executed application was received. However, when an applicant for license or permit renewal is a person who is, under the provisions of §555.83 or §555.142, conducting business or operations under a previously issued license or permit, action regarding the application will be held in abeyance pending the completion of the proceedings against the applicant’s existing license or permit, or renewal application, or final action by the Director on an application for relief submitted under §555.142, as the case may be.

(4) The license or permit and one copy will be forwarded to the applicant, except that in the case of a user-limited permit, the original only will be issued.

(5) Each license or permit will bear a serial number and this number may be assigned to the licensee or permittee to whom issued for as long as he maintains continuity of renewal in the same region.

(Approved by the Office of Management and Budget under control number 1140–0082)

error. The Chief, Federal Explosives Licensing Center, shall correct the error, if the error was made in his office, and return the license or permit. However, if the error resulted from information contained in the licensee’s or permittee’s application for the license or permit, the Chief, Federal Explosives Licensing Center, shall require the licensee or permittee to file an amended application setting forth the correct information and a statement explaining the error contained in the application. Upon receipt of the amended application and a satisfactory explanation of the error, the Chief, Federal Explosives Licensing Center, shall make the correction on the license or permit and return it to the licensee or permittee.

(b) When the Chief, Federal Explosives Licensing Center, finds through any means other than notice from the licensee or permittee that an incorrect license or permit has been issued, (1) the Chief, Federal Explosives Licensing Center, may require the holder of the incorrect license or permit to return the license or permit for correction, and (2) if the error resulted from information contained in the licensee’s or permittee’s application for the license or permit, the Chief, Federal Explosives Licensing Center, shall require the licensee or permittee to file an amended application setting forth the correct information, and a statement satisfactorily explaining the error contained in the application. The Chief, Federal Explosives Licensing Center, then shall make the correction on the license or permit and return it to the licensee or permittee.

§ 555.51 Duration of license or permit.

(a) Prior to May 24, 2003. An original license or permit is issued for a period of three years. A renewal license or permit is also issued for a period of three years. However, a user-limited permit is valid only for a single purchase transaction. (2) A limited permit is issued for a period of one year. A renewal limited permit is also issued for a period of one year.

[ATF No. 1, 68 FR 13786, Mar. 20, 2003]

§ 555.52 Limitations on license or permit.

(a) The license covers the business of explosive materials specified in the license at the licensee’s business premises (see § 555.41(b)). (b) The permit is valid with respect to the type of operations of explosive materials specified in the permit.


§ 555.53 License and permit not transferable.

Licenses and permits issued under this part are not transferable to another person. In the event of the lease, sale, or other transfer of the business or operations covered by the license or permit, the successor must obtain the license or permit required by this part before commencing business or operations. However, for rules on right of succession, see § 555.59.


§ 555.54 Change of address.

(a) During the term of a license or permit, a licensee or permittee may move his business or operations to a new address at which he intends to regularly carry on his business or operations, without procuring a new license or permit. However, in every case, the licensee or permittee shall—

(1) Give notification of the new location of the business or operations to the Chief, Federal Explosives Licensing Center at least 10 days before the move; and

(2) Submit the license or permit to the Chief, Federal Explosives Licensing Center. The Chief, Federal Explosives Licensing Center will issue an amended license or permit, which will contain the new address (and new license or permit number, if any).
(b) Licensees and permittees whose mailing address will change must notify the Chief, Federal Explosives Licensing Center, at least 10 days before the change.

(Paragraph (b) approved by the Office of Management and Budget under control number 1140–0080)


§ 555.56 Change in trade name.

A licensee or permittee continuing to conduct business or operations at the location shown on his license or permit is not required to obtain a new license or permit by reason of a mere change in trade name under which he conducts his business or operations. However, the licensee or permittee shall furnish his license or permit and any copies furnished with the license or permit for endorsement of the change to the Chief, Federal Explosives Licensing Center, within 30 days from the date the licensee or permittee begins his business or operations under the new trade name.


§ 555.57 Change of control, change in responsible persons, and change of employees.

(a) In the case of a corporation or association holding a license or permit under this part, if actual or legal control of the corporation or association changes, directly or indirectly, whether by reason of change in stock ownership or control (in the corporation holding a license or permit or in any other corporation), by operation of law, or in any other manner, the licensee or permittee shall, within 30 days of the change, give written notification executed under the penalties of perjury, to the Chief, Federal Explosives Licensing Center. Upon expiration of the license or permit, the corporation or association shall file an ATF F 5400.13 or an ATF F 5400.16 as required by §555.45, and pay the fee prescribed in §555.42(b) or §555.43(b).

(b) For all licenses or permits issued on and after May 24, 2003, each person holding the license or permit must report to the Chief, Federal Explosives Licensing Center, any change in responsible persons or employees authorized to possess explosive materials. Such report must be submitted within 30 days of the change and must include appropriate identifying information for each responsible person. Reports relating to newly hired employees authorized to possess explosive materials must be submitted on ATF F 5400.28 for each employee.

(c) Upon receipt of a report, the Chief, Federal Explosives Licensing Center, will conduct a background check, if appropriate, in accordance with §555.33.

(d) The reports required by paragraph (b) of this section must be retained as part of a licensee’s or permittee’s permanent records for the period specified in §555.121.

(Approved by the Office of Management and Budget under control number 1140–0074)


§ 555.58 Continuing partnerships.

Where, under the laws of the particular State, the partnership is not terminated on death or insolvency of a partner, but continues until the winding up of the partnership affairs is completed, and the surviving partner has the exclusive right to the control and possession of the partnership assets for the purpose of liquidation and settlement, the surviving partner may continue to conduct the business or operations under the license or permit of the partnership. If the surviving partner acquires the business or operations on completion of settlement of the partnership, he shall obtain a license or permit in his own name from the date of acquisition, as provided in §555.45. The rule set forth in this section will also apply where there is more than one surviving partner.

§ 555.59 Right of succession by certain persons.

(a) Certain persons other than the licensee or permittee may secure the
right to carry on the same explosive materials business or operations at the same business premises for the remainder of the term of license or permit. These persons are:

(1) The surviving spouse or child, or executor, administrator, or other legal representative of a deceased licensee or permittee; and

(2) A receiver or trustee in bankruptcy, or an assignee for benefit of creditors.

(b) In order to secure the right of succession, the person or persons continuing the business or operations shall submit the license or permit and all copies furnished with the license or permit for endorsement of the succession to the Chief, Federal Explosives Licensing Center, within 30 days from the date on which the successor begins to carry on the business or operations.


§ 555.60 Certain continuances of business or operations.

A licensee or permittee who furnishes his license or permit to the Chief, Federal Explosives Licensing Center, for correction, amendment, or endorsement, as provided in this subpart, may continue his business or operations while awaiting its return.


§ 555.61 Discontinuance of business or operations.

Where an explosive materials business or operations is either discontinued or succeeded by a new owner, the owner of the business or operations discontinued or succeeded shall, within 30 days, furnish notification of the discontinuance or succession and submit his license or permit and any copies furnished with the license or permit to the Chief, Federal Explosives Licensing Center. (See also § 555.128.)

§ 555.73 Hearing after initial application is denied.

If the applicant for an original license or permit desires a hearing, he shall file a request with the Director, Industry Operations within 15 days after receipt of the notice of denial. The request should include a statement of the reasons for the hearing. On receipt of the request, the Director, Industry Operations shall refer the matter to an administrative law judge who shall set a time and place (see §555.77) for a hearing and shall serve notice of the hearing upon the applicant and the Director, Industry Operations at least 10 days in advance of the hearing date. The hearing will be conducted in accordance with the hearing procedures prescribed in part 71 of this chapter (see §555.82). Within a reasonable time after the conclusion of the hearing, and as expeditiously as possible, the administrative law judge shall render his recommended decision. He shall certify to the complete record of the proceedings presented by the licensee or permittee, the Director, Industry Operations finds that the licensee or permittee is not likely to abide by the law and regulations, he will proceed as provided in §555.74.


§ 555.72 Denial of initial application.

Whenever the Director, Industry Operations has reason to believe that an applicant for an original license or permit is not eligible to receive a license or permit under the provisions of §555.49, he shall issue a notice of denial on ATF F 5400.11. The notice will set forth the matters of fact and law relied upon in determining that the application should be denied, and will afford the applicant 15 days from the date of receipt of the notice in which to request a hearing to review the denial. If no request for a hearing is filed within that time, a copy of the application, marked “Disapproved”, will be returned to the applicant.


§ 555.71 Opportunity for compliance.

Except in cases of willfulness or those in which the public interest requires otherwise, and the Director, Industry Operations so alleges in the notice of denial of an application or revocation of a license or permit, no license or permit will be revoked or renewal application denied without first calling to the attention of the licensee or permittee the reasons for the contemplated action and affording him an opportunity to demonstrate or achieve compliance with all lawful requirements and to submit facts, arguments, or proposals of adjustment. The notice of contemplated action, ATF F 5400.12, will afford the licensee or permittee 15 days from the date of receipt of the notice to respond. If no response is received within the 15 days, or if after consideration of relevant matters presented by the licensees or permittees, the Director, Industry Operations finds that the licensee or permittee is not likely to abide by the law and regulations, he will proceed as provided in §555.74.

§ 555.74 Denial of renewal application or revocation of license or permit.

If following the opportunity for compliance under § 555.71, or without opportunity for compliance under § 555.71, as circumstances warrant, the Director, Industry Operations finds that the licensee or permittee is not likely to comply with the law or regulations or is otherwise not eligible to continue operations authorized under his license or permit, the Director, Industry Operations shall issue a notice of denial of the renewal application or revocation of the license or permit, ATF F 5400.11 or ATF F 5400.10, as appropriate. In either case, the notice will set forth the matters of fact constituting the violations specified, dates, places, and the sections of law and regulations violated. The notice will, in the case of revocation of a license or permit, specify the date on which the action is effective, which date will be on or after the date the notice is served on the licensee or permittee. The notice will also advise the licensee or permittee that he may, within 15 days after receipt of the notice, request a hearing and, if applicable, a stay of the effective date of the revocation of his license or permit.


§ 555.75 Hearing after denial of renewal application or revocation of license or permit.

If a licensee or permittee whose renewal application has been denied or whose license or permit has been revoked desires a hearing, he shall file a request for a hearing with the Director, Industry Operations. In the case of the revocation of a license or permit, he may include a request for a stay of the effective date of the revocation. On receipt of the request the Director, Industry Operations shall advise the licensee or permittee whether the stay of the effective date of the revocation is granted. If the stay of the effective date of the revocation is granted, the Director, Industry Operations shall refer the matter to an administrative law judge who shall set a time and place (see § 555.77) for a hearing and shall serve notice of the hearing upon the licensee or permittee and the Director, Industry Operations at least 10 days in advance of the hearing date. If the stay of the effective date of the revocation is denied, the licensee or permittee may request an immediate hearing. In this event, the Director, Industry Operations shall immediately refer the matter to an administrative law judge who shall set a date and place for a hearing, which date shall be no later than 10 days from the date the licensee or permittee requested an immediate hearing. The hearing will be held in accordance with the applicable provisions of part 71 of this chapter. Within a reasonable time after the conclusion of the hearing, and as expeditiously as possible, the administrative law judge shall render his decision. He shall certify to the complete record of the proceeding before him and shall immediately forward the complete certified record, together with two copies of his decision, to the Director, Industry Operations, serve one copy of his decision on the licensee or permittee or his counsel, and transmit a copy to the attorney for the Government.


§ 555.76 Action by Director, Industry Operations.

(a) Initial application proceedings. If, upon receipt of the record and the recommended decision of the administrative law judge, the Director, Industry Operations decides that the license or permit should be issued, the Director, Industry Operations shall cause the application to be approved, briefly stating, for the record, his reasons. If he contemplates that the denial should stand, he shall serve a copy of the administrative law judge’s recommended decision on the applicant, informing the applicant of his contemplated action and affording the applicant not
more than 10 days in which to submit proposed findings and conclusions or exceptions to the recommended decision with supporting reasons. If the Director, Industry Operations, after consideration of the record of the hearing and of any proposed findings, conclusions, or exceptions filed with him by the applicant, approves the findings, conclusions and recommended decision of the administrative law judge, the Director, Industry Operations shall cause the license or permit to be issued or disapproved the application accordingly. If he disapproves the findings, conclusions, and recommendation of the administrative law judge, in whole or in part, he shall by order make such findings and conclusions as in his opinion are warranted by the law and the facts in the record. Any decision of the Director, Industry Operations ordering the disapproval of an initial application for a license or permit shall state the findings and conclusions upon which it is based, including his ruling upon each proposed finding, conclusion, and exception to the administrative law judge’s recommended decision, together with a statement of his findings and conclusions, and reasons or basis for his findings and conclusions, upon all material issues of fact, law or discretion presented on the record. A signed duplicate original of the decision will be served upon the applicant and the original copy containing certificate of service will be placed in the official record of the proceedings. If the decision of the Director, Industry Operations is in favor of the applicant, he shall issue the license or permit, to be effective on issuance.

(b) Renewal application and revocation proceedings. Upon receipt of the complete certified records of the hearing, the Director, Industry Operations shall enter an order confirming the revocation of the license or permit, or disapproving the application, in accordance with the administrative law judge’s findings and decision, unless he disagrees with the findings and decision. A signed duplicate original of the order, ATF F 5400.9, will be served upon the licensee or permittee and the original copy containing certificate of service will be placed in the official record of the proceedings. If the Director, Industry Operations disagrees with the findings and decision of the administrative law judge, he shall file a petition with the Director for review of the findings and decision, as provided in §555.79. In either case, if the renewal application denial is sustained, a copy of the application marked “Disapproved” will be returned to the applicant. If the renewal application denial is reversed, a license or permit will be issued to become effective on expiration of the license or permit being renewed, or the date of issuance, whichever is later. If the proceedings involve the revocation of a license or permit which expired before a decision is in favor of the licensee or permittee, the Director, Industry Operations shall:

(1) If renewal application was timely filed and a stay of the effective date of the revocation was granted, cause to be issued a license or permit effective on the date of issuance;

(2) If renewal application was not timely filed but a stay of the effective date of the revocation had been granted, request that a renewal application be filed and, following that, cause to be issued a license or permit to be effective on issuance; or

(3) If a stay of the effective date of the revocation had not been granted, request that an application be filed as provided in §555.45, and process it in the same manner as for an application for an original license or permit.

(c) Curtailment of stay of revocation effective date. If, after approval of a request for a stay of the effective date of an order revoking a license or permit but before actions are completed under this subpart, the Director, Industry Operations finds that it is contrary to the public interest for the licensee or permittee to continue the operations or activities covered by his license or permit, the Director, Industry Operations may issue a notice of withdrawal of the approval, effective on the date of issuance. Notice of withdrawal will be served upon the licensee or permittee in the manner provided in §555.81.

§ 555.77 Designated place of hearing.

The designated place of hearing set as provided in §555.73 or §555.75, will be at the location convenient to the aggrieved party.

§ 555.78 Representation at a hearing.

An applicant, licensee, or permittee may be represented by an attorney, certified public accountant, or other person recognized to practice before the Bureau of Alcohol, Tobacco, Firearms, and Explosives as provided in 31 CFR Part 8, if he has otherwise complied with the applicable requirements of 26 CFR 601.521 through 601.527. The Director, Industry Operations shall be represented in proceedings under §§555.73 and 555.75 by an attorney in the office of the chief counsel or regional counsel who is authorized to execute and file motions, briefs, and other papers in the proceedings, on behalf of the Director, Industry Operations, in his own name as “Attorney for the Government”.


§ 555.79 Appeal on petition to the Director.

An appeal to the Director is not required prior to filing an appeal with the U.S. Court of Appeals for judicial review. An appeal may be taken by the applicant, licensee, or permittee to the Director from a decision resulting from a hearing under §§555.73 and 555.75. An appeal may also be taken by a Director, Industry Operations from a decision resulting from a hearing under §555.75 as provided in §555.76(b). The appeal shall be taken by filing a petition for review with the Director within 15 days of the service of an administrative law judge’s decision or an order. The petition will set forth facts tending to show (a) action of an arbitrary nature, (b) action without reasonable warrant in fact, or (c) action contrary to law and regulations. A copy of the petition will be filed with the Director, Industry Operations or served on the applicant, licensee, or permittee, as the case may be. In the event of appeal, the Director, Industry Operations shall immediately forward the complete original record, by certified mail, to the Director for his consideration, review, and disposition as provided in subpart I of part 71 of this chapter. When, on appeal, the Director affirms the initial decision of the Director, Industry Operations or the administrative law judge, as the case may be, the initial decision will be final.


§ 555.80 Court review.

An applicant, licensee, or permittee may, within 60 days after receipt of the decision of the administrative law judge or the final order of the Director, Industry Operations or the Director, file a petition for a judicial review of the decision, with the U.S. Court of Appeals for the district in which he resides or has his principal place of business. The Director, upon notification that a petition has been filed, shall have prepared a complete transcript of the record of the proceedings. The Director, Industry Operations or the Director, as the case may be, shall certify to the correctness of the transcript of the record, forward one copy to the attorney for the Government in the review of the case, and file the original record of the proceedings with the original certificate in the U.S. Court of Appeals.


§ 555.81 Service on applicant, licensee, or permittee.

All notices and other formal documents required to be served on an applicant, licensee, or permittee under this subpart will be served by certified mail or by personal delivery. Where service is by personal delivery, the signed duplicate original copy of the formal document will be delivered to the applicant, licensee, or permittee, or, in the case of a corporation, partnership, or association, by delivering it to an officer, manager, or general agent, or to its attorney of record.
§ 555.82 Provisions of part 200 made applicable.

The provisions of subpart G of part 200 of this chapter, as well as those provisions of part 71 relative to failure to appear, withdrawal of an application or surrender of a permit, the conduct of hearings before an administrative law judge, and record of testimony, are hereby made applicable to application, license, and permit proceedings under this subpart to the extent that they are not contrary to or incompatible with this subpart.

§ 555.83 Operations by licensees or permittees after notice of denial or revocation.

In any case where a notice of revocation has been issued and a request for a stay of the effective date of the revocation has not been granted, the licensee or permittee shall not engage in the activities covered by the license or permit pending the outcome of proceedings under this subpart. In any case where notice of revocation has been issued but a stay of the effective date of the revocation has been granted, the licensee or permittee may continue to engage in the activities covered by his license or permit unless, or until, formally notified to the contrary: Provided, That in the event the license or permit would have expired before proceedings under this subpart are completed, timely renewal application must have been filed to continue the license or permit beyond its expiration date. In any case where a notice of denial of a renewal application has been issued, the licensee or permittee may continue to engage in the activities covered by the existing license or permit after the date of expiration of the license or permit until proceedings under this subpart are completed.

Subpart F—Conduct of Business or Operations

§ 555.101 Posting of license or user permit.

A license or user permit issued under this part, or a copy of a license or user permit, will be posted and available for inspection on the business premises at each place where explosive materials are manufactured, imported, or distributed.

§ 555.102 Authorized operations by permittees.

(a) In general. A permit issued under this part does not authorize the permittee to engage in the business of manufacturing, importing, or dealing in explosive materials. Accordingly, if a permittee’s operations bring him within the definition of manufacturer, importer, or dealer under this part, he shall qualify for the appropriate license.

(b) Distributions of surplus stocks—(1) Distributions of surplus stocks prior to May 24, 2003. Permittees are not authorized to engage in the business of sale or distribution of explosive materials. However, permittees may dispose of surplus stocks of explosive materials to other licensees or permittees in accordance with §555.103, and to nonlicensees or nonpermittees in accordance with §555.105(a)(4).

(2) Distributions of surplus stocks on and after May 24, 2003. Permittees are not authorized to engage in the business of sale or distribution of explosive materials. However, permittees may dispose of surplus stocks of explosive materials to other licensees or permittees in accordance with §555.103 and §555.105.

§ 555.103 Transactions among licensees/permittees and transactions among licensees and holders of user permits.

(a) Transactions among licensees/permittees prior to May 24, 2003—(1) General. (1) A licensed importer, licensed manufacturer or licensed dealer selling or otherwise distributing explosive materials (or a permittee disposing of surplus stock to a licensee or another permittee) who has the certified information required by this section may sell or distribute explosive materials to a licensee or permittee for not more than 45 days following the expiration date of
§ 555.103 27 CFR Ch. II (4–1–16 Edition)

the distributee’s license or permit, unless the distributor knows or has reason to believe that the distributee’s authority to continue business or operations under this part has been terminated.

(ii) A licensed importer, licensed manufacturer or licensed dealer selling or otherwise distributing explosive materials (or a permittee disposing of surplus stock to another licensee or permittee) must verify the license or permit status of the distributee prior to the release of explosive materials ordered, as required by this section.

(iii) Licensees or permittees desiring to return explosive materials to a licensed manufacturer may do so without obtaining a certified copy of the manufacturer’s license.

(iv) Where possession of explosive materials is transferred at the distributor’s premises, the distributor must in all instances verify the identity of the person accepting possession on behalf of the distributee before relinquishing possession. Before the delivery at the distributor’s premises of explosive materials to an employee of a licensee or permittee, the distributor delivering explosive materials must obtain an executed ATF F 5400.8, Explosives Delivery Record, from the employee before releasing the explosive materials. The ATF F 5400.8 must contain all of the information required on the form and required by this part.

Example 1. An ATF F 5400.8 is required when:

a. An employee of the purchaser takes possession at the distributor’s premises.

b. An employee of a common or contract carrier hired by the purchaser takes possession at the distributor’s premises.

Example 2. An ATF F 5400.8 is not required when:

a. An employee of the distributor takes possession of the explosives for the purpose of transport to the purchaser.

b. An employee of a common or contract carrier hired by the distributor takes possession of the explosives for the purpose of transport to the purchaser.

(2) License/permit verification of individuals. (i) The distributee must furnish a certified copy (or, in the case of a user-limited, the original) of the license or permit. The certified copy need be furnished only once during the current term of the license or permit. Also, a licensee need not furnish certified copies of licenses to other licensed locations operated by such licensee.

(ii) The distributor may obtain any additional verification as the distributor deems necessary.

(3) License/permit verification of business organizations. (i) A business organization may (in lieu of furnishing a certified copy of a license) furnish the distributor a certified list which contains the name, address, license number and date of license expiration of each licensed location. The certified list need be furnished only once during the current term of the license or permit. Also, a business organization need not furnish a certified list to other licensed locations operated by such business organization.

(ii) A business organization must, prior to ordering explosive materials, furnish the licensee or permittee a current certified list of the representatives or agents authorized to order explosive materials on behalf of the business organization showing the name, address, and date and place of birth of each representative or agent. A licensee or permittee may not distribute explosive materials to a business organization on the order of a person who does not appear on the certified list of representatives or agents and, if the person does appear on the certified list, the licensee or permittee must verify the identity of such person.

(4) Licensee/permittee certified statement. (i) A licensee or permittee ordering explosive materials from another licensee or permittee must furnish a current, certified statement of the intended use of the explosive materials, e.g., resale, mining, quarrying, agriculture, construction, sport rocketry, road building, oil well drilling, seismographic research, to the distributor.

(ii) For individuals, the certified statement of intended use must specify the name, address, date and place of birth, and social security number of the distributee.

(iii) For business organizations, the certified statement of intended use
must specify the taxpayer identification number, the identity and the principal and local places of business.

(iv) The licensee or permittee purchasing explosive materials must revise the furnished copy of the certified statement only when the information is no longer current.

(5) User-limited permit transactions. A user-limited permit issued under the provisions of this part is valid for only a single purchase transaction and is not renewable (see §555.51). Accordingly, at the time a user-limited permittee orders explosive materials, the licensed distributor must write on the front of the user-limited permit the transaction date, his signature, and the distributor’s license number prior to returning the permit to the user-limited permittee.

(b) Transactions among licensees/permittees on and after May 24, 2003—(1) General. (i) A licensed importer, licensed manufacturer or licensed dealer selling or otherwise distributing explosive materials (or a holder of a user permit disposing of surplus stock to a licensee; a holder of a user permit; or a holder of a limited permit who is within the same State as the distributor) who has the certified information required by this section may sell or distribute explosive materials to a licensee or permittee for not more than 45 days following the expiration date of the distributee’s license or permit, unless the distributor knows or has reason to believe that the distributee’s authority to continue business or operations under this part has been terminated.

(ii) A licensed importer, licensed manufacturer or licensed dealer selling or otherwise distributing explosive materials (or a holder of a user permit disposing of surplus stock to another licensee or permittee) must verify the license or permit status of the distributee prior to the release of explosive materials ordered, as required by this section.

(iii) Licensees or permittees desiring to return explosive materials to a licensed manufacturer may do so without obtaining a certified copy of the manufacturer’s license.

(2) Verification of license/user permit. (i) Prior to or with the first order of explosive materials, the distributee must provide the distributor a certified copy (or, in the case of a user-limited, the original) of the distributee’s license or user permit. However, licensees or holders of user permits that are business organizations may (in lieu of a certified copy of a license or user permit) provide the distributor with a certified list that contains the name, address, license or user permit number, and date of the license or user permit expiration of each location.

(ii) The distributee must also provide the distributor with a current list of the names of persons authorized to accept delivery of explosive materials on behalf of the distributee. The distributee ordering explosive materials must keep the list current and provide updated lists to licensees and holders of user permits on a timely basis. A distributor may not transfer possession of explosive materials to any person whose name does not appear on the current list of names of persons authorized to accept delivery of explosive materials on behalf of the distributee. Except as provided in paragraph (b)(3) of this section, in all instances the distributor must verify the identity of the distributee, or the employee of the distributee accepting possession of explosive materials on behalf of the distributee, by examining an identification document (as defined in §555.11) before relinquishing possession.

(iii) A licensee or holder of a user permit ordering explosive materials from another licensee or permittee must provide to the distributor a current, certified statement of the intended use of the explosive materials, e.g., resale, mining, quarrying, agriculture, construction, sport rocketry, road building, oil well drilling, seismographic research, etc.

(A) For individuals, the certified statement of intended use must specify the name, address, date and place of birth, and social security number of the distributee.

(B) For business organizations, the certified statement of intended use must specify the taxpayer identification number, the identity and the principal and local places of business.

(C) The licensee or holder of a user permit purchasing explosive materials
§ 555.104

Certified copy of license or permit.

Except as provided in §555.49(a), each person issued a license or permit under this part shall be furnished together with his license or permit a copy for his certification. If a person desires an additional copy of his license or permit for certification and for use under §555.103, he shall:

(a) Make a reproduction of the copy of his license or permit and execute the certification on it;

(b) Make a reproduction of his license or permit, enter on the reproduction the statement: “I certify that this is a true copy of a (insert the word license or permit) issued to me to engage in the specified business or operations”, and sign his name next to the statement;

(c) Submit a request, in writing, for certified copies of his license or permit to the Chief, Federal Explosives Licensing Center. The request will show the name, trade name (if any), and address of the licensee or permittee and the number of copies of the license or permit desired. There is a fee of $1 for each copy of a license or permit issued by the Chief, Federal Explosives Licensing Center under this paragraph. Fee payment must accompany each request for additional copies of a license or permit. The fee must be paid by (1) cash, or (2) money order or check made payable to the Bureau of Alcohol, Tobacco, Firearms, and Explosives.


§ 555.105

Distributions to nonlicensees, nonpermittees, and limited permittees.

(a) Distributions to nonlicensees and nonpermittees prior to May 24, 2003. (1) This section will apply in any case where distribution of explosive materials to the distributee is not otherwise prohibited by the Act or this part.

(2) Except as provided in paragraph (a)(3) of this section, a licensed importer, licensed manufacturer, or licensed dealer may distribute explosive materials to a nonlicensee or nonpermittee if the nonlicensee or nonpermittee if the nonlicensee or nonpermittee is a resident of the same State in which the licensee’s business premises are located, and the nonlicensee or nonpermittee furnishes to the licensee the explosives transaction record, ATF F 5400.4, required by §555.126. Disposition of ATF F 5400.4 will be made in accordance with §555.126.

(3) A licensed importer, licensed manufacturer, or licensed dealer may sell or distribute explosive materials to a resident of a State contiguous to the State in which the licensee’s place of business is located if the purchaser’s State of residence has enacted legislation, currently in force, specifically authorizing a resident of that State to...
(4) A permittee may dispose of surplus stocks of explosive materials to a nonlicensee or nonpermittee if the nonlicensee or nonpermittee is a resident of the same State in which the permittee’s business premises or operations are located, or is a resident of a State contiguous to the State in which the permittee’s place of business or operations are located, and if the requirements of paragraphs (a)(2), (a)(3), (a)(5), and (a)(6) of this section are fully met.

(5) A licensed importer, licensed manufacturer, or licensed dealer selling or otherwise distributing explosive materials to a business entity must verify the identity of the representative or agent of the business entity who is authorized to order explosive materials on behalf of the business entity. Each business entity ordering explosive materials must furnish the distributing licensee prior to or with the first order of explosive materials a current certified list of the names of representatives or agents authorized to order explosive materials on behalf of the business entity. The business entity ordering explosive materials is responsible for keeping the certified list current. A licensee may not distribute explosive materials to a business entity on the order of a person whose name does not appear on the certified list.

(6) Where the possession of explosive materials is transferred at the distributor’s premises, the distributor must in all instances verify the identity of the person accepting possession on behalf of the distributee before relinquishing possession. Before the delivery at the distributor’s premises of explosive materials to an employee of a nonlicensee or nonpermittee, or to an employee of a common or contract carrier transporting explosive materials to a nonlicensee or nonpermittee, the distributor delivering explosive materials must obtain an executed ATF F 5400.8 from the employee before releasing the explosive materials. The ATF F 5400.8 must contain all of the information required on the form and by this part. (See examples in §555.103(a)).

(7) A licensee or permittee disposing of surplus stock may sell or distribute commercially manufactured black powder in quantities of 50 pounds or less to a nonlicensee or nonpermittee if the black powder is intended to be used solely for sporting, recreational, or cultural purposes in antique firearms as defined in 18 U.S.C. 921(a)(16), or in antique devices as exempted from the term “destructive device” in 18 U.S.C. 921(a)(4).

(b) Distributions to holders of limited permits on and after May 24, 2003. (1) This section will apply in any case where distribution of explosive materials to the distributee is not otherwise prohibited by the Act or this part.

(2) A licensed importer, licensed manufacturer or a licensed dealer may distribute explosive materials to a holder of a limited permit if such permittee is a resident of the same State in which the licensee’s business premises are located, the holder of the limited permit presents in person or by mail ATF Form 5400.4, Limited Permittee Transaction Report (LPTTR), and the licensee completes Form 5400.4 in accordance with §555.126(b). In no event will a licensee distribute explosive materials to a holder of a limited permit unless the holder presents a Form 5400.4 with an original unaltered and unexpired Intrastate Purchase of Explosives Coupon (IPEC), ATF Form 5400.30, affixed. The coupon must bear the name, address, permit number, and the coupon number of the limited permittee seeking distribution of the explosives.

(3) A holder of a limited permit is authorized to receive explosive materials from a licensee or permittee whose premises are located in the same State of residence in which the premises of the holder of the limited permit are located on no more than 6 separate occasions during the one-year period of the permit. For purposes of this section, the term “6 separate occasions” means six deliveries of explosive materials. Each delivery must—

(i) Relate to a single purchase transaction made on one ATF F 5400.4;
§ 555.105

(ii) Be referenced on one commercial invoice or purchase order; and

(iii) Be delivered to the holder of the limited permit in one shipment delivered at the same time.

(4) A holder of a user permit may dispose of surplus stocks of explosive materials to a licensee or holder of a user permit, or a holder of a limited permit who is a resident of the same State in which the premises of the holder of the user permit are located. A holder of a limited permit may dispose of surplus stocks of explosive materials to another holder of a limited permit who is a resident of the same State in which the premises of the distributor are located, if the transaction complies with the requirements of paragraph (b)(2) of this section and §555.126(b). A holder of a limited permit may also dispose of surplus stocks of explosive materials to a licensee or holder of a user permit if the disposition occurs in the State of residence of the holder of the limited permit. (See §555.103.)

(5) Each holder of a limited permit ordering explosive materials must furnish the distributing licensee prior to or with the first order of the explosive materials a current list of the names of employees authorized to accept delivery of explosive materials on behalf of the limited permittee. The distributee ordering explosive materials must keep the list current and provide updated lists to licensees and holders of user permits on a timely basis. A licensed importer, licensed manufacturer, licensed dealer, or permittee, selling or otherwise distributing explosive materials to a holder of a limited permit must, prior to delivering the explosive materials, obtain from the limited permittee a current list of persons who are authorized to accept deliveries of explosive materials on behalf of the limited permittee. A licensee or permittee may not deliver explosive materials to a person whose name does not appear on the list.

(6)(i) Delivery at the distributor’s premises. Where possession of explosive materials is transferred directly to the distributee at the distributor’s premises, the distributor must obtain an executed Form 5400.4 in accordance with §555.126(b) and must in all instances verify the identity of the person accepting possession on behalf of the distributee by examining an identification document (as defined in §555.11) before relinquishing possession.

(ii) Delivery by distributor. Where possession of explosive materials is transferred by the distributor to the distributee away from the distributor’s premises, the distributor must obtain an executed Form 5400.4 in accordance with §555.126(b) and must in all instances verify the identity of the person accepting possession on behalf of the distributee by examining an identification document (as defined in §555.11) before relinquishing possession.

(iii) Delivery by common or contract carrier hired by the distributor. Where a common or contract carrier hired by the distributor will transport explosive materials from the distributor to a holder of a limited permit:

(A) The limited permittee must, prior to delivery of the explosive materials, complete the appropriate section on Form 5400.4, affix to the Form 5400.4 one of the six IPECs he has been issued, and provide the form to the distributor in person or by mail.

(B) The distributor must, before relinquishing possession of the explosive materials to the common or contract carrier:

(1) Verify the identity of the person accepting possession for the common or contract carrier by examining such person’s valid, unexpired driver’s license issued by any State, Canada, or Mexico; and

(2) Record the name of the common or contract carrier (i.e., the name of the driver’s employer) and the full name of the driver. This information must be maintained in the distributor’s permanent records in accordance with §555.121.

(C) At the time of delivery of the explosive materials, the common or contract carrier, as agent for the distributor, must verify the identity of the person accepting delivery on behalf of the distributee, note the type and number of the identification document (as defined in §555.11) and provide this information to the distributor. The distributor must enter this information in the appropriate section on Form 5400.4.

(iv) Delivery by common or contract carrier hired by the distributee. Where a
common or contract carrier hired by the distributee will transport explosive materials from the distributor to a holder of a limited permit:

(A) The limited permittee must, prior to delivery of the explosive materials, complete the appropriate section on Form 5400.4, affix to the Form 5400.4 one of the six IPECs he has been issued, and provide the form to the distributor in person or by mail.

(B) Before the delivery at the distributor's premises to the common or contract carrier who will transport explosive materials to the holder of a limited permit, the distributor must:

(1) Verify the identity of the person accepting possession for the common or contract carrier by examining such person's valid, unexpired driver's license issued by any State, Canada, or Mexico; and

(2) Record the name of the common or contract carrier (i.e., the name of the driver's employer) and the full name of the driver. This information must be maintained in the distributor's permanent records in accordance with §555.121.

(7) A licensee or permittee disposing of surplus stock may sell or distribute commercially manufactured black powder in quantities of 50 pounds or less to a holder of a limited permit, nonlicensee, or nonpermittee if the black powder is intended to be used solely for sporting, recreational, or cultural purposes in antique firearms as defined in 18 U.S.C. 921(a)(16), or in antique devices as exempted from the term "destructive device" in 18 U.S.C. 921(a)(4).

(Approved by the Office of Management and Budget under control number 1140-0075)

[ATF No. 1, 68 FR 13788, Mar. 20, 2003, as amended by ATF No. 2, 68 FR 53513, Sept. 11, 2003]

§ 555.106 Certain prohibited distributions.

(a) A licensee or permittee may not distribute explosive materials to any person except—

(1) A licensee;

(2) A holder of a user permit; or

(3) A holder of a limited permit who is a resident of the State where distribution is made and in which the premises of the transferor are located.

(b) A licensee shall not distribute any explosive materials to any person:

(1) Who the licensee knows is less than 21 years of age;

(2) In any State where the purchase, possession, or use by a person of explosive materials would be in violation of any State law or any published ordinance applicable at the place of distribution;

(3) Who the licensee has reason to believe intends to transport the explosive materials into a State where the purchase, possession, or use of explosive materials is prohibited or which does not permit its residents to transport or ship explosive materials into the State or to receive explosive materials in the State;

(4) Who the licensee has reasonable cause to believe intends to use the explosive materials for other than a lawful purpose.

(c) A licensee shall not distribute any explosive materials to any person knowing or having reason to believe that the person:

(1) Is, except as provided under §555.142 (d) and (e), under indictment or information for, or was convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year;

(2) Is a fugitive from justice;

(3) Is an unlawful user of marijuana, or any depressant or stimulant drug, or narcotic drug (as these terms are defined in the Controlled Substances Act, 21 U.S.C. 802);

(4) Was adjudicated as a mental defective or was committed to a mental institution;

(5) Is an alien, other than an alien who—

(i) Is lawfully admitted for permanent residence (as that term is defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101));

(ii) Is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or is in asylum status under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), and—

(A) Is a foreign law enforcement officer of a friendly foreign government, as determined by the Attorney General in consultation with the Secretary of
§ 555.107 Record of transactions.

Each licensee and permittee shall keep records of explosive materials as required by subpart G of this part.

§ 555.108 Importation.

(a) Explosive materials imported or brought into the United States by a licensed importer or holder of a user permit may be released from customs custody to the licensed importer or holder of a user permit upon proof of his status as a licensed importer or holder of a user permit. Proof of status must be made by the licensed importer or holder of a user permit furnishing to the customs officer a certified copy of his license or permit (see §555.103).

(b) A nonlicensee or nonpermittee may import or bring into the United States commercially manufactured black powder in quantities not to exceed 50 pounds. Upon submitting to the customs officer completed ATF F 5400.3, certifying that the black powder is intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or in antique devices, black powder may be released from customs custody. The disposition of the executed ATF F 5400.3 will be in accordance with the instructions on the form.

(c) The provisions of this section are in addition to, and are not in lieu of, any applicable requirement under 27 CFR Part 447.

(d) For additional requirements relating to the importation of plastic explosives into the United States on or after April 24, 1997, see §555.183.

(e) For requirements relating to the marking of imported explosive materials, see §555.109.

§ 555.109 Identification of explosive materials.

(a) General. Explosive materials, whether manufactured in the United States or imported, must contain certain marks of identification.

(b) Required marks—(1) Licensed manufacturers. Licensed manufacturers who manufacture explosive materials for sale or distribution must place the following marks of identification on explosive materials at the time of manufacture:

(i) The name of the manufacturer; and
(i) The location, date, and shift of manufacture. Where a manufacturer operates his plant for only one shift during the day, he does not need to show the shift of manufacture.

(2) Licensed importers. (i) Licensed importers who import explosive materials for sale or distribution must place the following marks of identification on the explosive materials they import:

(A) The name and address (city and state) of the importer; and

(B) The location (city and country) where the explosive materials were manufactured, date, and shift of manufacture. Where the foreign manufacturer operates his plant for only one shift during the day, he does not need to show the shift of manufacture.

(ii) Licensed importers must place the required marks on all explosive materials imported prior to distribution or shipment for use, and in no event later than 15 days after the date of release from Customs custody.

(c) General requirements. (1) The required marks prescribed in this section must be permanent and legible.

(2) The required marks prescribed in this section must be in the English language, using Roman letters and Arabic numerals.

(3) Licensed manufacturers and licensed importers must place the required marks on each cartridge, bag, or other immediate container of explosive materials that they manufacture or import, as well as on any outside container used for the packaging of such explosive materials.

(4) Licensed manufacturers and licensed importers may use any method, or combination of methods, to affix the required marks to the immediate container of explosive materials, or outside containers used for the packaging thereof, provided the identifying marks are legible, permanent, show all the required information, and are not rendered unreadable by extended periods of storage.

(5) If licensed manufacturers or licensed importers desire to use a coding system and omit printed markings on the container that show all the required information specified in paragraphs (b)(1) and (2) of this section, they must file with ATF a letterhead application displaying the coding that they plan to use and explaining the manner of its application. The Director must approve the application before the proposed coding can be used.

(d) Exceptions—(1) Blasting caps. Licensed manufacturers or licensed importers are only required to place the identification marks prescribed in this section on the containers used for the packaging of blasting caps.

(2) Alternate means of identification. The Director may authorize other means of identifying explosive materials, including fireworks, upon receipt of a letter application from the licensed manufacturer or licensed importer showing that such other identification is reasonable and will not hinder the effective administration of this part.

(Approved by the Office of Management and Budget under control numbers 1140–0055 and 1140–0062)

§ 555.110 Furnishing of samples (Effective on and after January 24, 2003).

(a) In general. Licensed manufacturers and licensed importers and persons who manufacture or import explosive materials or ammonium nitrate must, when required by letter issued by the Director, furnish—

(1) Samples of such explosive materials or ammonium nitrate;

(2) Information on chemical composition of those products; and

(3) Any other information that the Director determines is relevant to the identification of the explosive materials or to identification of the ammonium nitrate.

(b) Reimbursement. The Director will reimburse the fair market value of samples furnished pursuant to paragraph (a) of this section, as well as reasonable costs of shipment.

(Approved by the Office of Management and Budget under control number 1140–0073)

§ 555.121 General.

(a)(1) Licensees and permittees shall keep records pertaining to explosive
materials in permanent form (i.e., commercial invoices, record books) and in the manner required in this subpart.

(2) Licensees and permittees shall keep records required by this part on the business premises for five years from the date a transaction occurs or until discontinuance of business or operations by the licensee or permittee. (See also §555.128 for discontinuance of business or operations.)

(b) ATF officers may enter the premises of any licensee or holder of a user permit for the purpose of examining or inspecting any record or document required by or obtained under this part (see §555.24). Section 843(f) of the Act requires licensees and holders of user permits to make all required records available for examination or inspection at all reasonable times. Section 843(f) of the Act also requires licensees and permittees (including holders of limited permits) to submit all reports and information relating to all required records and their contents, as the regulations in this part prescribe.

(c) Each licensee and permittee shall maintain all records of importation, production, shipment, receipt, sale, or other disposition, whether temporary or permanent, of explosive materials as the regulations in this part prescribe. Sections 842(f) and 842(g) of the Act make it unlawful for any licensee or permittee knowingly to make any false entry in, or fail to make entry in, any record required to be kept under the Act and the regulations in this part. (Approved by the Office of Management and Budget under control number 1140-0030)


§555.122 Records maintained by licensed importers.

(a) Each licensed importer shall take true and accurate physical inventories which will include all explosive materials on hand required to be accounted for in the records kept under this part. The licensed importer shall take a special inventory

(1) At the time of commencing business, which is the effective date of the license issued upon original qualification under this part;

(2) At the time of changing the location of his business to another region;

(3) At the time of discontinuing business; and

(4) At any time the Director, Industry Operations may in writing require. Each special inventory is to be prepared in duplicate, the original of which is submitted to the Director, Industry Operations, and the duplicate retained by the licensed importer. If a special inventory specified by paragraphs (a) (1) through (4) of this section has not been taken during the calendar year, at least one physical inventory will be taken. However, the record of the yearly inventory, other than a special inventory required by paragraphs (a) (1) through (4) of this section, will remain on file for inspection instead of being sent to the Director, Industry Operations. (See also §555.127.)

(b) Each licensed importer shall, not later than the close of the next business day following the date of importation or other acquisition of explosive materials, enter the following information in a separate record:

(1) Date of importation or other acquisition.

(2) Name or brand name of manufacturer and country of manufacture.

(3) Manufacturer’s marks of identification.

(4) Quantity (applicable quantity units, such as pounds of explosives, number of detonators, number of display fireworks, etc.).

(5) Description (dynamite (dyn), blasting agents (ba), detonators (det), display fireworks (df), etc.) and size (length and diameter or diameter only of display fireworks).

(c) Each licensed importer shall, not later than the close of the next business day following the date of distribution of any explosive materials to another licensee or a permittee, enter in a separate record the following information:

(1) Date of disposition.

(2) Name or brand name of manufacturer and country of manufacture.

(3) Manufacturer’s marks of identification.

(4) Quantity (applicable quantity units, such as pounds of explosives, number of detonators, number of display fireworks, etc.).
(5) Description (dynamite (dyn), blasting agents (ba), detonators (det), display fireworks (df), etc.) and size (length and diameter or diameter only of display fireworks).

(6) License or permit number of licensee or permittee to whom the explosive materials are distributed.

(d) The Chief, Explosives Industry Programs Branch may authorize alternate records to be maintained by a licensed importer to record his distribution of explosive materials when it is shown by the licensed importer that alternate records will accurately and readily disclose the information required by paragraph (c) of this section. A licensed importer who proposes to use alternate records shall submit a letter application to the Chief, Explosives Industry Programs Branch and shall describe the proposed alternate records and the need for them. Alternate records are not to be employed by the licensed importer until approval is received from the Chief, Explosives Industry Programs Branch.

(e) Each licensed importer shall maintain separate records of the sales or other distribution made of explosive materials to nonlicensees or non-permittees. These records are maintained as prescribed by §555.126.

(Approved by the Office of Management and Budget under control number 1140–0030)

§555.123 Records maintained by licensed manufacturers.

(a) Each licensed manufacturer shall take true and accurate physical inventories which will include all explosive materials on hand required to be accounted for in the records kept under this part. The licensed manufacturer shall take a special inventory

(1) At the time of commencing business, which is the effective date of the license issued upon original qualification under this part;

(2) At the time of changing the location of his premises to another region;

(3) At the time of discontinuing business; and

(4) At any other time the Director, Industry Operations may in writing require. Each special inventory is to be prepared in duplicate, the original of which is submitted to the Director, Industry Operations, and the duplicate retained by the licensed manufacturer. If a special inventory required by paragraphs (a) (1) through (4) of this section has not been taken during the calendar year, at least one physical inventory will be taken. However, the record of the yearly inventory, other than a special inventory required by paragraphs (a) (1) through (4) of this section, will remain on file for inspection instead of being sent to the Director, Industry Operations. (See also §555.127.)

(b) Each licensed manufacturer shall not later than the close of the next business day following the date of manufacture or other acquisition of explosive materials, enter the following information in a separate record:

(1) Date of manufacture or other acquisition.

(2) Manufacturer’s marks of identification.

(3) Quantity (applicable quantity units, such as pounds of explosives, number of detonators, number of display fireworks, etc.).

(4) Name, brand name or description (dynamite (dyn), blasting agents (ba), detonators (det), display fireworks (df), etc.) and size (length and diameter or diameter only of display fireworks).

(c) Each licensed manufacturer shall, not later than the close of the next business day following the date of distribution of any explosive materials to another licensee or a permittee, enter in a separate record the following information:

(1) Date of disposition.

(2) Name or brand name of manufacturer or name of importer, as applicable, if acquired other than by his own manufacture.

(3) Manufacturer’s marks of identification.

(4) Quantity (applicable quantity units, such as pounds of explosives, number of detonators, number of display fireworks, etc.).

(5) Description (dynamite (dyn), blasting agents (ba), detonators (det), display fireworks (df), etc.) and size
§ 555.124 Records maintained by licensees. 

(a) Each licensed manufacturer shall take true and accurate physical inventories which will include all explosive materials on hand required to be accounted for in the records kept under this part. Each special inventory is to be prepared in duplicate, the original of which is submitted to the Director, Industry Operations, and the duplicate retained by the licensed manufacturer. If a special inventory required by paragraphs (a) (1) through (4) of this section has not been taken during the calendar year, at least one physical inventory will be taken. However, the record of the yearly inventory, other than a special inventory required by paragraphs (a) (1) through (4) of this section, will remain on file for inspection instead of being sent to the Director, Industry Operations. (See also §555.127.)

(b) Each licensed dealer shall take true and accurate physical inventories which will include all explosive materials on hand required to be accounted for in the records kept under this part. The licensed dealer shall take a special inventory:

(1) At the time of commencing business, which is the effective date of the license issued upon original qualification under this part;

(2) At the time of changing the location of his premises to another region;

(3) At the time of discontinuing business; and

(4) At any other time the Director, Industry Operations may in writing require. Each special inventory is to be prepared in duplicate, the original of which is submitted to the Director, Industry Operations, and the duplicate retained by the licensed dealer. If a special inventory required by paragraphs (a) (1) through (4) of this section has not been taken during the calendar year, at least one physical inventory will be taken. However, the record of the yearly inventory, other than a special inventory required by paragraphs (a) (1) through (4) of this section, will remain on file for inspection instead of being sent to the Director, Industry Operations. (See also §555.127.)

§ 555.124 Records maintained by licensed dealers.

(a) Each licensed manufacturer shall maintain separate records of the sales or other distribution made of explosive materials to nonlicensees or non-permittees. These records are maintained as prescribed by §555.126.

(6) License or permit number of licensee or permittee to whom the explosive materials are distributed.

(d) Each licensed manufacturer who manufactures explosive materials for his own use shall, not later than the close of the next business day following the date of use, enter in a separate record the following information:

(1) Date of use.
(2) Quantity (applicable quantity units, such as pounds of explosives, number of detonators, number of special fireworks, etc.).
(3) Description (dynamite (dyn), blasting agents (ba), detonators (det), display fireworks (df), etc.) and size (length and diameter or diameter only of display fireworks).

Exception: A licensed manufacturer is exempt from the recordkeeping requirements of this subsection if the explosive materials are manufactured for his own use and used within a 24 hour period at the same site.

(e) The Chief, Explosives Industry Programs Branch may authorize alternate records to be maintained by a licensed manufacturer to record his distribution or use of explosive materials when it is shown by the licensed manufacturer that alternate records will accurately and readily disclose the information required by paragraph (c) of this section. A licensed manufacturer who proposes to use alternate records shall submit a letter application to the Chief, Explosives Industry Programs Branch and shall describe the proposed alternate records and the need for them. Alternate records are not to be employed by the licensed manufacturer until approval is received from the Chief, Explosives Industry Programs Branch.

(f) Each licensed manufacturer shall maintain separate records of the sales or other distribution made of explosive materials to nonlicensees or non-permittees. These records are maintained as prescribed by §555.126.

(6) License or permit number of licensee or permittee to whom the explosive materials are distributed.

(d) Each licensed manufacturer who manufactures explosive materials for his own use shall, not later than the close of the next business day following the date of use, enter in a separate record the following information:

(1) Date of use.
(2) Quantity (applicable quantity units, such as pounds of explosives, number of detonators, number of special fireworks, etc.).
(3) Description (dynamite (dyn), blasting agents (ba), detonators (det), display fireworks (df), etc.) and size (length and diameter or diameter only of display fireworks).

Exception: A licensed manufacturer is exempt from the recordkeeping requirements of this subsection if the explosive materials are manufactured for his own use and used within a 24 hour period at the same site.

(e) The Chief, Explosives Industry Programs Branch may authorize alternate records to be maintained by a licensed manufacturer to record his distribution or use of explosive materials when it is shown by the licensed manufacturer that alternate records will accurately and readily disclose the information required by paragraph (c) of this section. A licensed manufacturer who proposes to use alternate records shall submit a letter application to the Chief, Explosives Industry Programs Branch and shall describe the proposed alternate records and the need for them. Alternate records are not to be employed by the licensed manufacturer until approval is received from the Chief, Explosives Industry Programs Branch.

(f) Each licensed manufacturer shall maintain separate records of the sales or other distribution made of explosive materials to nonlicensees or non-permittees. These records are maintained as prescribed by §555.126.
(4) Quantity (applicable quantity units, such as pounds of explosives, number of detonators, number of display fireworks, etc.).

(5) Description (dynamite (dyn), blasting agents (ba), detonators (det), display fireworks (df), etc.) and size (length and diameter or diameter only of display fireworks).

(6) Name, address, and license or permit number of the person from whom the explosive materials are received.

(c) Each licensed dealer shall, not later than the close of the next business day following the date of use (if the explosives are used by the dealer) or the date of distribution of any explosive materials to another licensee or a permittee (except as provided in paragraph (d) of this section), enter in a separate record the following information:

(1) Date of disposition.

(2) Name or brand name of manufacturer and name of importer (if any).

(3) Manufacturer’s marks of identification.

(4) Quantity (applicable quantity units, such as pounds of explosives, number of detonators, number of display fireworks, etc.).

(5) Description (dynamite (dyn), blasting agents (ba), detonators (det), display fireworks (df), etc.) and size (length and diameter or diameter only of display fireworks).

(6) License or permit number of licensee or permittee to whom the explosive materials are distributed.

(d) When a commercial record is kept by a licensed dealer showing the purchase or other acquisition information required for the permanent record prescribed by paragraph (b) of this section, or showing the distribution information required for the permanent record prescribed by paragraph (c) of this section, the licensed dealer acquiring or distributing the explosive materials may, for a period not exceeding seven days following the date of acquisition of distribution of the explosive materials, delay making the required entry into the permanent record of acquisition or distribution. However, until the required entry of acquisition or disposition is made in the permanent record, the commercial record must be (1) kept by the licensed dealer separate from other commercial documents kept by the licensee, and (2) readily available for inspection on the licensed premises.

(e) The Chief, Explosives Industry Programs Branch may authorize alternate records to be maintained by a licensed dealer to record his acquisition or disposition of explosive materials, when it is shown by the licensed dealer that alternate records will accurately and readily disclose the required information. A licensed dealer who proposes to use alternate records shall submit a letter application to the Chief, Explosives Industry Programs Branch and shall describe the proposed alternate records and the need for them. Alternate records are not to be employed by the licensed dealer until approval is received from the Chief, Explosives Industry Programs Branch.

(f) Each licensed dealer shall maintain separate records of the sales or other distribution made of explosive materials to nonlicensees or nonpermittees. These records are maintained as prescribed by § 555.126.

(Approved by the Office of Management and Budget under control number 1140–0030)


§ 555.125 Records maintained by permittees.

(a) Records maintained by permittees prior to May 24, 2003. (1) Each permittee must take true and accurate physical inventories that will include all explosive materials on hand required to be accounted for in the records kept under this part. The permittee must take a special inventory—

(i) At the time of commencing business, which is the effective date of the permit issued upon original qualification under this part;

(ii) At the time of changing the location of his premises to another region;

(iii) At the time of discontinuing business; and

(iv) At any other time the regional director (compliance) may in writing require. Each special inventory is to be prepared in duplicate, the original of
which is submitted to the regional director (compliance) and the duplicate retained by the permittee. If a special inventory required by paragraphs (a)(1)(i) through (iv) of this section has not been taken during the calendar year, a permittee is required to take at least one physical inventory. However, the record of the yearly inventory, other than a special inventory required by paragraphs (a)(1)(i) through (iv) of this section, will remain on file for inspection instead of being sent to the regional director (compliance). (See also §555.127.)

(2) Each permittee must, not later than the close of the next business day following the date of acquisition of explosive materials, enter the following information in a separate record:
   (i) Date of acquisition;
   (ii) Name or brand name of manufacturer;
   (iii) Manufacturer’s marks of identification;
   (iv) Quantity (applicable quantity units, such as pounds of explosives, number of detonators, number of display fireworks, etc.);
   (v) Description (dynamite (dyn), blasting agents (ba), detonators (det), display fireworks (df), etc., and size (length and diameter or diameter only of display fireworks)); and
   (vi) Name, address, and license number of the persons from whom the explosive materials are received.

(3) Each permittee must, not later than the close of the next business day following the date of disposition of surplus explosive materials to another permittee or a licensee, enter in a separate record the information prescribed in §555.124(c).

(4) Each permittee must maintain separate records of disposition of surplus stocks of explosive materials to nonlicensees or nonpermittees as prescribed in §555.126.

(5) The regional director (compliance) may authorize alternate records to be maintained by a permittee to record his acquisition of explosive materials, when it is shown by the permittee that alternate records will accurately and readily disclose the required information. A permittee who proposes to use alternate records must submit a letter application to the regional director (compliance) and must describe the proposed alternate records and the need for them. Alternate records are not to be employed by the permittee until approval is received from the regional director (compliance).

(b) Records maintained by permittees on and after May 24, 2003.

(1) Each holder of a user permit must take true and accurate physical inventories that will include all explosive materials on hand required to be accounted for in the records kept under this part. The permittee must take a special inventory—
   (i) At the time of commencing business, which is the effective date of the permit issued upon original qualification under this part;
   (ii) At the time of changing the location of his premises;
   (iii) At the time of discontinuing business; and
   (iv) At any other time the Director, Industry Operations may in writing require. Each special inventory is to be prepared in duplicate, the original of which is submitted to the Director, Industry Operations and the duplicate retained by the permittee. If a special inventory required by paragraphs (b)(1)(i) through (iv) of this section has not been taken during the calendar year, a permittee is required to take at least one physical inventory. The record of the yearly inventory, other than a special inventory required by paragraphs (b)(1)(i) through (iv) of this section, will remain on file for inspection instead of being sent to the Director, Industry Operations. (See also §555.127.)

(2) Each holder of a limited permit must take true and accurate physical inventories, at least annually, that will include all explosive materials on hand required to be accounted for in the records kept under this part.

(3) Each holder of a user permit or a limited permit must, not later than the close of the next business day following the date of acquisition of explosive materials, enter the following information in a separate record:
   (i) Date of acquisition;
   (ii) Name or brand name of manufacturer;
   (iii) Manufacturer’s marks of identification;
(iv) Quantity (applicable quantity units, such as pounds of explosives, number of detonators, number of display fireworks, etc.);

(v) Description (dynamite (dyn), blasting agents (ba), detonators (det), display fireworks (df), etc., and size (length and diameter or diameter only of display fireworks)); and

(vi) Name, address, and license number of the persons from whom the explosive materials are received.

(4) Each holder of a user permit or a limited permit must, not later than the close of the next business day following the date of disposition of surplus explosive materials to another permittee or a licensee, enter in a separate record the information prescribed in §555.124(c).

(5) When a record book is used as a permittee’s permanent record the permittee may delay entry of the required information for a period not to exceed seven days if the commercial record contains all of the required information prescribed by paragraphs (b)(3) and (b)(4) of this section. However, the commercial record may be used instead of a record book as a permanent record provided that the record contains all of the required information prescribed by paragraphs (b)(3) and (b)(4) of this section.

(6) Each holder of a user permit or a limited permit must maintain separate records of disposition of surplus stocks of explosive materials to holders of a limited permit as prescribed in §555.126.

(7) The Chief, Explosives Industry Programs Branch may authorize alternate records to be maintained by a holder of a user permit or a limited permit to record his acquisition of explosive materials, when it is shown by the permittee that alternate records will accurately and readily disclose the required information. A permittee who proposes to use alternate records must submit a letter application to the Chief, Explosives Industry Programs Branch and must describe the proposed alternate records and the need for them. Alternate records are not to be employed by the permittee until approval is received from the Chief, Explosives Industry Programs Branch.

(Approved by the Office of Management and Budget under control number 1140–0030)


(a) Explosives transaction record for distribution of explosive materials prior to May 24, 2003. (1) A licensee or permittee shall not temporarily or permanently distribute explosive materials to any person, other than another licensee or permittee, unless he records the transaction on an explosives transaction record, ATF F 5400.4.

(2) Before the distribution of explosive materials to a nonlicensee or non-permittee who is a resident of the State in which the licensee or permittee maintains his business premises, or to a nonlicensee or non-permittee who is not a resident of the State in which the licensee or permittee maintains his business premises and is acquiring explosive materials under §555.105(a)(3), the licensee or permittee distributing the explosive materials shall obtain an executed ATF F 5400.4 from the distributee which contains all of the information required on the form and by the regulations in this part.

(3) Completed ATF F 5400.4 is to be retained by the licensee or permittee as part of his permanent records in accordance with paragraph (a)(4) of this section.

(4) Each ATF F 5400.4 is retained in numerical (by transaction serial number) order commencing with “1” and continuing in regular sequence. When the numbering of any series reaches “1,000,000,” the licensee or permittee may recommence the series. The recommenced series is to be given an alphabetical prefix or suffix. Where there is a change in proprietorship, or in the individual, firm, corporate name or trade name, the series in use at the time of the change may be continued.
§ 555.127 Daily summary of magazine transactions.

In taking the inventory required by §§555.122, 555.123, 555.124, and 555.125, a licensee or permittee shall enter the inventory in a record of daily summary transactions to be kept at each magazine of an approved storage facility; however, these records may be kept at one central location on the business premises if separate records of daily transactions are kept for each magazine. Not later than the close of the next business day, each licensee and permittee shall record by manufacturer’s name or brand name, the total quantity received in and removed from each magazine during the day, and the total remaining on hand at the end of the day. Quantity entries for display fireworks may be expressed as the number and size of individual display fireworks in a finished state or as the number of packaged display segments or packaged displays. Information as to the number and size of display fireworks contained in any one packaged display segment or packaged display shall be provided to any ATF officer on request. Any discrepancy which might indicate a theft or loss of explosive materials is to be reported in accordance with §555.30.


§ 555.127 Daily summary of magazine transactions.

In taking the inventory required by §§555.122, 555.123, 555.124, and 555.125, a licensee or permittee shall enter the inventory in a record of daily summary transactions to be kept at each magazine of an approved storage facility; however, these records may be kept at one central location on the business premises if separate records of daily transactions are kept for each magazine. Not later than the close of the next business day, each licensee and permittee shall record by manufacturer’s name or brand name, the total quantity received in and removed from each magazine during the day, and the total remaining on hand at the end of the day. Quantity entries for display fireworks may be expressed as the number and size of individual display fireworks in a finished state or as the number of packaged display segments or packaged displays. Information as to the number and size of display fireworks contained in any one packaged display segment or packaged display shall be provided to any ATF officer on request. Any discrepancy which might indicate a theft or loss of explosive materials is to be reported in accordance with §555.30.

§ 555.128 Discontinuance of business.

Where an explosive materials business or operations is discontinued and succeeded by a new licensee or new permittee, the records prescribed by this subpart shall appropriately reflect such facts and shall be delivered to the successor. Where discontinuance of the business or operations is absolute, the records required by this subpart must be delivered within 30 days following the business or operations discontinuance to any ATF office located in the region in which the business was located, or to the ATF Out-of-Business Records Center, 244 Needy Road, Martinsburg, West Virginia 25405. Where State law or local ordinance requires the delivery of records to other responsible authority, the Chief, Federal Explosives Licensing Center may arrange for the delivery of the records required by this subpart to such authority. (See also, §555.61.)


§ 555.129 Exportation.

Exportation of explosive materials is to be in accordance with the applicable provisions of section 38 of the Arms Export Control Act (22 U.S.C. 2778) and implementing regulations. However, a licensed importer, licensed manufacturer, or licensed dealer exporting explosive materials shall maintain records showing the manufacture or acquisition of explosive materials as required by this part and records showing the quantity, the manufacturer’s name or brand name of explosive materials, the name and address of the foreign consignee of the explosive materials, and the date the explosive materials were exported. See §555.180 for regulations concerning the exportation of plastic explosives.

(7) The importation, distribution, and storage of fireworks classified as UN0336, UN0337, UN0431, or UN0432 explosives by the U.S. Department of Transportation at 49 CFR 172.101 and generally known as “consumer fireworks” or “articles pyrotechnic.”

(8) Gasoline, fertilizers, propellant actuated devices, or propellant actuated industrial tools manufactured, imported, or distributed for their intended purposes.

(9) Industrial and laboratory chemicals which are intended for use as reagents and which are packaged and shipped pursuant to U.S. Department of Transportation regulations, 49 CFR Parts 100 to 177, which do not require explosives hazard warning labels.

(10) Model rocket motors that meet all of the following criteria—

(i) Consist of ammonium perchlorate composite propellant, black powder, or other similar low explosives;

(ii) Contain no more than 62.5 grams of total propellant weight; and

(iii) Are designed as single-use motors or as reload kits capable of reloading no more than 62.5 grams of propellant into a reusable motor casing.

(b) Black powder. Except for the provisions applicable to persons required to be licensed under subpart D, this part does not apply with respect to commercially manufactured black powder in quantities not to exceed 50 pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, if the black powder is intended to be used solely for sporting, recreational, or cultural purposes in antique firearms, as defined in 18 U.S.C. 921(a)(16) or antique devices, as exempted from the term “destructive devices” in 18 U.S.C. 921(a)(4).

§ 555.142 Relief from disabilities (effective January 24, 2003).

(a) Any person prohibited from shipping or transporting any explosive in or affecting interstate or foreign commerce or from receiving or possessing any explosive which has been shipped or transported in or affecting interstate or foreign commerce may make application for relief from disabilities under section 845(b) of the Act.

(b) An application for relief from disabilities must be filed with the Director by submitting ATF Form 5400.29, Application for Restoration of Explosives Privileges, in accordance with the instructions on the form. The application must be supported by appropriate data, including the information specified in paragraph (f) of this section. Upon receipt of an incomplete or improperly executed application for relief, the applicant will be notified of the deficiency in the application. If the application is not corrected and returned within 30 days following the date of notification, the application will be considered abandoned.

(c) The Director may grant relief to an applicant if it is established to the satisfaction of the Director that the circumstances regarding the disability and the applicant’s record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of such relief is not contrary to the public interest.

(2) Except as provided in paragraph (c)(3) of this section, the Director will not grant relief if the applicant—

(i) Has not been discharged from parole or probation for a period of at least 2 years;

(ii) Is a fugitive from justice;

(iii) Is a prohibited alien;

(iv) Is an unlawful user of or addicted to any controlled substance;

(v) Has been adjudicated a mental defective or committed to a mental institution, unless the applicant was subsequently determined by a court, board, commission, or other lawful authority to have been restored to mental competency, to be no longer suffering from a mental disorder, and to have had all rights restored; or

(vi) Is prohibited by the law of the State where the applicant resides from receiving or possessing explosive materials.
The Director may grant relief to aliens who have been lawfully admitted to the United States or to persons who have not been discharged from parole or probation for a period of at least 2 years if he determines that the applicant has a compelling need to possess explosives, such as for purposes of employment.

(ii) The Director may grant relief to the persons identified in paragraph (c)(2) of this section in extraordinary circumstances where the granting of such relief is consistent with the public interest.

(d) A person who has been granted relief under this section is relieved of all disabilities imposed by the Act for the disabilities disclosed in the application. The granting of relief will not affect any disabilities incurred subsequent to the date the application was filed. Relief from disabilities granted to aliens will be effective only so long as the alien retains his or her lawful immigration status.

(e)(1) A licensee or permittee who is under indictment or information for, or convicted of, a crime punishable by imprisonment for a term exceeding one year during the term of a current license or permit, or while he has pending a license or permit renewal application, shall not be barred from licensed or permit operations for 30 days after the date of indictment or information or 30 days after the date upon which his conviction becomes final. Also, if he files his application for relief under this section within such 30 day period, he may further continue licensed or permit operations while his application is pending. A licensee or permittee who does not file an application within 30 days from the date of his indictment or information, or within 30 days from the date his conviction becomes final, shall not continue licensed or permit operations beyond 30 days from the date of his indictment or information or beyond 30 days from the date his conviction becomes final.

(ii) In the event the term of a license or permit of a person expires during the 30 day period following the date the Director issues notification that the licensee's or permittee's application for removal of the disabilities resulting from an indictment, information or conviction has been denied, the granting of relief from disabilities granted to aliens will be effective only so long as the alien retains his or her lawful immigration status.

(f)(1) Applications for relief from disabilities must include the following information:

(i) In the case of a corporation, or of any person having the power to direct or control the management of the corporation, information as to the absence of culpability in the offense for which the corporation, or any such person, was indicted, formally accused or convicted;

(ii) In the case of an applicant who is an individual, two properly completed FBI Forms FD–258 (fingerprint card), and a written statement from each of three references who are not related to the applicant by blood or marriage and have known the applicant for at least 3 years, recommending the granting of relief;

(iii) Written consent to examine and obtain copies of records and to receive statements and other information regarding the applicant's background, including records, statements and other information concerning employment, medical history, military service, immigration status, and criminal record;
(iv) In the case of an applicant having been convicted of a crime punishable by imprisonment for a term exceeding one year, a copy of the indictment or information on which the applicant was convicted, the judgment of conviction or record of any plea of nolo contendere or plea of guilty or finding of guilt by the court;
(v) In the case of an applicant under indictment, a copy of the indictment or information;
(vi) In the case of an applicant who has been adjudicated a mental defective or committed to a mental institution, a copy of the order of a court, board, commission, or other lawful authority that made the adjudication or ordered the commitment, any petition that sought to have the applicant so adjudicated or committed, any medical records reflecting the reasons for commitment and diagnoses of the applicant, any court order or finding of a court, board, commission, or other lawful authority showing the applicant’s discharge from commitment, restoration of mental competency and the restoration of rights;
(vii) In the case of an applicant who has been discharged from the Armed Forces under dishonorable conditions, a copy of the applicant’s Certificate of Release or Discharge from Active Duty (Department of Defense Form 214), Charge Sheet (Department of Defense Form 438), and final court martial order;
(viii) In the case of an applicant who, having been a citizen of the United States, has renounced his or her citizenship, a copy of the formal renunciation of nationality before a diplomatic or consular officer of the United States in a foreign state or before an officer designated by the Attorney General when the United States was in a state of war (see 8 U.S.C. 1481(a)(5) and (6)); and
(ix) In the case of an applicant who is an alien, documentation that the applicant is an alien who has been lawfully admitted to the United States; certification from the applicant including the applicant’s INS-issued alien number or admission number, country/countries of citizenship, and immigration status, and certifying that the applicant is legally authorized to work in the United States, or other purposes for which possession of explosives is required; certification from an appropriate law enforcement agency of the applicant’s country of citizenship stating that the applicant does not have a criminal record; and, if applicable, certification from a Federal explosives licensee or permittee or other employer stating that the applicant is employed by the employer and must possess explosive materials for purposes of employment. These certifications must be submitted in English.
(2) Any record or document of a court or other government entity or official required by paragraph (f)(1) of this section must be certified by the court or other government entity or official as a true copy.

(Approved by the Office of Management and Budget under control number 1140–0076)


Subpart I—Unlawful Acts, Penalties, Seizures and Forfeitures

§ 555.161 Engaging in business without a license.

Any person engaging in the business of importing, manufacturing, or dealing in explosive materials without a license issued under the Act, shall be fined not more than $10,000 or imprisoned not more than 10 years, or both.

§ 555.162 False statement or representation.

Any person knowingly withholds information or makes any false or fictitious oral or written statement or furnishes or exhibits any false, fictitious, or misrepresented identification, intended or likely to deceive for the purpose of obtaining explosive materials, or a license, permit, exemption, or relief from disability under the Act, shall be fined not more than $10,000 or imprisoned not more than 10 years, or both.

§ 555.163 False entry in record.

Any licensed importer, licensed manufacturer, licensed dealer, or permittee who knowingly makes any false entry
Subpart J—Marking of Plastic Explosives

§ 555.180 Prohibitions relating to unmarked plastic explosives.

(a) No person shall manufacture any plastic explosive that does not contain a detection agent.

(b) No person shall import or bring into the United States, or export from the United States, any plastic explosive that does not contain a detection agent. This paragraph does not apply to the importation or bringing into the United States, or the exportation from the United States, of any plastic explosive that was imported or brought into, or manufactured in the United States prior to April 24, 1996, by or on behalf of any agency of the United States performing military or police functions (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 15 years after the date of entry into force of the Convention on the Marking of Plastic Explosives with respect to the United States, i.e., not later than June 21, 2013.

(c) No person shall ship, transport, transfer, receive, or possess any plastic explosive that does not contain a detection agent. This paragraph does not apply to:

(1) The shipment, transportation, transfer, receipt, or possession of any plastic explosive that was imported or brought into, or manufactured in the United States prior to April 24, 1996, by any person during the period beginning on that date and ending on April 24, 1999; or

(2) The shipment, transportation, transfer, receipt, or possession of any plastic explosive that was imported or brought into, or manufactured in the United States prior to April 24, 1996, by any person during the period beginning on that date and ending on April 24, 1999; or

(d) When used in this subpart, terms are defined as follows:

§ 555.181 Reporting of plastic explosives.

All persons, other than an agency of the United States (including any military reserve component) or the National Guard of any State, possessing any plastic explosive on April 24, 1996, shall submit a report to the Director no later than August 22, 1996. The report shall be in writing and mailed by certified mail (return receipt requested) to the Director at P.O. Box 50204, Washington, DC 20091–0204. The report shall include the quantity of plastic explosives possessed on April 24, 1996; any marks of identification on such explosives; the name and address of the manufacturer or importer; the storage location of such explosives, including the city and State; and the name and address of the person possessing the plastic explosives.

§ 555.182 Exceptions.

It is an affirmative defense against any proceeding involving §§555.180 and 555.181 if the proponent proves by a preponderance of the evidence that the plastic explosive—

(a) Consisted of a small amount of plastic explosive intended for and utilized solely in lawful—

(1) Research, development, or testing of new or modified explosive materials;

(2) Training in explosives detection or development or testing of explosives detection equipment; or

(3) Forensic science purposes; or

(b) Was plastic explosive that, by April 24, 1999, will be or is incorporated in a military device within the territory of the United States and remains an integral part of such military device, or is intended to be, or is incorporated in, and remains an integral part of a military device that is intended to become, or has become, the property of any agency of the United States performing military or police
§ 555.201 General.

(a) Section 842(j) of the Act and §555.29 of this part require that the storage of explosive materials by any person must be in accordance with the regulations in this part. Further, section 846 of this Act authorizes regulations to prevent the recurrence of accidental explosions in which explosive materials were involved. The storage standards prescribed by this subpart confer no right or privileges to store explosive materials in a manner contrary to State or local law.

(b) The Director may authorize alternate construction for explosives storage magazines when it is shown that the alternate magazine construction is substantially equivalent to the standards of safety and security contained in this subpart. Any alternate explosive magazine construction approved by the Director prior to August 9, 1982, will continue as approved unless notified in writing by the Director. Any person intending to use alternate magazine construction shall submit a letter application to the Director, Industry Operations for transmittal to the Director, specifically describing the proposed magazine. Explosive materials may not be stored in alternate magazines before
§ 555.202 Classes of explosive materials.

For purposes of this part, there are three classes of explosive materials. These classes, together with the description of explosive materials comprising each class, are as follows:

(a) **High explosives.** Explosive materials which can be caused to detonate by means of a blasting cap when unconfined, (for example, dynamite, flash powders, and bulk salutes). See also §555.201(e).

(b) **Low explosives.** Explosive materials which can be caused to deflagrate when confined (for example, black powder, safety fuses, igniters, igniter cords, fuse lighters, and “display fireworks” classified as UN0333, UN0334, or UN0335 by the U.S. Department of Transportation regulations at 49 CFR 172.101, except for bulk salutes).

(c) **Blasting agents.** (For example, ammonium nitrate-fuel oil and certain water-gels (see also §555.11)).

§ 555.203 Types of magazines.

For purposes of this part, there are five types of magazines. These types, together with the classes of explosive materials, as defined in §555.202, which will be stored in them, are as follows:

(a) **Type 1 magazines.** Permanent magazines for the storage of high explosives, subject to the limitations prescribed by §§555.206 and 555.213. Other classes of explosive materials may also be stored in type 1 magazines.

(b) **Type 2 magazines.** Mobile and portable indoor and outdoor magazines for the storage of high explosives, subject to the limitations prescribed by §§555.206, 555.206(b), and 555.213. Other classes of explosive materials may also be stored in type 2 magazines.

(c) **Type 3 magazines.** Portable outdoor magazines for the temporary storage of high explosives while attended (for example, a “day-box”), subject to the limitations prescribed by §§555.206 and 555.213. Other classes of explosives materials may also be stored in type 3 magazines.

(d) **Type 4 magazines.** Magazines for the storage of low explosives, subject to the limitations prescribed by §§555.206(b), 555.210(b), and 555.213. Blasting agents may be stored in type 4 magazines, subject to the limitations prescribed by §§555.206(c), 555.210(b), and 555.213. Detonators that will not mass detonate may also be stored in type 4 magazines, subject to the limitations prescribed by §§555.206(a), 555.210(b), and 555.213.

(e) **Type 5 magazines.** Magazines for the storage of blasting agents, subject to the limitations prescribed by §§555.206(c), 555.211(b), and 555.213.
§ 555.204 Inspection of magazines.

Any person storing explosive materials shall inspect his magazines at least every seven days. This inspection need not be an inventory, but must be sufficient to determine whether there has been unauthorized entry or attempted entry into the magazines, or unauthorized removal of the contents of the magazines.

§ 555.205 Movement of explosive materials.

All explosive materials must be kept in locked magazines meeting the standards in this subpart unless they are:

(a) In the process of manufacture;
(b) Being physically handled in the operating process of a licensee or user;
(c) Being used; or
(d) Being transported to a place of storage or use by a licensee or permittee or by a person who has lawfully acquired explosive materials under §555.106.

§ 555.206 Location of magazines.

(a) Outdoor magazines in which high explosives are stored must be located no closer to inhabited buildings, passenger railways, public highways, or other magazines in which high explosives are stored, than the minimum distances specified in the table of distances for storage of explosive materials in §555.218.

(b) Outdoor magazines in which low explosives are stored must be located no closer to inhabited buildings, passenger railways, public highways, or other magazines in which explosive materials are stored, than the minimum distances specified in the table of distances for storage of low explosives in §555.219, except that the table of distances in §555.224 shall apply to the storage of display fireworks. The distances shown in §555.219 may not be reduced by the presence of barricades.

(c)(1) Outdoor magazines in which blasting agents in quantities of more than 50 pounds are stored must be located no closer to inhabited buildings, passenger railways, or public highways than the minimum distances specified in the table of distances for storage of explosive materials in §555.218.

(2) Ammonium nitrate and magazines in which blasting agents are stored must be located no closer to magazines in which high explosives or other blasting agents are stored than the minimum distances specified in the table of distances for the separation of ammonium nitrate and blasting agents in §555.220. However, the minimum distances for magazines in which explosives and blasting agents are stored from inhabited buildings, etc., may not be less than the distances specified in the table of distances for storage of explosives materials in §555.218.


§ 555.207 Construction of type 1 magazines.

A type 1 magazine is a permanent structure: a building, an igloo or “Army-type structure”, a tunnel, or a dugout. It is to be bullet-resistant, fire-resistant, weather-resistant, theft-resistant, and ventilated.

(a) Buildings. All building type magazines are to be constructed of masonry, wood, metal, or a combination of these materials, and have no openings except for entrances and ventilation. The ground around building magazines must slope away for drainage or other adequate drainage provided.

(1) Masonry wall construction. Masonry wall construction is to consist of brick, concrete, tile, cement block, or cinder block and be not less than 6 inches in thickness. Hollow masonry units used in construction must have all hollow spaces filled with well-tamped, coarse, dry sand or weak concrete (at least a mixture of one part cement and eight parts of sand with enough water to dampen the mixture while tamping in place). Interior walls are to be constructed of, or covered with, a nonsparking material.

(2) Fabricated metal wall construction. Metal wall construction is to consist of sectional sheets of steel or aluminum not less than number 14-gauge, securely fastened to a metal framework. Metal wall construction is either lined inside with brick, solid cement blocks, hardwood not less than four inches thick, or will have at least a six inch sand fill between interior and exterior.
walls. Interior walls are to be constructed of, or covered with, a nonsparking material.

(3) Wood frame wall construction. The exterior of outer wood walls is to be covered with iron or aluminum not less than number 26-gauge. An inner wall of, or covered with nonsparking material will be constructed so as to provide a space of not less than six inches between the outer and inner walls. The space is to be filled with coarse, dry sand or weak concrete.

(4) Floors. Floors are to be constructed of, or covered with, a nonsparking material and shall be strong enough to bear the weight of the maximum quantity to be stored. Use of pallets covered with a nonsparking material is considered equivalent to a floor constructed of or covered with a nonsparking material.

(5) Foundations. Foundations are to be constructed of brick, concrete, cement block, stone, or wood posts. If piers or posts are used, in lieu of a continuous foundation, the space under the buildings is to be enclosed with metal.

(6) Roof. Except for buildings with fabricated metal roofs, the outer roof is to be covered with no less than number 26-gauge iron or aluminum, fastened to at least ¾ inch sheathing.

(7) Bullet-resistant ceilings or roofs. Where it is possible for a bullet to be fired directly through the roof and into the magazine at such an angle that the bullet would strike the explosives within, the magazine is to be protected by one of the following methods:

(i) A sand tray lined with a layer of building paper, plastic, or other nonporous material, and filled with not less than four inches of coarse, dry sand, and located at the tops of inner walls covering the entire ceiling area, except that portion necessary for ventilation.

(ii) A fabricated metal roof constructed of ½-inch plate steel lined with four inches of hardwood. (For each additional ¼ inch of plate steel, the hardwood lining may be decreased one inch.)

(iii) A fabric-lined air space of at least 6 inches.

(iv) A metal roof having a minimum thickness of ¼ inch plate steel and being protected with a nonsparking lining or cover of not less than 2 inches of hardwood.

(v) A combination of (ii) and (iii).

(8) Doors. All doors are to be constructed of not less than ¼ inch plate steel and lined with at least two inches of hardwood. Hinges and hasps are to be attached to the doors by welding, riveting or bolting (nails on inside of door). They are to be installed in such a manner that the hinges and hasps cannot be removed when the doors are closed and locked.

(9) Locks. Each door is to be equipped with (i) two mortise locks; (ii) two padlock fastened in separate hasps and staples; (iii) a combination of a mortise lock and a padlock; (iv) a mortise lock that requires two keys to open; or (v) a three-point lock. Padlocks must have at least five tumblers and a case-hardened shackle of at least ¾ inch diameter. Padlocks must be protected with not less than ¼ inch steel hoods constructed so as to prevent sawing or lever action on the locks, hasps, and staples. These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be actuated from the outside.

(10) Ventilation. Ventilation is to be provided to prevent dampness and heating of stored explosive materials. Ventilation openings must be screened to prevent the entrance of sparks. Ventilation openings in side walls and foundations must be offset or shielded for bullet-resistant purposes. Magazines having foundation and roof ventilators with the air circulating between the side walls and the floors and between the side walls and the ceiling must have a wooden lattice lining or equivalent to prevent the packages of explosive materials from being stacked against the side walls and blocking the air circulation.

(11) Exposed metal. No sparking material is to be exposed to contact with the stored explosive materials. All ferrous metal nails in the floor and side walls, which might be exposed to contact with explosive materials, must be blind nailed, countersunk, or covered with a nonsparking lattice work or other nonsparking material.

(b) Igloos, “Army-type structures”, tunnels, and dugouts. Igloos, “Army-type structure”, tunnel, and dugout magazines are to be constructed of reinforced concrete, masonry, metal, or a combination of these materials. They must have an earthmound covering of not less than 24 inches on the top, sides and rear unless the magazine meets the requirements for ventilation.
requirements of paragraph (a)(7) of this section. Interior walls and floors must be constructed of, or covered with, a nonsparking material. Magazines of this type are also to be constructed in conformity with the requirements of paragraph (a)(4) and paragraphs (a)(8) through (11) of this section.

§ 555.208 Construction of type 2 magazines.

A type 2 magazine is a box, trailer, semitrailer, or other mobile facility.

(a) Outdoor magazines—(1) General. Outdoor magazines are to be bullet-resistant, fire-resistant, weather-resistant, theft-resistant, and ventilated. They are to be supported to prevent direct contact with the ground and, if less than one cubic yard in size, must be securely fastened to a fixed object. The ground around outdoor magazines must slope away for drainage or other adequate drainage provided. When unattended, vehicular magazines must have wheels removed or otherwise effectively immobilized by kingpin locking devices or other methods approved by the Director.

(2) Exterior construction. The exterior and doors are to be constructed of not less than ¼-inch steel and lined with at least two inches of hardwood. Magazines with top openings will have lids with water-resistant seals or which overlap the sides by at least one inch when in a closed position.

(3) Hinges and hasps. Hinges and hasps are to be attached to doors by welding, riveting, or bolting (nuts on inside of door). Hinges and hasps must be installed so that they cannot be removed when the doors are closed and locked.

(4) Locks. Each door is to be equipped with (i) two mortise locks; (ii) two padlocks fastened in separate hasps and staples; (iii) a combination of a mortise lock and a padlock; (iv) a mortise lock that requires two keys to open; or (v) a three-point lock. Padlocks must have at least five tumblers and a case-hardened shackle of at least ¾-inch diameter. Padlocks must be protected with not less than ¼-inch steel hoods constructed so as to prevent sawing or lever action on the locks, hasps, and staples. These requirements do not apply to magazines that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be actuated from the outside.

(b) Indoor magazines—(1) General. Indoor magazines are to be fire-resistant and theft-resistant. They need not be bullet-resistant and weather-resistant if the buildings in which they are stored provide protection from the weather and from bullet penetration. No indoor magazine is to be located in a residence or dwelling. The indoor storage of high explosives must not exceed a quantity of 50 pounds. More than one indoor magazine may be located in the same building if the total quantity of explosive materials stored does not exceed 50 pounds. Detonators must be stored in a separate magazine (except as provided in §555.213) and the total quantity of detonators must not exceed 5,000.

(2) Exterior construction. Indoor magazines are to be constructed of wood or metal according to one of the following specifications:

(i) Wood indoor magazines are to have sides, bottoms and doors constructed of at least two inches of hardwood and are to be well braced at the corners. They are to be covered with sheet metal of not less than number 26-gauge (.0179 inches). Nails exposed to the interior of magazines must be countersunk.

(ii) Metal indoor magazines are to have sides, bottoms and doors constructed of not less than number 12-gauge (.1046 inches) metal and be lined inside with a nonsparking material. Edges of metal covers must overlap sides at least one inch.

(3) Hinges and hasps. Hinges and hasps are to be attached to doors by welding, riveting, or bolting (nuts on inside of door). Hinges and hasps must be installed so that they cannot be removed when the doors are closed and locked.

(4) Locks. Each door is to be equipped with (i) two mortise locks; (ii) two padlocks fastened in separate hasps and staples; (iii) a combination of a mortise lock and a padlock; (iv) a mortise lock that requires two keys to open; or (v) a three-point lock. Padlocks must have at least five tumblers and a case-hardened shackle of at least ¾-inch diameter. Padlocks must be protected with not less than ¼-inch steel hoods constructed so as to prevent sawing or
lever action on the locks, hasps, and staples. Indoor magazines located in secure rooms that are locked as provided in this subparagraph may have each door locked with one steel padlock (which need not be protected by a steel hood) having at least five tumblers and a case-hardened shackle of at least ¾-inch diameter, if the door hinges and lock hasp are securely fastened to the magazine. These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be actuated from the outside.

(c) Detonator boxes. Magazines for detonators in quantities of 100 or less are to have sides, bottoms and doors constructed of not less than number 12-gauge (.1046 inches) metal and lined with a nonsparking material. Hinges and hasps must be attached so they cannot be removed from the outside. One steel padlock (which need not be protected by a steel hood) having at least five tumblers and a case-hardened shackle of at least ¾-inch diameter is sufficient for locking purposes.

§ 555.209 Construction of type 3 magazines.

A type 3 magazine is a “day-box” or other portable magazine. It must be fire-resistant, weather-resistant, and theft-resistant. A type 3 magazine is to be constructed of not less than number 12-gauge (.1046 inches) metal and lined with a nonsparking material. Hinges and hasps must be attached so they cannot be removed from the outside. Doors must overlap sides by at least one inch. Hinges and hasps are to be attached by welding, riveting or bolting (nuts on inside). One steel padlock (which need not be protected by a steel hood) having at least five tumblers and a case-hardened shackle of at least ¾-inch diameter is sufficient for locking purposes. Explosive materials are not to be left unattended in type 3 magazines and must be removed to type 1 or 2 magazines for unattended storage.

§ 555.210 Construction of type 4 magazines.

A type 4 magazine is a building, igloo or “Army-type structure”, tunnel, dug-out, box, trailer, or a semitrailer or other mobile magazine.
§ 555.211 Construction of type 5 magazines.

A type 5 magazine is a building, igloo or “Army-type structure”, tunnel, dug-out, bin, box, trailer, or a semitrailer or other mobile facility.

(a) Outdoor magazines—(1) General. Outdoor magazines are to be weather-resistant and theft-resistant. The ground around magazines must slope away for drainage or other adequate drainage be provided. When unattended, vehicular magazines must have wheels removed or otherwise be effectively immobilized by kingpin locking devices or other methods approved by the Director.

(2) Construction. The doors are to be constructed of solid wood or metal.

(3) Hinges and hasps. Hinges and hasps are to be attached to doors by welding, riveting, or bolting (nuts on inside of door). Hinges and hasps must be installed so that they cannot be removed when the doors are closed and locked.

(4) Locks. Each door is to be equipped with (i) two mortise locks; (ii) two padlocks fastened in separate hasps and staples; (iii) a combination of a mortise lock and a padlock; (iv) a mortise lock that requires two keys to open; or (v) a three-point lock. Padlocks must have at least five tumblers and a case-hardened shackle of at least ¾ inch diameter. Padlocks must be protected with not less than ¼ inch steel hoods constructed so as to prevent sawing or lever action on the locks, hasps, and staples. Trailers, semitrailers, and similar vehicular magazines may, for each door, be locked with one steel padlock (which need not be protected by a steel hood) having at least five tumblers and a case-hardened shackle of at least ¾ inch diameter, if the door hinges and lock hasp are securely fastened to the magazine and to the door frame. These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be actuated from the outside.

(5) Placards. The placards required by Department of Transportation regulations at 49 CFR part 172, subpart F, for the transportation of blasting agents shall be displayed on all magazines.

(b) Indoor magazines—(1) General. Indoor magazines are to be theft-resistant. They need not be weather-resistant if the buildings in which they are stored provide protection from the weather. No indoor magazine is to be located in a residence or dwelling. Indoor magazines containing quantities of blasting agents in excess of 50 pounds are subject to the requirements of §555.206 of this subpart.
§ 555.212 Construction. The doors are to be constructed of wood or metal.

(3) Hinges and hasps. Hinges and hasps are to be attached to doors by welding, riveting, or bolting (nuts on inside). Hinges and hasps must be installed so that they cannot be removed when the doors are closed and locked.

(4) Locks. Each door is to be equipped with (i) two mortise locks; (ii) two padlocks fastened in separate hasps and staples; (iii) a combination of a mortise lock and a padlock; (iv) a mortise lock that requires two keys to open; or (v) a three-point lock. Padlocks must have at least five tumblers and a case-hardened shackle of at least 3/8 inch diameter. Padlocks must be protected with not less than 1/4 inch steel hoods constructed so as to prevent sawing or lever action on the locks, hasps, and staples. Indoor magazines located in secure rooms that are locked as provided in this subparagraph may have one door locked with one steel padlock (which need not be protected by a steel hood) having at least five tumblers and a case-hardened shackle of at least 3/8 inch diameter, if the door hinges and lock hasps are securely fastened to the magazine and to the door frame. These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be actuated from the outside.


§ 555.214 Storage within types 1, 2, 3, and 4 magazines.

(a) Explosive materials within a magazine are not to be placed directly against interior walls and must be stored so as not to interfere with ventilation. To prevent contact of stored explosive materials with walls, a nonsparking lattice work or other nonsparking material may be used.

(b) Containers of explosive materials are to be stored so that marks are visible. Stocks of explosive materials are to be stored so they can be easily counted and checked upon inspection.

(c) Except with respect to fiberboard or other nonmetal containers, containers of explosive materials are not to be unpacked or repacked inside a magazine or within 50 feet of a magazine, and must not be unpacked or repacked close to other explosive materials. Containers of explosive materials must be closed while being stored.

(d) Tools used for opening or closing containers of explosive materials are to be of nonsparking materials, except that metal slitters may be used for opening fiberboard containers. A wood wedge and a fiber, rubber, or wooden mallet are to be used for opening or closing wood containers of explosive materials. Metal tools other than nonsparking transfer conveyors are not to be stored in any magazine containing high explosives.

may be kept in magazines. Floors stained by leakage from explosive materials are to be cleaned according to instructions of the explosives manufacturer. When any explosive material has deteriorated it is to be destroyed in accordance with the advice or instructions of the manufacturer. The area surrounding magazines is to be kept clear of rubbish, brush, dry grass, or trees (except live trees more than 10 feet tall), for not less than 25 feet in all directions. Volatile materials are to be kept a distance of not less than 50 feet from outdoor magazines. Living foliage which is used to stabilize the earthen covering of a magazine need not be removed.

§ 555.216 Repair of magazines.

Before repairing the interior of magazines, all explosive materials are to be removed and the interior cleaned. Before repairing the exterior of magazines, all explosive materials must be removed if there exists any possibility that repairs may produce sparks or flame. Explosive materials removed from magazines under repair must be (a) placed in other magazines appropriate for the storage of those explosive materials under this subpart, or (b) placed a safe distance from the magazines under repair where they are to be properly guarded and protected until the repairs have been completed.

§ 555.217 Lighting.

(a) Battery-activated safety lights or battery-activated safety lanterns may be used in explosives storage magazines.

(b) Electric lighting used in any explosives storage magazine must meet the standards prescribed by the “National Electrical Code,” (National Fire Protection Association, NFPA 70–81), for the conditions present in the magazine at any time. All electrical switches are to be located outside of the magazine and also meet the standards prescribed by the National Electrical Code.

(c) Copies of invoices, work orders or similar documents which indicate the lighting complies with the National Electrical Code must be available for inspection by ATF officers.

§ 555.218 Table of distances for storage of explosive materials.

<table>
<thead>
<tr>
<th>Quantity of explosives</th>
<th>Distances in feet</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Inhabited buildings</td>
</tr>
<tr>
<td>Pounds over</td>
<td>Pounds not over</td>
</tr>
<tr>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>10</td>
<td>20</td>
</tr>
<tr>
<td>20</td>
<td>30</td>
</tr>
<tr>
<td>30</td>
<td>40</td>
</tr>
<tr>
<td>40</td>
<td>50</td>
</tr>
<tr>
<td>50</td>
<td>75</td>
</tr>
<tr>
<td>75</td>
<td>100</td>
</tr>
<tr>
<td>100</td>
<td>125</td>
</tr>
<tr>
<td>125</td>
<td>150</td>
</tr>
<tr>
<td>150</td>
<td>200</td>
</tr>
<tr>
<td>200</td>
<td>250</td>
</tr>
<tr>
<td>250</td>
<td>300</td>
</tr>
<tr>
<td>300</td>
<td>400</td>
</tr>
<tr>
<td>400</td>
<td>500</td>
</tr>
<tr>
<td>500</td>
<td>600</td>
</tr>
<tr>
<td>600</td>
<td>700</td>
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<tr>
<td>700</td>
<td>800</td>
</tr>
<tr>
<td>800</td>
<td>900</td>
</tr>
<tr>
<td>900</td>
<td>1,000</td>
</tr>
<tr>
<td>1,000</td>
<td>1,200</td>
</tr>
<tr>
<td>1,200</td>
<td>1,400</td>
</tr>
<tr>
<td>1,400</td>
<td>1,600</td>
</tr>
<tr>
<td>1,600</td>
<td>1,800</td>
</tr>
<tr>
<td>1,800</td>
<td>2,000</td>
</tr>
<tr>
<td>Quantity of explosives</td>
<td>Distances in feet</td>
</tr>
<tr>
<td>------------------------</td>
<td>-------------------</td>
</tr>
<tr>
<td></td>
<td>Inhabited buildings</td>
</tr>
<tr>
<td>Pounds over 2,000</td>
<td>Barri-caded</td>
</tr>
<tr>
<td>2,500</td>
<td>1,090</td>
</tr>
<tr>
<td>3,000</td>
<td>1,165</td>
</tr>
<tr>
<td>3,500</td>
<td>2,025</td>
</tr>
<tr>
<td>4,000</td>
<td>2,370</td>
</tr>
<tr>
<td>4,500</td>
<td>2,825</td>
</tr>
<tr>
<td>5,000</td>
<td>3,270</td>
</tr>
<tr>
<td>5,500</td>
<td>3,720</td>
</tr>
<tr>
<td>6,000</td>
<td>4,170</td>
</tr>
<tr>
<td>6,500</td>
<td>4,620</td>
</tr>
<tr>
<td>7,000</td>
<td>5,070</td>
</tr>
<tr>
<td>7,500</td>
<td>5,520</td>
</tr>
<tr>
<td>8,000</td>
<td>5,970</td>
</tr>
<tr>
<td>9,000</td>
<td>6,930</td>
</tr>
</tbody>
</table>

Table: American Table of Distances for Storage of Explosives (December 1910), as Revised and Approved by the Institute of Makers of Explosives—July, 1991.

Notes to the Table of Distances for Storage of Explosives

1. Terms found in the table of distances for storage of explosive materials are defined in §555.11.

2. When two or more storage magazines are located on the same property, each magazine must comply with the minimum distances specified from inhabited buildings, railways, and highways, and, in addition, they should be separated from each other by not less than the distances shown for “Separation of Magazines,” except that the quantity of explosives contained in cap magazines shall govern in regard to the spacing of said cap magazines from magazines containing other explosives. If any two or more magazines are separated from each other by less than the specified “Separation of Magazines” distances, then such two or more magazines, as a group, must be considered as one magazine, and the total quantity of explosives stored in such group must be treated as if stored in a single magazine located on the site of any magazine of the group, and must comply with the minimum of distances.
Bureau of Alcohol, Tobacco, Firearms, and Explosives, Justice § 555.220

specified from other magazines, inhabited buildings, railways, and highways.

(3) All types of blasting caps in strengths through No. 8 cap should be rated at 1 1/2 lbs. (1.5 lbs.) of explosives per 1,000 caps. For strengths higher than No. 8 cap, consult the manufacturer.

(4) For quantity and distance purposes, detonating cord of 50 or 60 grains per foot should be calculated as equivalent to 9 lbs. of high explosives per 1,000 feet. Heavier or lighter core loads should be rated proportionately.


§ 555.219 Table of distances for storage of low explosives.

<table>
<thead>
<tr>
<th>Pounds</th>
<th>Over</th>
<th>Not over</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>1,000</td>
<td>75 75 50</td>
</tr>
<tr>
<td>1,000</td>
<td>5,000</td>
<td>115 115 75</td>
</tr>
<tr>
<td>5,000</td>
<td>10,000</td>
<td>150 150 100</td>
</tr>
<tr>
<td>10,000</td>
<td>20,000</td>
<td>190 190 125</td>
</tr>
<tr>
<td>20,000</td>
<td>30,000</td>
<td>215 215 145</td>
</tr>
<tr>
<td>30,000</td>
<td>40,000</td>
<td>235 235 155</td>
</tr>
<tr>
<td>40,000</td>
<td>50,000</td>
<td>250 250 165</td>
</tr>
<tr>
<td>50,000</td>
<td>60,000</td>
<td>260 260 175</td>
</tr>
<tr>
<td>60,000</td>
<td>70,000</td>
<td>270 270 185</td>
</tr>
<tr>
<td>70,000</td>
<td>80,000</td>
<td>280 280 190</td>
</tr>
<tr>
<td>80,000</td>
<td>90,000</td>
<td>295 295 195</td>
</tr>
<tr>
<td>90,000</td>
<td>100,000</td>
<td>300 300 200</td>
</tr>
<tr>
<td>100,000</td>
<td>200,000</td>
<td>375 375 250</td>
</tr>
<tr>
<td>200,000</td>
<td>300,000</td>
<td>450 450 300</td>
</tr>
</tbody>
</table>

§ 555.220 Table of separation distances of ammonium nitrate and blasting agents from explosives or blasting agents.

TABLE: DEPARTMENT OF DEFENSE AMMUNITION AND EXPLOSIVES STANDARDS, TABLE 5–4.1 EXTRACT; 4145.27 M, MARCH 1969—Continued

<table>
<thead>
<tr>
<th>Donor weight (pounds)</th>
<th>Minimum separation distance of acceptor from donor when barricaded (ft)</th>
<th>Minimum thickness of artificial barricades (in.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Over</td>
<td>Not over</td>
<td>Ammonium nitrate</td>
</tr>
<tr>
<td>8,000</td>
<td>10,000</td>
<td>13 47</td>
</tr>
<tr>
<td>12,000</td>
<td>16,000</td>
<td>14 50</td>
</tr>
<tr>
<td>16,000</td>
<td>20,000</td>
<td>16 58</td>
</tr>
<tr>
<td>20,000</td>
<td>25,000</td>
<td>18 65</td>
</tr>
<tr>
<td>25,000</td>
<td>30,000</td>
<td>19 68</td>
</tr>
<tr>
<td>30,000</td>
<td>35,000</td>
<td>20 72</td>
</tr>
<tr>
<td>35,000</td>
<td>40,000</td>
<td>21 76</td>
</tr>
<tr>
<td>40,000</td>
<td>45,000</td>
<td>22 79</td>
</tr>
<tr>
<td>45,000</td>
<td>50,000</td>
<td>23 83</td>
</tr>
<tr>
<td>50,000</td>
<td>55,000</td>
<td>24 86</td>
</tr>
<tr>
<td>55,000</td>
<td>60,000</td>
<td>25 90</td>
</tr>
<tr>
<td>60,000</td>
<td>70,000</td>
<td>26 94</td>
</tr>
<tr>
<td>70,000</td>
<td>80,000</td>
<td>28 101</td>
</tr>
<tr>
<td>80,000</td>
<td>90,000</td>
<td>30 108</td>
</tr>
<tr>
<td>90,000</td>
<td>100,000</td>
<td>32 115</td>
</tr>
<tr>
<td>100,000</td>
<td>120,000</td>
<td>34 122</td>
</tr>
<tr>
<td>120,000</td>
<td>140,000</td>
<td>37 133</td>
</tr>
<tr>
<td>140,000</td>
<td>160,000</td>
<td>40 144</td>
</tr>
<tr>
<td>160,000</td>
<td>180,000</td>
<td>44 158</td>
</tr>
<tr>
<td>180,000</td>
<td>200,000</td>
<td>48 173</td>
</tr>
<tr>
<td>200,000</td>
<td>220,000</td>
<td>52 187</td>
</tr>
<tr>
<td>220,000</td>
<td>250,000</td>
<td>56 202</td>
</tr>
<tr>
<td>250,000</td>
<td>275,000</td>
<td>60 216</td>
</tr>
<tr>
<td>275,000</td>
<td>300,000</td>
<td>64 230</td>
</tr>
</tbody>
</table>

Notes of Table of Separation Distances of Ammonium Nitrate and Blasting Agents From Explosives or Blasting Agents

(1) This table specifies separation distances to prevent explosion of ammonium nitrate and ammonium nitrate-based blasting agents by propagation from nearby stores of high explosives or blasting agents referred to in the table as the “donor.” Ammonium nitrate, by itself, is not considered to be a donor when applying this table. Ammonium nitrate, ammonium nitrate-fuel oil or combinations thereof are acceptors. If stores of ammonium nitrate are located within the sympathetic detonation distance of explosives or blasting agents, one-half the mass of the ammonium nitrate is to be included in the mass of the donor.

(2) When the ammonium nitrate and/or blasting agent is not barricaded, the distances shown in the table must be multiplied by six. These distances allow for the possibility of high velocity metal fragments from mixers, hoppers, truck bodies, sheet metal structures, metal containers, and the like.
§ 555.221 Requirements for display fireworks, pyrotechnic compositions, and explosive materials used in assembling fireworks or articles pyrotechnic.

(a) Display fireworks, pyrotechnic compositions, and explosive materials used to assemble fireworks and articles pyrotechnic shall be stored at all times as required by this Subpart unless they are in the process of manufacture, assembly, packaging, or are being transported.

(b) No more than 500 pounds (227 kg) of pyrotechnic compositions or explosive materials are permitted at one time in any fireworks mixing building, any building or area in which the pyrotechnic compositions or explosive materials are pressed or otherwise prepared for finishing or assembly, or any finishing or assembly building. All pyrotechnic compositions or explosive materials not in immediate use will be stored in covered, non-ferrous containers.

(c) The maximum quantity of flash powder permitted in any fireworks process building is 10 pounds (4.5 kg).

(d) All dry explosive powders and mixtures, partially assembled display fireworks, and finished display fireworks shall be removed from fireworks process buildings at the conclusion of a day’s operations and placed in approved magazines.


§ 555.222 Table of distances between fireworks process buildings and between fireworks process and fireworks nonprocess buildings.

<table>
<thead>
<tr>
<th>Net weight of fireworks</th>
<th>Display fireworks</th>
<th>Consumer fireworks</th>
</tr>
</thead>
<tbody>
<tr>
<td>(pounds)</td>
<td>(feet)</td>
<td>(feet)</td>
</tr>
<tr>
<td>0–100</td>
<td>57</td>
<td>37</td>
</tr>
<tr>
<td>101–200</td>
<td>69</td>
<td>37</td>
</tr>
<tr>
<td>201–300</td>
<td>77</td>
<td>37</td>
</tr>
<tr>
<td>301–400</td>
<td>85</td>
<td>37</td>
</tr>
<tr>
<td>401–500</td>
<td>91</td>
<td>37</td>
</tr>
</tbody>
</table>
| Above 500              | Not permitted  
|                        | Not permitted  |

1 Net weight is the weight of all pyrotechnic compositions, and explosive materials and fuse only.

2 The distances in this column apply only with natural or artificial barricades. If such barricades are not used, the distances must be doubled.

3 While consumer fireworks or articles pyrotechnic in a finished state are not subject to regulation, explosive materials used to manufacture or assemble such fireworks or articles are subject to regulation. Thus, fireworks process buildings where consumer fireworks or articles pyrotechnic are being processed shall meet these requirements.

4 A maximum of 500 pounds of in-process pyrotechnic compositions, either loose or in partially-assembled fireworks, is permitted in any fireworks process building. Finished display fireworks may not be stored in a fireworks process building. Quantities in excess of 15 pounds must be kept in an approved magazine.


§ 555.223 Table of distances between fireworks process buildings and other specified areas.

<table>
<thead>
<tr>
<th>Net weight of fireworks</th>
<th>Display fireworks</th>
<th>Consumer fireworks</th>
</tr>
</thead>
<tbody>
<tr>
<td>(pounds)</td>
<td>(feet)</td>
<td>(feet)</td>
</tr>
<tr>
<td>0–100</td>
<td>200</td>
<td>25</td>
</tr>
<tr>
<td>101–200</td>
<td>200</td>
<td>50</td>
</tr>
<tr>
<td>201–300</td>
<td>200</td>
<td>50</td>
</tr>
<tr>
<td>301–400</td>
<td>200</td>
<td>50</td>
</tr>
<tr>
<td>401–500</td>
<td>200</td>
<td>50</td>
</tr>
<tr>
<td>Above 500</td>
<td>Not permitted</td>
<td>Not permitted</td>
</tr>
</tbody>
</table>

1 Net weight is the weight of all pyrotechnic compositions, and explosive materials and fuse only.

2 Definition and Test Procedures for Ammonium Nitrate Fertilizer, Fertilizer Institute 1015–18th St. N.W. Washington, DC 20036.
2 While consumer fireworks or articles pyrotechnic in a finished state are not subject to regulation, explosive materials used to manufacture or assemble such fireworks or articles are subject to regulation. Thus, fireworks process buildings where consumer fireworks or articles pyrotechnic are being processed shall meet these requirements.

3 This table does not apply to the separation distances between fireworks process buildings (see §555.222) and between magazines (see §§555.218 and 555.224).

4 The distances in this table apply with or without artificial or natural barricades or screen barricades. However, the use of barricades is highly recommended.

5 No work of any kind, except to place or move items other than explosive materials from storage, shall be conducted in any building designated as a warehouse. A fireworks plant warehouse is not subject to §555.222 or this section, tables of distances.


§ 555.224 Table of distances for the storage of display fireworks (except bulk salutes).

<table>
<thead>
<tr>
<th>Net weight of firework (pounds)</th>
<th>Distance between magazine and inhabited building, passenger railway, or public highway (feet)</th>
<th>Distance between magazines (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0–1000</td>
<td>150</td>
<td>100</td>
</tr>
<tr>
<td>1001–5000</td>
<td>230</td>
<td>150</td>
</tr>
<tr>
<td>5001–10000</td>
<td>300</td>
<td>200</td>
</tr>
<tr>
<td>Above 10000</td>
<td>Use table §555.218</td>
<td></td>
</tr>
</tbody>
</table>

1 Net weight is the weight of all pyrotechnic compositions, and explosive materials and fuse only.

2 For the purposes of applying this table, the term “magazine” also includes fireworks shipping buildings for display fireworks.

3 For fireworks storage magazines in use prior to (30 days from the date of publication of the final rule in the Federal Register), the distances in this table may be halved if properly barricaded between the magazine and potential receptor sites.

4 This table does not apply to the storage of bulk salutes. Use table at §555.218.

PART 646—CONTRABAND CIGARETTES

Sec.

GENERAL
646.141 Scope of part.
646.142 Territorial extent.
646.143 Meaning of terms.

RECORDS
646.146 General requirements.
646.147 Required information.
646.150 Retention of records.

OTHER PROVISIONS RELATING TO THE DISTRIBUTION OF CIGARETTES
646.153 Authority of appropriate ATF officers to enter business premises.

PENALTIES AND FORFEITURES
646.154 Penalties.
646.155 Forfeitures.

AUTHORITY: 18 U.S.C. 2341–2346, unless otherwise noted.

GENERAL

§ 646.141 Scope of part.
The regulations in this subpart relate to the distribution of cigarettes in excess of 60,000 in a single transaction.

§ 646.142 Territorial extent.
The provisions of the regulations in this part apply in the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

§ 646.143 Meaning of terms.
When used in this part, terms are defined as follows in this section. Words in the plural shall include the singular, and vice versa. Words indicating the masculine gender shall include the feminine. The terms “includes” and “including” do not exclude other things not named which are in the same general class or are otherwise within the scope of the term defined.
Appropriate ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) authorized to perform any functions relating to the administration or enforcement of this part by ATF Order 1130.28, Delegation of the Director’s Authorities in 27 CFR Parts 45 and 646.
Business premises. When used with respect to a distributor, the property on which the cigarettes are kept or stored. The business premises includes the property where the records of a distributor are kept.
Common or contract carrier. A carrier holding a certificate of convenience and necessity, a permit for contract carrier by motor vehicle, or other valid operating authority under the Interstate Commerce Act, or under equivalent operating authority from a regulatory agency of the United States or of any State.
Contraband cigarettes. Any quantity of cigarettes in excess of 60,000, if—
(a) The cigarettes bear no evidence of the payment of applicable State cigarette taxes in the State where the cigarettes are found;
(b) The State in which the cigarettes are found requires a stamp, impression, or other indication to be placed on packages or other containers of cigarettes to evidence payment of cigarette taxes; and
(c) The cigarettes are in the possession of any person other than an exempted person.

Disposition. The movement of cigarettes from a person’s business premises, wherever situated, by shipment or other means of distribution.
Distribute. To sell, ship, issue, give, transfer, or otherwise dispose of.
Distributor. Any person who distributes more than 60,000 cigarettes in a single transaction.
Exempted person. Any person who is—
(a) Holding a permit issued pursuant to Chapter 52 of the Internal Revenue Code of 1954 as a manufacturer of tobacco products or as an export warehouse proprietor;
(b) Operating a customs bonded warehouse pursuant to section 311 or 555 of the Tariff Act of 1930 (19 U.S.C. 1311 or 1555);

(c) An agent of a tobacco products manufacturer, an export warehouse proprietor, or an operator of a customs bonded warehouse;

(d) A common or contract carrier transporting the cigarettes involved under a proper bill of lading or freight bill which states the quantity, source, and destination of the cigarettes;

(e) Licensed or otherwise authorized by the State, in which he possesses cigarettes, to account for and pay cigarette taxes imposed by that State; and who has complied with the accounting and payment requirements relating to his license or authorization with respect to the cigarettes involved;

(f) An agent of the United States, of an individual State, or of a political subdivision of a State and having possession of cigarettes in connection with the performance of official duties.

(g) Operating within a foreign-trade zone established under 19 U.S.C., section 81b, when the cigarettes involved have been entered into the zone under zone-restricted status or, in respect to foreign cigarettes, have been admitted into the United States. 

Person. Any individual, corporation, company, association, firm, partnership, society, or joint stock company.

State. A State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands.

§ 646.150 Retention of records.

(a) General. Each distributor of cigarettes shall retain the records required by §§646.146 and 646.147 for three years following the close of the year in which the records are made. The distributor shall keep the required records on his business premises.

(b) Shorter retention periods. The appropriate ATF officer may, pursuant to an application submitted by a distributor, approve a shorter retention period where—

1. The distributor requesting the shorter retention period is an agent of a tobacco products manufacturer;

2. The tobacco products manufacturer will keep the required record for each disposition of more than 60,000 cigarettes from the agent’s premises for the full retention period specified in paragraph (a) of this section; and

3. The approval of a shorter retention period will not unduly hinder the administration of enforcement of this subpart.

(c) Application requirements. Each distributor proposing to employ a shorter retention period shall submit a written application, in duplicate, to the appropriate ATF officer. A distributor may not employ a shorter retention period until approval is received from the appropriate ATF officer. Each application should indicate the duration of the proposed retention period and should include the information required by paragraph (b) of this section.


§ 646.153 Authority of appropriate ATF officers to enter business premises.

Any appropriate ATF officer may enter the business premises of any distributor of cigarettes to inspect the records required by §§646.146 through 646.147 or to inspect any cigarettes stored on the premises—

(a) Pursuant to duly issued search warrant or an administrative inspection warrant; or

(b) Upon the consent of the distributor to enter his premises.

FINDING AIDS

A list of CFR titles, subtitles, chapters, subchapters and parts and an alphabetical list of agencies publishing in the CFR are included in the CFR Index and Finding Aids volume to the Code of Federal Regulations which is published separately and revised annually.

Table of CFR Titles and Chapters
Alphabetical List of Agencies Appearing in the CFR
List of CFR Sections Affected
### Table of CFR Titles and Chapters

*(Revised as of April 1, 2016)*

#### Title 1—General Provisions

1. Administrative Committee of the Federal Register (Parts 1—49)
2. Office of the Federal Register (Parts 50—299)
3. Administrative Conference of the United States (Parts 300—399)
4. Miscellaneous Agencies (Parts 400—500)

#### Title 2—Grants and Agreements

**Subtitle A—Office of Management and Budget Guidance for Grants and Agreements**

1. Office of Management and Budget Governmentwide Guidance for Grants and Agreements (Parts 2—199)
2. Office of Management and Budget Guidance (Parts 200—299)

**Subtitle B—Federal Agency Regulations for Grants and Agreements**

3. Department of Health and Human Services (Parts 300—399)
4. Department of Agriculture (Parts 400—499)
5. Department of State (Parts 600—699)
6. Agency for International Development (Parts 700—799)
7. Department of Veterans Affairs (Parts 800—899)
8. Department of Energy (Parts 900—999)
9. Department of the Treasury (Parts 1000—1099)
10. Department of Defense (Parts 1100—1199)
11. Department of Transportation (Parts 1200—1299)
12. Department of Commerce (Parts 1300—1399)
13. Department of the Interior (Parts 1400—1499)
14. Environmental Protection Agency (Parts 1500—1599)
15. National Aeronautics and Space Administration (Parts 1800—1899)
17. Corporation for National and Community Service (Parts 2200—2299)
18. Social Security Administration (Parts 2300—2399)
19. Housing and Urban Development (Parts 2400—2499)
20. National Science Foundation (Parts 2500—2599)
21. National Archives and Records Administration (Parts 2600—2699)
22. Small Business Administration (Parts 2700—2799)
Chap.

Title 2—Grants and Agreements—Continued

XXVIII Department of Justice (Parts 2800—2899)
XXIX Department of Labor (Parts 2900—2999)
XXX Department of Homeland Security (Parts 3000—3099)
XXXI Institute of Museum and Library Services (Parts 3100—3199)
XXXII National Endowment for the Arts (Parts 3200—3299)
XXXIII National Endowment for the Humanities (Parts 3300—3399)
XXXIV Department of Education (Parts 3400—3499)
XXXV Export-Import Bank of the United States (Parts 3500—3599)
XXXVI Office of National Drug Control Policy, Executive Office of the
President (Parts 3600—3699)
XXXVII Peace Corps (Parts 3700—3799)
LVIII Election Assistance Commission (Parts 5800—5899)
LIX Gulf Coast Ecosystem Restoration Council (Parts 5900—5999)

Title 3—The President

I Executive Office of the President (Parts 100—199)

Title 4—Accounts

I Government Accountability Office (Parts 1—199)

Title 5—Administrative Personnel

I Office of Personnel Management (Parts 1—1199)
II Merit Systems Protection Board (Parts 1200—1299)
III Office of Management and Budget (Parts 1300—1399)
IV Office of Personnel Management and Office of the Director of
National Intelligence (Parts 1400—1499)
V The International Organizations Employees Loyalty Board
(Parts 1500—1599)
VI Federal Retirement Thrift Investment Board (Parts 1600—1699)
VII Office of Special Counsel (Parts 1800—1899)
IX Appalachian Regional Commission (Parts 1900—1999)
XI Armed Forces Retirement Home (Parts 2100—2199)
XIV Federal Labor Relations Authority, General Counsel of the Fed-
eral Labor Relations Authority and Federal Service Impasses
Panel (Parts 2400—2499)
XVI Office of Government Ethics (Parts 2600—2699)
XXI Department of the Treasury (Parts 3100—3199)
XXII Federal Deposit Insurance Corporation (Parts 3200—3299)
XXIII Department of Energy (Parts 3300—3399)
XXIV Federal Energy Regulatory Commission (Parts 3400—3499)
XXV Department of the Interior (Parts 3500—3599)
XXVI Department of Defense (Parts 3600—3699)
XXVIII Department of Justice (Parts 3800—3899)
Title 5—Administrative Personnel—Continued

XXIX Federal Communications Commission (Parts 3900—3999)
XXX Farm Credit System Insurance Corporation (Parts 4000—4099)
XXXI Farm Credit Administration (Parts 4100—4199)
XXXIII Overseas Private Investment Corporation (Parts 4300—4399)
XXXIV Securities and Exchange Commission (Parts 4400—4499)
XXXV Office of Personnel Management (Parts 4500—4599)
XXXVI Department of Homeland Security (Parts 4600—4699)
XXXVII Federal Election Commission (Parts 4700—4799)
XL Interstate Commerce Commission (Parts 5000—5099)
XLI Commodity Futures Trading Commission (Parts 5100—5199)
XLII Department of Labor (Parts 5200—5299)
XLIII National Science Foundation (Parts 5300—5399)
XLV Department of Health and Human Services (Parts 5500—5599)
XLVI Postal Rate Commission (Parts 5600—5699)
XLVII Federal Trade Commission (Parts 5700—5799)
XLVIII Nuclear Regulatory Commission (Parts 5800—5899)
XLIX Federal Labor Relations Authority (Parts 5900—5999)
L Department of Transportation (Parts 6000—6099)
LI Export-Import Bank of the United States (Parts 6200—6299)
LII Department of Education (Parts 6300—6399)
LIV Environmental Protection Agency (Parts 6400—6499)
LV National Endowment for the Arts (Parts 6500—6599)
LVI National Endowment for the Humanities (Parts 6600—6699)
LVII General Services Administration (Parts 6700—6799)
LVIII Board of Governors of the Federal Reserve System (Parts 6800—6899)
LIX National Aeronautics and Space Administration (Parts 6900—6999)
LX United States Postal Service (Parts 7000—7099)
LXI National Labor Relations Board (Parts 7100—7199)
LXII Equal Employment Opportunity Commission (Parts 7200—7299)
LXIII Inter-American Foundation (Parts 7300—7399)
LXIV Merit Systems Protection Board (Parts 7400—7499)
LXV Department of Housing and Urban Development (Parts 7500—7599)
LXVI National Archives and Records Administration (Parts 7600—7699)
LXVII Institute of Museum and Library Services (Parts 7700—7799)
LXVIII Commission on Civil Rights (Parts 7800—7899)
LXIX Tennessee Valley Authority (Parts 7900—7999)
LXX Court Services and Offender Supervision Agency for the District of Columbia (Parts 8000—8099)
LXXI Consumer Product Safety Commission (Parts 8100—8199)
LXXII Department of Agriculture (Parts 8300—8399)
LXXIV Federal Mine Safety and Health Review Commission (Parts 8400—8499)
Title 5—Administrative Personnel—Continued

LXXVI Federal Retirement Thrift Investment Board (Parts 8600—8699)
LXXVII Office of Management and Budget (Parts 8700—8799)
LXXX Federal Housing Finance Agency (Parts 9000—9099)
LXXXIII Special Inspector General for Afghanistan Reconstruction (Parts 9300—9399)
LXXXIV Bureau of Consumer Financial Protection (Parts 9400—9499)
LXXXVI National Credit Union Administration (Parts 9600—9699)
XCII Council of the Inspectors General on Integrity and Efficiency (Parts 9800—9899)
XCIX Military Compensation and Retirement Modernization Commission (Parts 9900—9999)
C National Council on Disability (Parts 10000—10049)

Title 6—Domestic Security

I Department of Homeland Security, Office of the Secretary (Parts 1—199)
X Privacy and Civil Liberties Oversight Board (Parts 1000—1099)

Title 7—Agriculture

SUBTITLE A—Office of the Secretary of Agriculture (Parts 0—26)
SUBTITLE B—Regulations of the Department of Agriculture
I Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture (Parts 27—209)
II Food and Nutrition Service, Department of Agriculture (Parts 210—299)
III Animal and Plant Health Inspection Service, Department of Agriculture (Parts 300—399)
IV Federal Crop Insurance Corporation, Department of Agriculture (Parts 400—499)
V Agricultural Research Service, Department of Agriculture (Parts 500—599)
VI Natural Resources Conservation Service, Department of Agriculture (Parts 600—699)
VII Farm Service Agency, Department of Agriculture (Parts 700—799)
VIII Grain Inspection, Packers and Stockyards Administration (Federal Grain Inspection Service), Department of Agriculture (Parts 800—899)
IX Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture (Parts 900—999)
X Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture (Parts 1000—1199)
Title 7—Agriculture—Continued

XI Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture (Parts 1200—1299)

XIV Commodity Credit Corporation, Department of Agriculture (Parts 1400—1499)

XV Foreign Agricultural Service, Department of Agriculture (Parts 1500—1599)

XVI Rural Telephone Bank, Department of Agriculture (Parts 1600—1699)

XVII Rural Utilities Service, Department of Agriculture (Parts 1700—1799)

XVIII Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, Department of Agriculture (Parts 1800—2099)

XX Local Television Loan Guarantee Board (Parts 2200—2299)

XXV Office of Advocacy and Outreach, Department of Agriculture (Parts 2500—2599)

XXVI Office of Inspector General, Department of Agriculture (Parts 2600—2699)

XXVII Office of Information Resources Management, Department of Agriculture (Parts 2700—2799)

XXVIII Office of Operations, Department of Agriculture (Parts 2800—2899)

XXIX Office of Energy Policy and New Uses, Department of Agriculture (Parts 2900—2999)

XXX Office of the Chief Financial Officer, Department of Agriculture (Parts 3000—3099)

XXXI Office of Environmental Quality, Department of Agriculture (Parts 3100—3199)

XXXII Office of Procurement and Property Management, Department of Agriculture (Parts 3200—3299)

XXXIII Office of Transportation, Department of Agriculture (Parts 3300—3399)

XXXIV National Institute of Food and Agriculture (Parts 3400—3499)

XXXV Rural Housing Service, Department of Agriculture (Parts 3500—3599)

XXXVI National Agricultural Statistics Service, Department of Agriculture (Parts 3600—3699)

XXXVII Economic Research Service, Department of Agriculture (Parts 3700—3799)

XXXVIII World Agricultural Outlook Board, Department of Agriculture (Parts 3800—3899)

XLII [Reserved]

Title 8—Aliens and Nationality

I Department of Homeland Security (Immigration and Naturalization) (Parts 1—499)
Title 8—Aliens and Nationality—Continued

V Executive Office for Immigration Review, Department of Justice (Parts 1000—1399)

Title 9—Animals and Animal Products

I Animal and Plant Health Inspection Service, Department of Agriculture (Parts 1—199)
II Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs), Department of Agriculture (Parts 200—299)
III Food Safety and Inspection Service, Department of Agriculture (Parts 300—599)

Title 10—Energy

I Nuclear Regulatory Commission (Parts 0—199)
II Department of Energy (Parts 200—699)
III Department of Energy (Parts 700—999)
X Department of Energy (General Provisions) (Parts 1000—1099)
XIII Nuclear Waste Technical Review Board (Parts 1300—1399)
XVII Defense Nuclear Facilities Safety Board (Parts 1700—1799)
XVIII Northeast Interstate Low-Level Radioactive Waste Commission (Parts 1800—1899)

Title 11—Federal Elections

I Federal Election Commission (Parts 1—9099)
II Election Assistance Commission (Parts 9400—9499)

Title 12—Banks and Banking

I Comptroller of the Currency, Department of the Treasury (Parts 1—199)
II Federal Reserve System (Parts 200—299)
III Federal Deposit Insurance Corporation (Parts 300—399)
IV Export-Import Bank of the United States (Parts 400—499)
V Office of Thrift Supervision, Department of the Treasury (Parts 500—599)
VI Farm Credit Administration (Parts 600—699)
VII National Credit Union Administration (Parts 700—799)
VIII Federal Financing Bank (Parts 800—899)
IX Federal Housing Finance Board (Parts 900—999)
X Bureau of Consumer Financial Protection (Parts 1000—1099)
XI Federal Financial Institutions Examination Council (Parts 1100—1199)
XII Federal Housing Finance Agency (Parts 1200—1299)
XIII Financial Stability Oversight Council (Parts 1300—1399)
XIV Farm Credit System Insurance Corporation (Parts 1400—1499)
Title 12—Banks and Banking—Continued

XV Department of the Treasury (Parts 1500—1599)
XVI Office of Financial Research (Parts 1600—1699)
XVII Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development (Parts 1700—1799)
XVIII Community Development Financial Institutions Fund, Department of the Treasury (Parts 1800—1899)

Title 13—Business Credit and Assistance

I Small Business Administration (Parts I—199)
III Economic Development Administration, Department of Commerce (Parts 300—399)
IV Emergency Steel Guarantee Loan Board (Parts 400—499)
V Emergency Oil and Gas Guaranteed Loan Board (Parts 500—599)

Title 14—Aeronautics and Space

I Federal Aviation Administration, Department of Transportation (Parts 1—199)
II Office of the Secretary, Department of Transportation (Aviation Proceedings) (Parts 200—399)
III Commercial Space Transportation, Federal Aviation Administration, Department of Transportation (Parts 400—1199)
V National Aeronautics and Space Administration (Parts 1200—1299)
VI Air Transportation System Stabilization (Parts 1300—1399)

Title 15—Commerce and Foreign Trade

SUBTITLE A—OFFICE OF THE SECRETARY OF COMMERCE (PARTS 0—29)

SUBTITLE B—REGULATIONS RELATING TO COMMERCE AND FOREIGN TRADE

I Bureau of the Census, Department of Commerce (Parts 30—199)
II National Institute of Standards and Technology, Department of Commerce (Parts 200—299)
III International Trade Administration, Department of Commerce (Parts 300—399)
IV Foreign-Trade Zones Board, Department of Commerce (Parts 400—499)
VII Bureau of Industry and Security, Department of Commerce (Parts 700—799)
VIII Bureau of Economic Analysis, Department of Commerce (Parts 800—899)
IX National Oceanic and Atmospheric Administration, Department of Commerce (Parts 900—999)
XI Technology Administration, Department of Commerce (Parts 1100—1199)
XIII East-West Foreign Trade Board (Parts 1300—1399)
Title 15—Commerce and Foreign Trade—Continued

XIV Minority Business Development Agency (Parts 1400—1499)
   Subtitle C—Regulations Relating to Foreign Trade Agreements

XX Office of the United States Trade Representative (Parts 2000—2099)
   Subtitle D—Regulations Relating to Telecommunications and Information

XXIII National Telecommunications and Information Administration, Department of Commerce (Parts 2300—2399)

Title 16—Commercial Practices

I Federal Trade Commission (Parts 0—999)
II Consumer Product Safety Commission (Parts 1000—1799)

Title 17—Commodity and Securities Exchanges

I Commodity Futures Trading Commission (Parts 1—199)
II Securities and Exchange Commission (Parts 200—399)
IV Department of the Treasury (Parts 400—499)

Title 18—Conservation of Power and Water Resources

I Federal Energy Regulatory Commission, Department of Energy (Parts 1—399)
III Delaware River Basin Commission (Parts 400—499)
VI Water Resources Council (Parts 700—799)
VIII Susquehanna River Basin Commission (Parts 800—899)
XIII Tennessee Valley Authority (Parts 1300—1399)

Title 19—Customs Duties

I U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury (Parts 0—199)
II United States International Trade Commission (Parts 200—299)
III International Trade Administration, Department of Commerce (Parts 300—399)
IV U.S. Immigration and Customs Enforcement, Department of Homeland Security (Parts 400—599)

Title 20—Employees’ Benefits

I Office of Workers’ Compensation Programs, Department of Labor (Parts 1—199)
II Railroad Retirement Board (Parts 200—399)
III Social Security Administration (Parts 400—499)
IV Employees’ Compensation Appeals Board, Department of Labor (Parts 500—599)
Chap.  Title 20—Employees' Benefits—Continued

V Employment and Training Administration, Department of Labor (Parts 600—699)
VI Office of Workers’ Compensation Programs, Department of Labor (Parts 700—799)
VII Benefits Review Board, Department of Labor (Parts 800—899)
VIII Joint Board for the Enrollment of Actuaries (Parts 900—999)
IX Office of the Assistant Secretary for Veterans' Employment and Training Service, Department of Labor (Parts 1000—1099)

Title 21—Food and Drugs

I Food and Drug Administration, Department of Health and Human Services (Parts 1—1299)
II Drug Enforcement Administration, Department of Justice (Parts 1300—1399)
III Office of National Drug Control Policy (Parts 1400—1499)

Title 22—Foreign Relations

I Department of State (Parts 1—199)
II Agency for International Development (Parts 200—299)
III Peace Corps (Parts 300—399)
IV International Joint Commission, United States and Canada (Parts 400—499)
V Broadcasting Board of Governors (Parts 500—599)
VI Overseas Private Investment Corporation (Parts 700—799)
IX Foreign Service Grievance Board (Parts 900—999)
X Inter-American Foundation (Parts 1000—1099)
XI International Boundary and Water Commission, United States and Mexico, United States Section (Parts 1100—1199)
XII United States International Development Cooperation Agency (Parts 1200—1299)
XIII Millennium Challenge Corporation (Parts 1300—1399)
XIV Foreign Service Labor Relations Board; Federal Labor Relations Authority; General Counsel of the Federal Labor Relations Authority; and the Foreign Service Impasse Disputes Panel (Parts 1400—1499)
XV African Development Foundation (Parts 1500—1599)
XVI Japan-United States Friendship Commission (Parts 1600—1699)
XVII United States Institute of Peace (Parts 1700—1799)

Title 23—Highways

I Federal Highway Administration, Department of Transportation (Parts 1—999)
II National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation (Parts 1200—1299)

193
Title 23—Highways—Continued

III National Highway Traffic Safety Administration, Department of Transportation (Parts 1300—1399)

Title 24—Housing and Urban Development

SUBTITLE A—Office of the Secretary, Department of Housing and Urban Development (Parts 0—99)

SUBTITLE B—Regulations Relating to Housing and Urban Development

I Office of Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development (Parts 100—199)

II Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 200—299)

III Government National Mortgage Association, Department of Housing and Urban Development (Parts 300—399)

IV Office of Housing and Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development (Parts 400—499)

V Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 500—599)

VI Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 600—699) [Reserved]

VII Office of the Secretary, Department of Housing and Urban Development (Housing Assistance Programs and Public and Indian Housing Programs) (Parts 700—799)

VIII Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Section 8 Housing Assistance Programs, Section 202 Direct Loan Program, Section 202 Supportive Housing for the Elderly Program and Section 811 Supportive Housing for Persons With Disabilities Program) (Parts 800—899)

IX Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (Parts 900—1699)

X Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Interstate Land Sales Registration Program) (Parts 1700—1799)

XII Office of Inspector General, Department of Housing and Urban Development (Parts 2000—2099)

XV Emergency Mortgage Insurance and Loan Programs, Department of Housing and Urban Development (Parts 2700—2799) [Reserved]

XX Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 3200—3899)

XXIV Board of Directors of the HOPE for Homeowners Program (Parts 4000—4099) [Reserved]

XXV Neighborhood Reinvestment Corporation (Parts 4100—4199)
Title 25—Indians

I Bureau of Indian Affairs, Department of the Interior (Parts 1—299)

II Indian Arts and Crafts Board, Department of the Interior (Parts 300—399)

III National Indian Gaming Commission, Department of the Interior (Parts 500—599)

IV Office of Navajo and Hopi Indian Relocation (Parts 700—799)

V Bureau of Indian Affairs, Department of the Interior, and Indian Health Service, Department of Health and Human Services (Part 900)

VI Office of the Assistant Secretary-Indian Affairs, Department of the Interior (Parts 1000—1199)

VII Office of the Special Trustee for American Indians, Department of the Interior (Parts 1200—1299)

Title 26—Internal Revenue

I Internal Revenue Service, Department of the Treasury (Parts 1—End)

Title 27—Alcohol, Tobacco Products and Firearms

I Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury (Parts 1—399)

II Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice (Parts 400—699)

Title 28—Judicial Administration

I Department of Justice (Parts 0—299)

III Federal Prison Industries, Inc., Department of Justice (Parts 300—399)

V Bureau of Prisons, Department of Justice (Parts 500—599)

VI Offices of Independent Counsel, Department of Justice (Parts 600—699)

VII Office of Independent Counsel (Parts 700—799)

VIII Court Services and Offender Supervision Agency for the District of Columbia (Parts 800—899)

IX National Crime Prevention and Privacy Compact Council (Parts 900—999)

XI Department of Justice and Department of State (Parts 1100—1199)

Title 29—Labor

SUBTITLE A—Office of the Secretary of Labor (Parts 0—99)

SUBTITLE B—Regulations Relating to Labor

I National Labor Relations Board (Parts 100—199)
Title 29—Labor—Continued

II Office of Labor-Management Standards, Department of Labor (Parts 200—299)
III National Railroad Adjustment Board (Parts 300—399)
IV Office of Labor-Management Standards, Department of Labor (Parts 400—499)
V Wage and Hour Division, Department of Labor (Parts 500—899)
IX Construction Industry Collective Bargaining Commission (Parts 900—999)
X National Mediation Board (Parts 1200—1299)
XII Federal Mediation and Conciliation Service (Parts 1400—1499)
XIV Equal Employment Opportunity Commission (Parts 1600—1699)
XVII Occupational Safety and Health Administration, Department of Labor (Parts 1900—1999)
XX Occupational Safety and Health Review Commission (Parts 2200—2499)
XXV Employee Benefits Security Administration, Department of Labor (Parts 2500—2599)
XXVII Federal Mine Safety and Health Review Commission (Parts 2700—2799)
XL Pension Benefit Guaranty Corporation (Parts 4000—4999)

Title 30—Mineral Resources

I Mine Safety and Health Administration, Department of Labor (Parts 1—199)
II Bureau of Safety and Environmental Enforcement, Department of the Interior (Parts 200—299)
IV Geological Survey, Department of the Interior (Parts 400—499)
V Bureau of Ocean Energy Management, Department of the Interior (Parts 500—599)
VII Office of Surface Mining Reclamation and Enforcement, Department of the Interior (Parts 700—999)
XII Office of Natural Resources Revenue, Department of the Interior (Parts 1200—1299)

Title 31—Money and Finance: Treasury

SUBTITLE A—OFFICE OF THE SECRETARY OF THE TREASURY (PARTS 0—50)
SUBTITLE B—REGULATIONS RELATING TO MONEY AND FINANCE
I Monetary Offices, Department of the Treasury (Parts 51—199)
II Fiscal Service, Department of the Treasury (Parts 200—399)
IV Secret Service, Department of the Treasury (Parts 400—499)
V Office of Foreign Assets Control, Department of the Treasury (Parts 500—599)
VI Bureau of Engraving and Printing, Department of the Treasury (Parts 600—699)
VII Federal Law Enforcement Training Center, Department of the Treasury (Parts 700—799)
Title 31—Money and Finance: Treasury—Continued

VIII Office of International Investment, Department of the Treasury (Parts 800—899)
IX Federal Claims Collection Standards (Department of the Treasury—Department of Justice) (Parts 900—999)
X Financial Crimes Enforcement Network, Department of the Treasury (Parts 1000—1099)

Title 32—National Defense

Subtitle A—Department of Defense
I Office of the Secretary of Defense (Parts 1—399)
V Department of the Army (Parts 400—699)
VI Department of the Navy (Parts 700—799)
VII Department of the Air Force (Parts 800—1099)
Subtitle B—Other Regulations Relating to National Defense
XII Defense Logistics Agency (Parts 1200—1299)
XVI Selective Service System (Parts 1600—1699)
XVII Office of the Director of National Intelligence (Parts 1700—1799)
XVIII National Counterintelligence Center (Parts 1800—1899)
XIX Central Intelligence Agency (Parts 1900—1999)
XX Information Security Oversight Office, National Archives and Records Administration (Parts 2000—2099)
XXI National Security Council (Parts 2100—2199)
XXIV Office of Science and Technology Policy (Parts 2400—2499)
XXVII Office for Micronesian Status Negotiations (Parts 2700—2799)
XXVIII Office of the Vice President of the United States (Parts 2800—2899)

Title 33—Navigation and Navigable Waters

I Coast Guard, Department of Homeland Security (Parts 1—199)
II Corps of Engineers, Department of the Army (Parts 200—399)
IV Saint Lawrence Seaway Development Corporation, Department of Transportation (Parts 400—499)

Title 34—Education

Subtitle A—Office of the Secretary, Department of Education (Parts 1—99)
Subtitle B—Regulations of the Offices of the Department of Education
I Office for Civil Rights, Department of Education (Parts 100—199)
II Office of Elementary and Secondary Education, Department of Education (Parts 200—299)
III Office of Special Education and Rehabilitative Services, Department of Education (Parts 300—399)
Title 34—Education—Continued

IV Office of Career, Technical and Adult Education, Department of Education (Parts 400—499)
V Office of Bilingual Education and Minority Languages Affairs, Department of Education (Parts 500—599) [Reserved]
VI Office of Postsecondary Education, Department of Education (Parts 600—699)
VII Office of Educational Research and Improvement, Department of Education (Parts 700—799) [Reserved]

SUBTITLE C—Regulations Relating to Education
XI [Reserved]
XII National Council on Disability (Parts 1200—1299)

Title 35 [Reserved]

Title 36—Parks, Forests, and Public Property

I National Park Service, Department of the Interior (Parts 1—199)
II Forest Service, Department of Agriculture (Parts 200—299)
III Corps of Engineers, Department of the Army (Parts 300—399)
IV American Battle Monuments Commission (Parts 400—499)
V Smithsonian Institution (Parts 500—599)
VI [Reserved]
VII Library of Congress (Parts 700—799)
VIII Advisory Council on Historic Preservation (Parts 800—899)
IX Pennsylvania Avenue Development Corporation (Parts 900—999)
X Presidio Trust (Parts 1000—1099)
XI Architectural and Transportation Barriers Compliance Board (Parts 1100—1199)
XII National Archives and Records Administration (Parts 1200—1299)
XV Oklahoma City National Memorial Trust (Parts 1500—1599)
XVI Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation (Parts 1600—1699)

Title 37—Patents, Trademarks, and Copyrights

I United States Patent and Trademark Office, Department of Commerce (Parts 1—199)
II U.S. Copyright Office, Library of Congress (Parts 200—299)
III Copyright Royalty Board, Library of Congress (Parts 300—399)
IV Assistant Secretary for Technology Policy, Department of Commerce (Parts 400—599)

Title 38—Pensions, Bonuses, and Veterans' Relief

I Department of Veterans Affairs (Parts 0—199)
II Armed Forces Retirement Home (Parts 200—299)
Title 39—Postal Service

I United States Postal Service (Parts 1—999)
III Postal Regulatory Commission (Parts 3000—3099)

Title 40—Protection of Environment

I Environmental Protection Agency (Parts 1—1099)
IV Environmental Protection Agency and Department of Justice (Parts 1400—1499)
V Council on Environmental Quality (Parts 1500—1599)
VI Chemical Safety and Hazard Investigation Board (Parts 1600—1699)
VII Environmental Protection Agency and Department of Defense; Uniform National Discharge Standards for Vessels of the Armed Forces (Parts 1700—1799)
VIII Gulf Coast Ecosystem Restoration Council (Parts 1800—1899)

Title 41—Public Contracts and Property Management

SUBTITLE A—Federal Procurement Regulations System

SUBTITLE B—Other Provisions Relating to Public Contracts
50 Public Contracts, Department of Labor (Parts 50–1—50–999)
51 Committee for Purchase From People Who Are Blind or Severely Disabled (Parts 51–1—51–99)
60 Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Parts 60–1—60–999)
61 Office of the Assistant Secretary for Veterans’ Employment and Training Service, Department of Labor (Parts 61–1—61–999)
62—100 [Reserved]
SUBTITLE C—Federal Property Management Regulations System
101 Federal Property Management Regulations (Parts 101–1—101–99)
102 Federal Management Regulation (Parts 102–1—102–298)
103–104 [Reserved]
105 General Services Administration (Parts 105–1—105–999)
109 Department of Energy Property Management Regulations (Parts 109–1—109–99)
114 Department of the Interior (Parts 114–1—114–99)
115 Environmental Protection Agency (Parts 115–1—115–99)
128 Department of Justice (Parts 128–1—128–99)
129—200 [Reserved]
SUBTITLE D—Other Provisions Relating to Property Management [Reserved]
SUBTITLE E—Federal Information Resources Management Regulations System [Reserved]
SUBTITLE F—Federal Travel Regulation System
300 General (Parts 300–1—300–99)
301 Temporary Duty (TDY) Travel Allowances (Parts 301–1—301–99)
Title 41—Public Contracts and Property Management—Continued

Chap. 302 Relocation Allowances (Parts 302–1—302–99)
303 Payment of Expenses Connected with the Death of Certain Employees (Part 303–1—303–99)
304 Payment of Travel Expenses from a Non-Federal Source (Parts 304–1—304–99)

Title 42—Public Health

I Public Health Service, Department of Health and Human Services (Parts 1—199)
IV Centers for Medicare & Medicaid Services, Department of Health and Human Services (Parts 400—599)
V Office of Inspector General-Health Care, Department of Health and Human Services (Parts 1000—1999)

Title 43—Public Lands: Interior

SUBTITLE A—OFFICE OF THE SECRETARY OF THE INTERIOR (PARTS 1—199)
SUBTITLE B—REGULATIONS RELATING TO PUBLIC LANDS
I Bureau of Reclamation, Department of the Interior (Parts 400—999)
II Bureau of Land Management, Department of the Interior (Parts 1000—9999)
III Utah Reclamation Mitigation and Conservation Commission (Parts 10000—10099)

Title 44—Emergency Management and Assistance

I Federal Emergency Management Agency, Department of Homeland Security (Parts 0—399)
IV Department of Commerce and Department of Transportation (Parts 400—499)

Title 45—Public Welfare

SUBTITLE A—DEPARTMENT OF HEALTH AND HUMAN SERVICES (PARTS 1—199)
SUBTITLE B—REGULATIONS RELATING TO PUBLIC WELFARE
II Office of Family Assistance (Assistance Programs), Administration for Children and Families, Department of Health and Human Services (Parts 200—299)
III Office of Child Support Enforcement (Child Support Enforcement Program), Administration for Children and Families, Department of Health and Human Services (Parts 300—399)
IV Office of Refugee Resettlement, Administration for Children and Families, Department of Health and Human Services (Parts 400—499)
V Foreign Claims Settlement Commission of the United States, Department of Justice (Parts 500—599)
Title 45—Public Welfare—Continued

VI National Science Foundation (Parts 600—699)
VII Commission on Civil Rights (Parts 700—799)
VIII Office of Personnel Management (Parts 800—899)
X Office of Community Services, Administration for Children and Families, Department of Health and Human Services (Parts 1000—1099)
XI National Foundation on the Arts and the Humanities (Parts 1100—1199)
XII Corporation for National and Community Service (Parts 1200—1299)
XIII Office of Human Development Services, Department of Health and Human Services (Parts 1300—1399)
XVI Legal Services Corporation (Parts 1600—1699)
XVII National Commission on Libraries and Information Science (Parts 1700—1799)
XVIII Harry S. Truman Scholarship Foundation (Parts 1800—1899)
XXI Commission on Fine Arts (Parts 2100—2199)
XXIII Arctic Research Commission (Part 2301)
XXIV James Madison Memorial Fellowship Foundation (Parts 2400—2499)
XXV Corporation for National and Community Service (Parts 2500—2599)

Title 46—Shipping

I Coast Guard, Department of Homeland Security (Parts 1—199)
II Maritime Administration, Department of Transportation (Parts 200—399)
III Coast Guard (Great Lakes Pilotage), Department of Homeland Security (Parts 400—499)
IV Federal Maritime Commission (Parts 500—599)

Title 47—Telecommunication

I Federal Communications Commission (Parts 0—199)
II Office of Science and Technology Policy and National Security Council (Parts 200—299)
III National Telecommunications and Information Administration, Department of Commerce (Parts 300—399)
IV National Telecommunications and Information Administration, Department of Commerce, and National Highway Traffic Safety Administration, Department of Transportation (Parts 400—499)

Title 48—Federal Acquisition Regulations System

1 Federal Acquisition Regulation (Parts 1—99)
2 Defense Acquisition Regulations System, Department of Defense (Parts 200—299)
Title 48—Federal Acquisition Regulations System—Continued

3 Health and Human Services (Parts 300—399)
4 Department of Agriculture (Parts 400—499)
5 General Services Administration (Parts 500—599)
6 Department of State (Parts 600—699)
7 Agency for International Development (Parts 700—799)
8 Department of Veterans Affairs (Parts 800—899)
9 Department of Energy (Parts 900—999)
10 Department of the Treasury (Parts 1000—1099)
12 Department of Transportation (Parts 1200—1299)
13 Department of Commerce (Parts 1300—1399)
14 Department of the Interior (Parts 1400—1499)
15 Environmental Protection Agency (Parts 1500—1599)
16 Office of Personnel Management, Federal Employees Health Benefits Acquisition Regulation (Parts 1600—1699)
17 Office of Personnel Management (Parts 1700—1799)
18 National Aeronautics and Space Administration (Parts 1800—1899)
19 Broadcasting Board of Governors (Parts 1900—1999)
20 Nuclear Regulatory Commission (Parts 2000—2099)
21 Office of Personnel Management, Federal Employees Group Life Insurance Federal Acquisition Regulation (Parts 2100—2199)
23 Social Security Administration (Parts 2300—2399)
24 Department of Housing and Urban Development (Parts 2400—2499)
25 National Science Foundation (Parts 2500—2599)
28 Department of Justice (Parts 2800—2899)
29 Department of Labor (Parts 2900—2999)
30 Department of Homeland Security, Homeland Security Acquisition Regulation (HSAR) (Parts 3000—3099)
34 Department of Education Acquisition Regulation (Parts 3400—3499)
51 Department of the Army Acquisition Regulations (Parts 5100—5199)
52 Department of the Navy Acquisition Regulations (Parts 5200—5299)
53 Department of the Air Force Federal Acquisition Regulation Supplement (Parts 5300—5399) [Reserved]
54 Defense Logistics Agency, Department of Defense (Parts 5400—5499)
57 African Development Foundation (Parts 5700—5799)
61 Civilian Board of Contract Appeals, General Services Administration (Parts 6100—6199)
63 Department of Transportation Board of Contract Appeals (Parts 6300—6399)
99 Cost Accounting Standards Board, Office of Federal Procurement Policy, Office of Management and Budget (Parts 9900—9999)

202
Title 49—Transportation

SUBTITLE A—Office of the Secretary of Transportation (Parts 1—99)

SUBTITLE B—Other Regulations Relating to Transportation

I Pipeline and Hazardous Materials Safety Administration, Department of Transportation (Parts 100—199)

II Federal Railroad Administration, Department of Transportation (Parts 200—299)

III Federal Motor Carrier Safety Administration, Department of Transportation (Parts 300—399)

IV Coast Guard, Department of Homeland Security (Parts 400—499)

V National Highway Traffic Safety Administration, Department of Transportation (Parts 500—599)

VI Federal Transit Administration, Department of Transportation (Parts 600—699)

VII National Railroad Passenger Corporation (AMTRAK) (Parts 700—799)

VIII National Transportation Safety Board (Parts 800—999)

X Surface Transportation Board, Department of Transportation (Parts 1000—1399)

XI Research and Innovative Technology Administration, Department of Transportation (Parts 1400—1499) [Reserved]

XII Transportation Security Administration, Department of Homeland Security (Parts 1500—1699)

Title 50—Wildlife and Fisheries

I United States Fish and Wildlife Service, Department of the Interior (Parts 1—199)

II National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 200—299)

III International Fishing and Related Activities (Parts 300—399)

IV Joint Regulations (United States Fish and Wildlife Service, Department of the Interior and National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce); Endangered Species Committee Regulations (Parts 400—499)

V Marine Mammal Commission (Parts 500—599)

VI Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 600—699)
### Alphabetical List of Agencies Appearing in the CFR

(Revised as of April 1, 2016)

<table>
<thead>
<tr>
<th>Agency</th>
<th>CFR Title, Subtitle or Chapter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative Committee of the Federal Register</td>
<td>1, I</td>
</tr>
<tr>
<td>Administrative Conference of the United States</td>
<td>1, III</td>
</tr>
<tr>
<td>Advisory Council on Historic Preservation</td>
<td>36, VIII</td>
</tr>
<tr>
<td>Advocacy and Outreach, Office of</td>
<td>7, XXV</td>
</tr>
<tr>
<td>Afghanistan Reconstruction, Special Inspector General for</td>
<td>5, LXXXIII</td>
</tr>
<tr>
<td>African Development Foundation</td>
<td>22, XV</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 57</td>
</tr>
<tr>
<td>Agency for International Development</td>
<td>2, VII; 22, II</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 7</td>
</tr>
<tr>
<td>Agricultural Marketing Service</td>
<td>7, I, IX, X, XI</td>
</tr>
<tr>
<td>Agricultural Research Service</td>
<td>7, V</td>
</tr>
<tr>
<td>Agriculture Department</td>
<td>2, IV; 8, LXXXIII</td>
</tr>
<tr>
<td>Advocacy and Outreach, Office of</td>
<td>7, XXV</td>
</tr>
<tr>
<td>Agricultural Marketing Service</td>
<td>7, I, IX, X, XI</td>
</tr>
<tr>
<td>Agricultural Research Service</td>
<td>7, V</td>
</tr>
<tr>
<td>Animal and Plant Health Inspection Service</td>
<td>7, III; 9, I</td>
</tr>
<tr>
<td>Chief Financial Officer, Office of</td>
<td>7, XXX</td>
</tr>
<tr>
<td>Commodity Credit Corporation</td>
<td>7, XIV</td>
</tr>
<tr>
<td>Economic Research Service</td>
<td>7, XXXVII</td>
</tr>
<tr>
<td>Energy Policy and New Uses, Office of</td>
<td>2, IX; 7, XXXIX</td>
</tr>
<tr>
<td>Environmental Quality, Office of</td>
<td>7, XXXI</td>
</tr>
<tr>
<td>Farm Service Agency</td>
<td>7, VII, XVIII</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 4</td>
</tr>
<tr>
<td>Federal Crop Insurance Corporation</td>
<td>7, IV</td>
</tr>
<tr>
<td>Food and Nutrition Service</td>
<td>7, II</td>
</tr>
<tr>
<td>Food Safety and Inspection Service</td>
<td>9, III</td>
</tr>
<tr>
<td>Foreign Agricultural Service</td>
<td>7, XV</td>
</tr>
<tr>
<td>Forest Service</td>
<td>36, II</td>
</tr>
<tr>
<td>Grain Inspection, Packers and Stockyards Administration</td>
<td>7, VIII; 9, II</td>
</tr>
<tr>
<td>Information Resources Management, Office of</td>
<td>7, XXVII</td>
</tr>
<tr>
<td>Inspector General, Office of</td>
<td>7, XXVI</td>
</tr>
<tr>
<td>National Agricultural Library</td>
<td>7, XLI</td>
</tr>
<tr>
<td>National Agricultural Statistics Service</td>
<td>7, XXXVI</td>
</tr>
<tr>
<td>National Institute of Food and Agriculture</td>
<td>7, XXXIV</td>
</tr>
<tr>
<td>Natural Resources Conservation Service</td>
<td>7, VI</td>
</tr>
<tr>
<td>Operations, Office of</td>
<td>7, XXVIII</td>
</tr>
<tr>
<td>Procurement and Property Management, Office of</td>
<td>7, XXXII</td>
</tr>
<tr>
<td>Rural Business-Cooperative Service</td>
<td>7, XVIII, XLII</td>
</tr>
<tr>
<td>Rural Development Administration</td>
<td>7, XLII</td>
</tr>
<tr>
<td>Rural Housing Service</td>
<td>7, XVIII, XXXV</td>
</tr>
<tr>
<td>Rural Telephone Bank</td>
<td>7, XVI</td>
</tr>
<tr>
<td>Rural Utilities Service</td>
<td>7, XVII, XVIII, XLII</td>
</tr>
<tr>
<td>Secretary of Agriculture, Office of</td>
<td>7, Subtitle A</td>
</tr>
<tr>
<td>Transportation, Office of</td>
<td>7, XXXIII</td>
</tr>
<tr>
<td>World Agricultural Outlook Board</td>
<td>7, XXXVIII</td>
</tr>
<tr>
<td>Air Force Department</td>
<td>32, VII</td>
</tr>
<tr>
<td>Federal Acquisition Regulation Supplement</td>
<td>48, 53</td>
</tr>
<tr>
<td>Air Transportation Stabilization Board</td>
<td>14, VI</td>
</tr>
<tr>
<td>Alcohol and Tobacco Tax and Trade Bureau</td>
<td>27, I</td>
</tr>
<tr>
<td>Alcohol, Tobacco, Firearms, and Explosives, Bureau of AMTRAK</td>
<td>27, II</td>
</tr>
<tr>
<td>American Battle Monuments Commission</td>
<td>36, IV</td>
</tr>
<tr>
<td>American Indians, Office of the Special Trustee</td>
<td>25, VII</td>
</tr>
<tr>
<td>Agency</td>
<td>CFR Title, Subtitle or Chapter</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>--------------------------------</td>
</tr>
<tr>
<td>Animal and Plant Health Inspection Service</td>
<td>7, III; 9, I</td>
</tr>
<tr>
<td>Appalachian Regional Commission</td>
<td>5, IX</td>
</tr>
<tr>
<td>Architectural and Transportation Barriers Compliance Board</td>
<td>36, XI</td>
</tr>
<tr>
<td>Arctic Research Commission</td>
<td>45, XXIII</td>
</tr>
<tr>
<td>Armed Forces Retirement Home</td>
<td>5, XI</td>
</tr>
<tr>
<td>Army Department</td>
<td>32, V</td>
</tr>
<tr>
<td>Engineers, Corps of</td>
<td>33, II; 36, III</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 51</td>
</tr>
<tr>
<td>Bilingual Education and Minority Languages Affairs, Office of</td>
<td>34, V</td>
</tr>
<tr>
<td>Blind or Severely Disabled, Committee for Purchase from</td>
<td>41, 51</td>
</tr>
<tr>
<td>People Who Are</td>
<td></td>
</tr>
<tr>
<td>Broadcasting Board of Governors</td>
<td>22, V</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 19</td>
</tr>
<tr>
<td>Career, Technical and Adult Education, Office of</td>
<td>34, IV</td>
</tr>
<tr>
<td>Census Bureau</td>
<td>15, I</td>
</tr>
<tr>
<td>Centers for Medicare &amp; Medicaid Services</td>
<td>42, IV</td>
</tr>
<tr>
<td>Central Intelligence Agency</td>
<td>32, XIX</td>
</tr>
<tr>
<td>Chemical Safety and Hazardous Investigation Board</td>
<td>40, VI</td>
</tr>
<tr>
<td>Chief Financial Officer, Office of</td>
<td>7, XXX</td>
</tr>
<tr>
<td>Child Support Enforcement, Office of</td>
<td>45, III</td>
</tr>
<tr>
<td>Children and Families, Administration for</td>
<td>45, II, III, IV, X</td>
</tr>
<tr>
<td>Civil Rights, Commission on</td>
<td>5, LXVIII; 45, VII</td>
</tr>
<tr>
<td>Civil Rights, Office for</td>
<td>34, I</td>
</tr>
<tr>
<td>Council of the Inspectors General on Integrity and Efficiency</td>
<td>5, XCVIII</td>
</tr>
<tr>
<td>Court Services and Offender Supervision Agency for the</td>
<td>5, LXX</td>
</tr>
<tr>
<td>District of Columbia</td>
<td></td>
</tr>
<tr>
<td>Coast Guard</td>
<td>33, I; 46, I; 49, IV</td>
</tr>
<tr>
<td>Coast Guard (Great Lakes Pilotage)</td>
<td>46, III</td>
</tr>
<tr>
<td>Commerce Department</td>
<td>2, XIII; 44, IV; 50, VI</td>
</tr>
<tr>
<td>Census Bureau</td>
<td>15, I</td>
</tr>
<tr>
<td>Economic Analysis, Bureau of</td>
<td>15, VIII</td>
</tr>
<tr>
<td>Economic Development Administration</td>
<td>13, III</td>
</tr>
<tr>
<td>Emergency Management and Assistance</td>
<td>44, IV</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 13</td>
</tr>
<tr>
<td>Foreign-Trade Zones Board</td>
<td>15, IV</td>
</tr>
<tr>
<td>Industry and Security, Bureau of</td>
<td>15, VII</td>
</tr>
<tr>
<td>International Trade Administration</td>
<td>15, III; 19, III</td>
</tr>
<tr>
<td>National Institute of Standards and Technology</td>
<td>15, II</td>
</tr>
<tr>
<td>National Marine Fisheries Service</td>
<td>50, II, IV</td>
</tr>
<tr>
<td>National Oceanic and Atmospheric Administration</td>
<td>15, IX; 50, II, III, IV, VI</td>
</tr>
<tr>
<td>National Telecommunications and Information</td>
<td>15, XXIII; 47, III, IV</td>
</tr>
<tr>
<td>Administration</td>
<td></td>
</tr>
<tr>
<td>National Weather Service</td>
<td>15, IX</td>
</tr>
<tr>
<td>Patent and Trademark Office, United States</td>
<td>37, I</td>
</tr>
<tr>
<td>Productivity, Technology and Innovation, Assistant</td>
<td>37, IV</td>
</tr>
<tr>
<td>Secretary for Secretary of Commerce, Office of Technology Administration</td>
<td>15, Subtitle A</td>
</tr>
<tr>
<td>Technology Administration</td>
<td>15, XI</td>
</tr>
<tr>
<td>Technology Policy, Assistant Secretary for</td>
<td>37, IV</td>
</tr>
<tr>
<td>Commercial Space Transportation</td>
<td>14, III</td>
</tr>
<tr>
<td>Commodity Credit Corporation</td>
<td>7, XCV</td>
</tr>
<tr>
<td>Commodity Futures Trading Commission</td>
<td>5, XLIII; 17, I</td>
</tr>
<tr>
<td>Community Planning and Development, Office of Assistant</td>
<td>24, V, VI</td>
</tr>
<tr>
<td>Secretary for Community Services, Office of</td>
<td>45, X</td>
</tr>
<tr>
<td>Comptroller of the Currency</td>
<td>12, I</td>
</tr>
<tr>
<td>Construction Industry Collective Bargaining Commission</td>
<td>29, IX</td>
</tr>
<tr>
<td>Consumer Financial Protection Bureau</td>
<td>5, LXXXIV; 12, X</td>
</tr>
<tr>
<td>Consumer Product Safety Commission</td>
<td>5, LXXI; 16, II</td>
</tr>
<tr>
<td>Copyright Royalty Board</td>
<td>37, III</td>
</tr>
<tr>
<td>Corporation for National and Community Service</td>
<td>2, XXII; 45, XII, XXV</td>
</tr>
<tr>
<td>Cost Accounting Standards Board</td>
<td>48, 99</td>
</tr>
<tr>
<td>Council on Environmental Quality</td>
<td>40, V</td>
</tr>
<tr>
<td>Court Services and Offender Supervision Agency for the District of Columbia</td>
<td>5, LXX; 28, VIII</td>
</tr>
<tr>
<td>Customs and Border Protection</td>
<td>19, I</td>
</tr>
<tr>
<td>Defense Contract Audit Agency</td>
<td>32, I</td>
</tr>
</tbody>
</table>

206
<table>
<thead>
<tr>
<th>Agency</th>
<th>CFR Title, Subtitle or Chapter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Defense Department</td>
<td>2, XI; 5, XXVI; 32.</td>
</tr>
<tr>
<td>Advanced Research Projects Agency</td>
<td>Subtitle A; 40, VII</td>
</tr>
<tr>
<td>Air Force Department</td>
<td>32, I</td>
</tr>
<tr>
<td>Army Department</td>
<td>32, VII</td>
</tr>
<tr>
<td>Defense Acquisition Regulations System</td>
<td>32, V; 33, II; 36, III; 48, 51</td>
</tr>
<tr>
<td>Defense Intelligence Agency</td>
<td></td>
</tr>
<tr>
<td>Defense Logistics Agency</td>
<td>32, I, XII; 48, 54</td>
</tr>
<tr>
<td>Engineers, Corps of</td>
<td>33, II; 36, III</td>
</tr>
<tr>
<td>National Imagery and Mapping Agency</td>
<td></td>
</tr>
<tr>
<td>Navy Department</td>
<td>32, VI; 48, 52</td>
</tr>
<tr>
<td>Secretary of Defense, Office of</td>
<td>2, XI; 32, I</td>
</tr>
<tr>
<td>Defense Contract Audit Agency</td>
<td></td>
</tr>
<tr>
<td>Defense Intelligence Agency</td>
<td>32, I</td>
</tr>
<tr>
<td>Defense Logistics Agency</td>
<td></td>
</tr>
<tr>
<td>Defense Nuclear Facilities Safety Board</td>
<td>32, XII; 48, 54</td>
</tr>
<tr>
<td>Delaware River Basin Commission</td>
<td>10, XVII</td>
</tr>
<tr>
<td>District of Columbia, Court Services and Offender Supervision Agency for the Drug Enforcement Administration</td>
<td>5, LXX; 28, VIII</td>
</tr>
<tr>
<td>East-West Foreign Trade Board</td>
<td>21, II</td>
</tr>
<tr>
<td>Economic Analysis, Bureau of</td>
<td>15, XIII</td>
</tr>
<tr>
<td>Economic Development Administration</td>
<td>15, VII</td>
</tr>
<tr>
<td>Economic Research Service</td>
<td></td>
</tr>
<tr>
<td>Economic Research Service</td>
<td>13, III</td>
</tr>
<tr>
<td>Education, Department of</td>
<td></td>
</tr>
<tr>
<td>Bilingual Education and Minority Languages Affairs, Office of Career</td>
<td></td>
</tr>
<tr>
<td>Technical and Adult Education, Office of</td>
<td>34, IV</td>
</tr>
<tr>
<td>Civil Rights, Office for</td>
<td>34, I</td>
</tr>
<tr>
<td>Educational Research and Improvement, Office of</td>
<td>34, VII</td>
</tr>
<tr>
<td>Elementary and Secondary Education, Office of</td>
<td>34, II</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>34, IV</td>
</tr>
<tr>
<td>Postsecondary Education, Office of</td>
<td>34, VI</td>
</tr>
<tr>
<td>Secretary of Education, Office of</td>
<td>34, Subtitle A</td>
</tr>
<tr>
<td>Special Education and Rehabilitative Services, Office of Career</td>
<td>34, III</td>
</tr>
<tr>
<td>Technical, and Adult Education, Office of</td>
<td>34, IV</td>
</tr>
<tr>
<td>Educational Research and Improvement, Office of</td>
<td>34, VII</td>
</tr>
<tr>
<td>Election Assistance Commission</td>
<td>2, LVIII; 11, II</td>
</tr>
<tr>
<td>Elementary and Secondary Education, Office of</td>
<td>34, II</td>
</tr>
<tr>
<td>Emergency Oil and Gas Guaranteed Loan Board</td>
<td>13, V</td>
</tr>
<tr>
<td>Emergency Steel Guarantee Loan Board</td>
<td>13, IV</td>
</tr>
<tr>
<td>Employee Benefits Security Administration</td>
<td>29, XXV</td>
</tr>
<tr>
<td>Employees’ Compensation Appeals Board</td>
<td>20, IV</td>
</tr>
<tr>
<td>Employees Loyalty Board</td>
<td>5, V</td>
</tr>
<tr>
<td>Employment and Training Administration</td>
<td>20, V</td>
</tr>
<tr>
<td>Employment Standards Administration</td>
<td>20, VI</td>
</tr>
<tr>
<td>Endangered Species Committee</td>
<td>50, IV</td>
</tr>
<tr>
<td>Energy, Department of</td>
<td>2, IX; 5, XXIII; 10, II, III, X</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 9</td>
</tr>
<tr>
<td>Federal Energy Regulatory Commission</td>
<td>5, XXIV; 18, I</td>
</tr>
<tr>
<td>Property Management Regulations</td>
<td>41, 109</td>
</tr>
<tr>
<td>Energy, Office of the</td>
<td>7, XXIX</td>
</tr>
<tr>
<td>Engineers, Corps of the</td>
<td>33, II; 36, III</td>
</tr>
<tr>
<td>Engraving and Printing, Bureau of</td>
<td>31, VI</td>
</tr>
<tr>
<td>Environmental Protection Agency</td>
<td>2, XV; 5, LIV; 40, I, IV, VII</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 15</td>
</tr>
<tr>
<td>Property Management Regulations</td>
<td>41, 115</td>
</tr>
<tr>
<td>Environmental Quality, Office of</td>
<td>7, XXXI</td>
</tr>
<tr>
<td>Equal Employment Opportunity Commission</td>
<td>5, LXII; 29, XIV</td>
</tr>
<tr>
<td>Equal Opportunity, Office of Assistant Secretary for</td>
<td>24, I</td>
</tr>
<tr>
<td>Executive Office of the President</td>
<td>3, I</td>
</tr>
<tr>
<td>Environmental Quality, Council on Management and Budget, Office of</td>
<td>40, V</td>
</tr>
<tr>
<td></td>
<td>2, Subtitle A; 5, III, LXXVII; 14, VI; 48, 99</td>
</tr>
</tbody>
</table>
Agency | CFR Title, Subtitle or Chapter
---|---
National Drug Control Policy, Office of | 2, XXXVI; 21, III
National Security Council | 32, XXI: 47, 2
Presidential Documents | 3
Science and Technology Policy, Office of | 32, XXIV; 47, II
Trade Representative, Office of the United States | 15, XX
Export-Import Bank of the United States | 2, XXXV; 5, LII; 12, IV
Family Assistance, Office of | 45, II
Farm Credit Administration | 5, XXXI; 12, VI
Farm Credit System Insurance Corporation | 5, XXX; 12, XIV
Farm Service Agency | 7, VII, XVIII
Federal Acquisition Regulation | 48, I
Federal Aviation Administration | 14, I
Commercial Space Transportation | 14, III
Federal Claims Collection Standards | 31, IX
Federal Communications Commission | 5, XXIX; 47, I
Federal Crop Insurance Corporation | 7, IV
Federal Deposit Insurance Corporation | 5, XXII; 12, XII
Federal Emergency Management Agency | 44, I
Federal Employees Group Life Insurance Federal Acquisition Regulation | 48, 21
Federal Employees Health Benefits Acquisition Regulation | 48, 16
Federal Energy Regulatory Commission | 5, XXIV; 18, I
Federal Financial Institutions Examination Council | 12, XI
Federal Financing Bank | 12, VIII
Federal Highway Administration | 23, I, II
Federal Home Loan Mortgage Corporation | 1, IV
Federal Housing Enterprise Oversight Office | 12, XVII
Federal Housing Finance Agency | 5, LXXX; 12, XII
Federal Labor Relations Authority | 12, IX
Federal Law Enforcement Training Center | 5, XIV, XLIX; 22, XIV
Federal Law Enforcement Training Center | 31, VII
Federal Management Regulation | 41, 102
Federal Maritime Commission | 46, IV
Federal Mediation and Conciliation Service | 29, XII
Federal Mine Safety and Health Review Commission | 5, LXXIV; 29, XXVII
Federal Motor Carrier Safety Administration | 49, III
Federal Prison Industries, Inc. | 28, III
Federal Procurement Policy Office | 48, 99
Federal Property Management Regulations | 41, 101
Federal Railroad Administration | 49, II
Federal Register, Administrative Committee of | 1, 1
Federal Register, Office of | 1, II
Federal Reserve System | 12, II
Board of Governors | 5, LVII
Federal Retirement Thrift Investment Board | 5, VI, LXXXVI
Federal Service Impasses Panel | 5, XIV
Federal Trade Commission | 5, XLVII; 16, I
Federal Transit Administration | 49, VI
Federal Travel Regulation System | 41, Subtitle F
Financial Crimes Enforcement Network | 31, X
Financial Research Office | 12, XVI
Financial Stability Oversight Council | 12, XIII
Fine Arts, Commission on | 45, XXI
Fiscal Service | 31, II
Fish and Wildlife Service, United States | 50, I, IV
Food and Drug Administration | 21, I
Food and Nutrition Service | 7, II
Food Safety and Inspection Service | 9, III
Foreign Agricultural Service | 7, XV
Foreign Claims Settlement Commission of the United States | 45, V
Foreign Service Grievance Board | 22, IX
Foreign Service Impasses Disputes Panel | 22, XIV
Foreign Service Labor Relations Board | 22, XIV
Foreign-Trade Zones Board | 15, IV

208
<table>
<thead>
<tr>
<th>Agency</th>
<th>CFR Title, Subtitle or Chapter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Forest Service</td>
<td>36, II</td>
</tr>
<tr>
<td>General Services Administration</td>
<td>5, LVII; 41, 105</td>
</tr>
<tr>
<td>Contract Appeals, Board of</td>
<td>48, 61</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 5</td>
</tr>
<tr>
<td>Federal Management Regulation</td>
<td>41, 102</td>
</tr>
<tr>
<td>Federal Property Management Regulations</td>
<td>41, 101</td>
</tr>
<tr>
<td>Federal Travel Regulation System</td>
<td>41, Subtitle F</td>
</tr>
<tr>
<td>General</td>
<td>41, 300</td>
</tr>
<tr>
<td>Payment From a Non-Federal Source for Travel Expenses</td>
<td>41, 304</td>
</tr>
<tr>
<td>Payment of Expenses Connected With the Death of Certain Employees</td>
<td>41, 303</td>
</tr>
<tr>
<td>Relocation Allowances</td>
<td>41, 392</td>
</tr>
<tr>
<td>Temporary Duty (TDY) Travel Allowances</td>
<td>41, 391</td>
</tr>
<tr>
<td>Geological Survey</td>
<td>30, IV</td>
</tr>
<tr>
<td>Government Accountability Office</td>
<td>4, I</td>
</tr>
<tr>
<td>Government Ethics, Office of</td>
<td>5, XVI</td>
</tr>
<tr>
<td>Government National Mortgage Association</td>
<td>24, III</td>
</tr>
<tr>
<td>Grain Inspection, Packers and Stockyards Administration</td>
<td>7, VIII; 9, II</td>
</tr>
<tr>
<td>Gulf Coast Ecosystem Restoration Council</td>
<td>2, LIX; 49, VIII</td>
</tr>
<tr>
<td>Harry S. Truman Scholarship Foundation</td>
<td>45, XVIII</td>
</tr>
<tr>
<td>Health and Human Services, Department of</td>
<td>2, III; 5, XLVII; 45, Subtitle A,</td>
</tr>
<tr>
<td>Centers for Medicare &amp; Medicaid Services</td>
<td>42, IV</td>
</tr>
<tr>
<td>Child Support Enforcement, Office of</td>
<td>45, III</td>
</tr>
<tr>
<td>Children and Families, Administration for</td>
<td>45, II, III, IV, X</td>
</tr>
<tr>
<td>Community Services, Office of</td>
<td>45, X</td>
</tr>
<tr>
<td>Family Assistance, Office of</td>
<td>45, II</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 3</td>
</tr>
<tr>
<td>Food and Drug Administration</td>
<td>21, I</td>
</tr>
<tr>
<td>Human Development Services, Office of</td>
<td>45, XIII</td>
</tr>
<tr>
<td>Indian Health Service</td>
<td>25, V</td>
</tr>
<tr>
<td>Inspector General (Health Care), Office of</td>
<td>42, V</td>
</tr>
<tr>
<td>Public Health Service</td>
<td>42, I</td>
</tr>
<tr>
<td>Refugee Resettlement, Office of</td>
<td>45, IV</td>
</tr>
<tr>
<td>Health and Urban Development, Department of</td>
<td>2, XXX; 5, XXXVI; 6, I;</td>
</tr>
<tr>
<td>Coast Guard</td>
<td>33, I; 46, I; 49, IV</td>
</tr>
<tr>
<td>Coast Guard (Great Lakes Pilotage)</td>
<td>46, III</td>
</tr>
<tr>
<td>Customs and Border Protection</td>
<td>19, I</td>
</tr>
<tr>
<td>Federal Emergency Management Agency</td>
<td>44, I</td>
</tr>
<tr>
<td>Human Resources Management and Labor Relations</td>
<td>5, XCVII</td>
</tr>
<tr>
<td>Immigration and Customs Enforcement Bureau</td>
<td>19, IV</td>
</tr>
<tr>
<td>Transportation Security Administration</td>
<td>49, XII</td>
</tr>
<tr>
<td>HOPE for Homeowners Program, Board of Directors of</td>
<td>24, XXIV</td>
</tr>
<tr>
<td>Housing and Urban Development, Department of</td>
<td>2, XXIV; 5, LXV; 24, Subtitle B</td>
</tr>
<tr>
<td>Community Planning and Development, Office of Assistant Secretary for</td>
<td>24, V, VI</td>
</tr>
<tr>
<td>Equal Opportunity, Office of Assistant Secretary for</td>
<td>24, I</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 24</td>
</tr>
<tr>
<td>Federal Housing Enterprise Oversight, Office of</td>
<td>12, XVII</td>
</tr>
<tr>
<td>Government National Mortgage Association</td>
<td>24, III</td>
</tr>
<tr>
<td>Housing—Federal Housing Commissioner, Office of</td>
<td>24, II, VIII, X, XX</td>
</tr>
<tr>
<td>Assistant Secretary for Housing, Office of, and Multifamily Housing Assistance</td>
<td>24, IV</td>
</tr>
<tr>
<td>Restructuring, Office of</td>
<td>24, XII</td>
</tr>
<tr>
<td>Inspector General, Office of</td>
<td>24, IX</td>
</tr>
<tr>
<td>Public and Indian Housing, Office of Assistant Secretary for</td>
<td>24, Subtitle A, VII</td>
</tr>
<tr>
<td>Secretary, Office of</td>
<td>24, II, VIII, X, XX</td>
</tr>
<tr>
<td>Housing—Federal Housing Commissioner, Office of Assistant Secretary for Housing, Office of, and Multifamily Housing Assistance</td>
<td>24, IV</td>
</tr>
<tr>
<td>Restructuring, Office of</td>
<td>24, XII</td>
</tr>
<tr>
<td>Human Development Services, Office of</td>
<td>45, XIII</td>
</tr>
<tr>
<td>Immigration and Customs Enforcement Bureau</td>
<td>19, IV</td>
</tr>
<tr>
<td>Immigration Review, Executive Office for</td>
<td>8, V</td>
</tr>
</tbody>
</table>

209
<table>
<thead>
<tr>
<th>Agency</th>
<th>CFR Title, Subtitle or Chapter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Independent Counsel, Office of</td>
<td>28, VII</td>
</tr>
<tr>
<td>Independent Counsel, Offices of</td>
<td>28, VI</td>
</tr>
<tr>
<td>Indian Affairs, Bureau of</td>
<td>25, I, V</td>
</tr>
<tr>
<td>Indian Affairs, Office of the Assistant Secretary</td>
<td>25, VI</td>
</tr>
<tr>
<td>Indian Arts and Crafts Board</td>
<td>25, II</td>
</tr>
<tr>
<td>Indian Health Service</td>
<td>25, V</td>
</tr>
<tr>
<td>Industry and Security, Bureau of</td>
<td>15, VII</td>
</tr>
<tr>
<td>Information Resources Management, Office of</td>
<td>7, XXVII</td>
</tr>
<tr>
<td>Information Security Oversight Office, National Archives and Records Administration</td>
<td>32, XX</td>
</tr>
<tr>
<td>Records Administration</td>
<td></td>
</tr>
<tr>
<td>Inspector General</td>
<td></td>
</tr>
<tr>
<td>Agriculture Department</td>
<td></td>
</tr>
<tr>
<td>Health and Human Services Department</td>
<td>42, V</td>
</tr>
<tr>
<td>Housing and Urban Development Department</td>
<td>24, XII, XV</td>
</tr>
<tr>
<td>Institute of Peace, United States</td>
<td>22, XVII</td>
</tr>
<tr>
<td>Inter-American Foundation</td>
<td>5, LXIII; 22, X</td>
</tr>
<tr>
<td>Interior Department</td>
<td></td>
</tr>
<tr>
<td>American Indians, Office of the Special Trustee</td>
<td>25, VII</td>
</tr>
<tr>
<td>Endangered Species Committee</td>
<td>50, IV</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 7</td>
</tr>
<tr>
<td>Federal Property Management Regulations System</td>
<td>41, I4</td>
</tr>
<tr>
<td>Fish and Wildlife Service, United States</td>
<td>50, I, IV</td>
</tr>
<tr>
<td>Geological Survey</td>
<td>30, IV</td>
</tr>
<tr>
<td>Indian Affairs, Bureau of</td>
<td>25, I, V</td>
</tr>
<tr>
<td>Indian Affairs, Office of the Assistant Secretary</td>
<td>25, VI</td>
</tr>
<tr>
<td>Indian Arts and Crafts Board</td>
<td>25, II</td>
</tr>
<tr>
<td>Land Management, Bureau of</td>
<td>43, II</td>
</tr>
<tr>
<td>National Indian Gaming Commission</td>
<td>25, III</td>
</tr>
<tr>
<td>National Park Service</td>
<td>36, I</td>
</tr>
<tr>
<td>Natural Resource Revenue, Office of</td>
<td>30, XII</td>
</tr>
<tr>
<td>Ocean Energy Management, Bureau of</td>
<td>30, V</td>
</tr>
<tr>
<td>Reclamation, Bureau of</td>
<td>43, I</td>
</tr>
<tr>
<td>Safety and Enforcement Bureau, Bureau of</td>
<td>30, II</td>
</tr>
<tr>
<td>Secretary of the Interior, Office of</td>
<td>2, XIV; 43, Subtitle A</td>
</tr>
<tr>
<td>Surface Mining Reclamation and Enforcement, Office of</td>
<td>30, VII</td>
</tr>
<tr>
<td>Internal Revenue Service</td>
<td>26, I</td>
</tr>
<tr>
<td>International Boundary and Water Commission, United States and Mexico</td>
<td>22, XI</td>
</tr>
<tr>
<td>and United States Section</td>
<td></td>
</tr>
<tr>
<td>International Development, United States Agency for</td>
<td>22, II</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 7</td>
</tr>
<tr>
<td>International Development Cooperation Agency, United States</td>
<td>22, XII</td>
</tr>
<tr>
<td>States</td>
<td></td>
</tr>
<tr>
<td>International Joint Commission, United States and Canada</td>
<td>22, IV</td>
</tr>
<tr>
<td>International Organizations Employees Loyalty Board</td>
<td>5, V</td>
</tr>
<tr>
<td>International Trade Administration</td>
<td>15, III; 19, III</td>
</tr>
<tr>
<td>International Trade Commission, United States</td>
<td>19, II</td>
</tr>
<tr>
<td>Interstate Commerce Commission</td>
<td>5, XL</td>
</tr>
<tr>
<td>Investment Security, Office of</td>
<td>31, VIII</td>
</tr>
<tr>
<td>James Madison Memorial Fellowship Foundation</td>
<td>45, XXIV</td>
</tr>
<tr>
<td>Japan–United States Friendship Commission</td>
<td>22, XVII</td>
</tr>
<tr>
<td>Joint Board for the Enrollment of Actuaries</td>
<td>20, VIII</td>
</tr>
<tr>
<td>Justice Department</td>
<td>2, XXVIII; 5, XXVIII;</td>
</tr>
<tr>
<td>Alcohol, Tobacco, Firearms, and Explosives, Bureau of</td>
<td>28, I, XI; 40, IV</td>
</tr>
<tr>
<td>Drug Enforcement Administration</td>
<td>27, II</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>21, II</td>
</tr>
<tr>
<td>Federal Claims Collection Standards</td>
<td>48, 28</td>
</tr>
<tr>
<td>Federal Prison Industries, Inc.</td>
<td>31, IX</td>
</tr>
<tr>
<td>Foreign Claims Settlement Commission of the United States</td>
<td>29, III</td>
</tr>
<tr>
<td>Immigration Review, Executive Office for</td>
<td>45, V</td>
</tr>
<tr>
<td>Independent Counsel, Offices of</td>
<td>8, V</td>
</tr>
<tr>
<td>Prisons, Bureau of</td>
<td>28, VI</td>
</tr>
<tr>
<td>Property Management Regulations</td>
<td>29, XXV</td>
</tr>
<tr>
<td>Labor Department</td>
<td>29, XXV</td>
</tr>
<tr>
<td>Employee Benefits Security Administration</td>
<td>20, IV</td>
</tr>
<tr>
<td>Employees’ Compensation Appeals Board</td>
<td></td>
</tr>
<tr>
<td>Agency</td>
<td>CFR Title, Subtitle or Chapter</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>--------------------------------</td>
</tr>
<tr>
<td>Employment and Training Administration</td>
<td>20, V</td>
</tr>
<tr>
<td>Employment Standards Administration</td>
<td>20, VI</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 29</td>
</tr>
<tr>
<td>Federal Contract Compliance Programs, Office of</td>
<td>41, 60</td>
</tr>
<tr>
<td>Federal Procurement Regulations System</td>
<td>41, 50</td>
</tr>
<tr>
<td>Labor-Management Standards, Office of</td>
<td>29, II, IV</td>
</tr>
<tr>
<td>Mine Safety and Health Administration</td>
<td>30, I</td>
</tr>
<tr>
<td>Occupational Safety and Health Administration</td>
<td>29, XVII</td>
</tr>
<tr>
<td>Public Contracts</td>
<td>41, 50</td>
</tr>
<tr>
<td>Secretary of Labor, Office of</td>
<td>29, Subtitle A</td>
</tr>
<tr>
<td>Veterans’ Employment and Training Service, Office of the Assistant Secretary for</td>
<td>41, 61; 20, IX</td>
</tr>
<tr>
<td>Wage and Hour Division</td>
<td>29, V</td>
</tr>
<tr>
<td>Workers’ Compensation Programs, Office of</td>
<td>20, I, VII</td>
</tr>
<tr>
<td>Labor-Management Standards, Office of</td>
<td>29, II, IV</td>
</tr>
<tr>
<td>Land Management, Bureau of</td>
<td>43, I</td>
</tr>
<tr>
<td>Legal Services Corporation</td>
<td>45, XVI</td>
</tr>
<tr>
<td>Library of Congress</td>
<td>36, VII</td>
</tr>
<tr>
<td>Copyright Royalty Board</td>
<td>37, III</td>
</tr>
<tr>
<td>U.S. Copyright Office</td>
<td>37, II</td>
</tr>
<tr>
<td>Local Television Loan Guarantee Board</td>
<td>7, XX</td>
</tr>
<tr>
<td>Management and Budget, Office of</td>
<td>5, III, LXXVII; 14, VI; 48, 99</td>
</tr>
<tr>
<td>Marine Mammal Commission</td>
<td>50, V</td>
</tr>
<tr>
<td>Maritime Administration</td>
<td>46, II</td>
</tr>
<tr>
<td>Merit Systems Protection Board</td>
<td>5, II, LXIV</td>
</tr>
<tr>
<td>Micronesian Status Negotiations, Office for</td>
<td>32, XXVII</td>
</tr>
<tr>
<td>Military Compensation and Retirement Modernization Commission</td>
<td>5, XCIX</td>
</tr>
<tr>
<td>Millennium Challenge Corporation</td>
<td>22, XIII</td>
</tr>
<tr>
<td>Mine Safety and Health Administration</td>
<td>30, I</td>
</tr>
<tr>
<td>Minority Business Development Agency</td>
<td>15, XIV</td>
</tr>
<tr>
<td>Miscellaneous Agencies</td>
<td>1, IV</td>
</tr>
<tr>
<td>Monetary Offices</td>
<td>31, I</td>
</tr>
<tr>
<td>Morris K. Udall Scholarship and Excellence in National</td>
<td>36, XVI</td>
</tr>
<tr>
<td>Environmental Policy Foundation</td>
<td></td>
</tr>
<tr>
<td>Museum and Library Services, Institute of</td>
<td>2, XXXI</td>
</tr>
<tr>
<td>National Aeronautics and Space Administration</td>
<td>2, XVIII; 5, LIX; 14, V</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 18</td>
</tr>
<tr>
<td>National Agricultural Library</td>
<td>7, XLI</td>
</tr>
<tr>
<td>National Agricultural Statistics Service</td>
<td>7, XXXVI</td>
</tr>
<tr>
<td>National and Community Service, Corporation for</td>
<td>2, XXIII; 45, XII, XXV</td>
</tr>
<tr>
<td>National Archives and Records Administration</td>
<td>2, XXV; 5, LXVI; 36, XII</td>
</tr>
<tr>
<td>Information Security Oversight Office</td>
<td>32, XX</td>
</tr>
<tr>
<td>National Capital Planning Commission</td>
<td>1, IV</td>
</tr>
<tr>
<td>National Commission for Employment Policy</td>
<td>1, IV</td>
</tr>
<tr>
<td>National Commission on Libraries and Information Science</td>
<td>45, XVII</td>
</tr>
<tr>
<td>National Council on Disability</td>
<td>5, C; 31, XII</td>
</tr>
<tr>
<td>National Counterintelligence Center</td>
<td>32, XVIII</td>
</tr>
<tr>
<td>National Credit Union Administration</td>
<td>5, LXXXVI; 12, VII</td>
</tr>
<tr>
<td>National Crime Prevention and Privacy Compact Council</td>
<td>28, IX</td>
</tr>
<tr>
<td>National Drug Control Policy, Office of</td>
<td>2, XXXVI; 21, III</td>
</tr>
<tr>
<td>National Endowment for the Arts</td>
<td>2, XXXII</td>
</tr>
<tr>
<td>National Endowment for the Humanities</td>
<td>2, XXXIII</td>
</tr>
<tr>
<td>National Foundation on the Arts and the Humanities</td>
<td>45, XI</td>
</tr>
<tr>
<td>National Geospatial-Intelligence Agency</td>
<td>32, I</td>
</tr>
<tr>
<td>National Highway Traffic Safety Administration</td>
<td>23, II, III; 47, VI; 49, V</td>
</tr>
<tr>
<td>National Imagery and Mapping Agency</td>
<td>32, I</td>
</tr>
<tr>
<td>National Indian Gaming Commission</td>
<td>25, III</td>
</tr>
<tr>
<td>National Institute of Food and Agriculture</td>
<td>7, XXXIV</td>
</tr>
<tr>
<td>National Institute of Standards and Technology</td>
<td>15, II</td>
</tr>
<tr>
<td>National Intelligence, Office of Director of</td>
<td>5, IV; 32, XVII</td>
</tr>
<tr>
<td>National Labor Relations Board</td>
<td>5, LXI; 29, I</td>
</tr>
<tr>
<td>National Marine Fisheries Service</td>
<td>50, II, IV</td>
</tr>
<tr>
<td>National Mediation Board</td>
<td>29, X</td>
</tr>
<tr>
<td>National Oceanic and Atmospheric Administration</td>
<td>15, IX; 50, II, III, IV, VI</td>
</tr>
<tr>
<td>Agency</td>
<td>CFR Title, Subtitle or Chapter</td>
</tr>
<tr>
<td>-------------------------------------------------------------</td>
<td>--------------------------------</td>
</tr>
<tr>
<td>National Park Service</td>
<td>36, I</td>
</tr>
<tr>
<td>National Railroad Adjustment Board</td>
<td>29, III</td>
</tr>
<tr>
<td>National Railroad Passenger Corporation (AMTRAK)</td>
<td>49, VII</td>
</tr>
<tr>
<td>National Science Foundation</td>
<td>2, XXV; 5, XLIII; 45, VI</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 25</td>
</tr>
<tr>
<td>National Security Council</td>
<td>32, XXI</td>
</tr>
<tr>
<td>National Security Council and Office of Science and Technology Policy</td>
<td>47, II</td>
</tr>
<tr>
<td>National Telecommunications and Information Administration</td>
<td>15, XXIII; 47, III, IV</td>
</tr>
<tr>
<td>National Transportation Safety Board</td>
<td>49, VIII</td>
</tr>
<tr>
<td>Natural Resources Conservation Service</td>
<td>7, VI</td>
</tr>
<tr>
<td>Natural Resource Revenue, Office of</td>
<td>30, XII</td>
</tr>
<tr>
<td>Navajo and Hopi Indian Relocation, Office of</td>
<td>25, IV</td>
</tr>
<tr>
<td>Navy Department</td>
<td>32, VI</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 52</td>
</tr>
<tr>
<td>Neighborhood Reinvestment Corporation</td>
<td>24, XXV</td>
</tr>
<tr>
<td>Northeast Interstate Low-Level Radioactive Waste Commission</td>
<td>10, XVIII</td>
</tr>
<tr>
<td>Naval Ocean Energy Management, Bureau of</td>
<td>30, V</td>
</tr>
<tr>
<td>Oklahoma City National Memorial Trust</td>
<td>36, XV</td>
</tr>
<tr>
<td>Operations Office</td>
<td>7, XXVIII</td>
</tr>
<tr>
<td>Overseas Private Investment Corporation</td>
<td>5, XXXIII; 22, VII</td>
</tr>
<tr>
<td>Patent and Trademark Office, United States</td>
<td>37, I</td>
</tr>
<tr>
<td>Payment From a Non-Federal Source for Travel Expenses</td>
<td>41, 304</td>
</tr>
<tr>
<td>Payment of Expenses Connected With the Death of Certain Employees</td>
<td>41, 303</td>
</tr>
<tr>
<td>Peace Corps</td>
<td>2, XXXVII; 22, III</td>
</tr>
<tr>
<td>Pennsylvania Avenue Development Corporation</td>
<td>36, IX</td>
</tr>
<tr>
<td>Pension Benefit Guaranty Corporation</td>
<td>29, XL</td>
</tr>
<tr>
<td>Personnel Management, Office of</td>
<td>5, I, XXXV; 5, IV; 45, VIII</td>
</tr>
<tr>
<td>Human Resources Management and Labor Relations</td>
<td>5, XCVII</td>
</tr>
<tr>
<td>Systems, Department of Homeland Security</td>
<td></td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 17</td>
</tr>
<tr>
<td>Federal Employees Group Life Insurance Federal Acquisition Regulation</td>
<td>48, 21</td>
</tr>
<tr>
<td>Federal Employees Health Benefits Acquisition Regulation</td>
<td>48, 16</td>
</tr>
<tr>
<td>Pipeline and Hazardous Materials Safety Administration</td>
<td>49, I</td>
</tr>
<tr>
<td>Postal Regulatory Commission</td>
<td>5, XLVI; 39, III</td>
</tr>
<tr>
<td>Postal Service, United States</td>
<td>5, LX; 39, I</td>
</tr>
<tr>
<td>Postsecondary Education, Office of</td>
<td>34, VI</td>
</tr>
<tr>
<td>President’s Commission on White House Fellowships</td>
<td>1, IV</td>
</tr>
<tr>
<td>Presidential Documents</td>
<td>3</td>
</tr>
<tr>
<td>Presidio Trust</td>
<td>36, X</td>
</tr>
<tr>
<td>Prisons, Bureau of</td>
<td>26, V</td>
</tr>
<tr>
<td>Privacy and Civil Liberties Oversight Board</td>
<td>6, X</td>
</tr>
<tr>
<td>Procurement and Property Management, Office of</td>
<td>7, XXXII</td>
</tr>
<tr>
<td>Productivity, Technology and Innovation, Assistant Secretary</td>
<td>37, IV</td>
</tr>
<tr>
<td>Secretary</td>
<td>41, 50</td>
</tr>
<tr>
<td>Public Contracts, Department of Labor</td>
<td>24, IX</td>
</tr>
<tr>
<td>Public and Indian Housing, Office of Assistant Secretary for</td>
<td>42, I</td>
</tr>
<tr>
<td>Public Health Service</td>
<td>29, II</td>
</tr>
<tr>
<td>Railroad Retirement Board</td>
<td>43, I</td>
</tr>
<tr>
<td>Reclamation, Bureau of</td>
<td>45, IV</td>
</tr>
<tr>
<td>Refugee Resettlement, Office of</td>
<td>41, 302</td>
</tr>
<tr>
<td>Relocation Allowances</td>
<td></td>
</tr>
<tr>
<td>Research and Innovative Technology Administration</td>
<td>49, XI</td>
</tr>
<tr>
<td>Rural Business-Cooperative Service</td>
<td>7, XVIII, XLII</td>
</tr>
<tr>
<td>Rural Development Administration</td>
<td>7, XLII</td>
</tr>
<tr>
<td>Rural Housing Service</td>
<td>7, XVIII, XXXV</td>
</tr>
<tr>
<td>Rural Telephone Bank</td>
<td>7, XVII</td>
</tr>
<tr>
<td>Rural Utilities Service</td>
<td>7, XVII, XVIII, XLII</td>
</tr>
<tr>
<td>Agency</td>
<td>CFR Title, Subtitle or Chapter</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>--------------------------------</td>
</tr>
<tr>
<td>Safety and Environmental Enforcement, Bureau of</td>
<td>30, II</td>
</tr>
<tr>
<td>Saint Lawrence Seaway Development Corporation</td>
<td>33, IV</td>
</tr>
<tr>
<td>Science and Technology Policy, Office of</td>
<td>32, XXIV</td>
</tr>
<tr>
<td>Science and Technology Policy, Office of, and National Security Council</td>
<td>47, II</td>
</tr>
<tr>
<td>Secret Service</td>
<td>31, IV</td>
</tr>
<tr>
<td>Securities and Exchange Commission</td>
<td>5, XXXIV; 17, II</td>
</tr>
<tr>
<td>Selective Service System</td>
<td>32, XVI</td>
</tr>
<tr>
<td>Small Business Administration</td>
<td>2, XXVII; 13, I</td>
</tr>
<tr>
<td>Smithsonian Institution</td>
<td>36, V</td>
</tr>
<tr>
<td>Social Security Administration</td>
<td>2, XXIII; 20, III; 48, 23</td>
</tr>
<tr>
<td>Soldiers’ and Airmen’s Home, United States</td>
<td>5, XI</td>
</tr>
<tr>
<td>Special Counsel, Office of</td>
<td>5, VIII</td>
</tr>
<tr>
<td>Special Education and Rehabilitative Services, Office of</td>
<td>34, III</td>
</tr>
<tr>
<td>State Department</td>
<td>2, VI; 22, I; 28, XI</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 6</td>
</tr>
<tr>
<td>Surface Mining Reclamation and Enforcement, Office of</td>
<td>30, VII</td>
</tr>
<tr>
<td>Surface Transportation Board</td>
<td>49, X</td>
</tr>
<tr>
<td>Susquehanna River Basin Commission</td>
<td>18, VIII</td>
</tr>
<tr>
<td>Technology Administration</td>
<td>15, XI</td>
</tr>
<tr>
<td>Technology Policy, Assistant Secretary for</td>
<td>37, IV</td>
</tr>
<tr>
<td>Tennessee Valley Authority</td>
<td>5, LXIX; 18, XIII</td>
</tr>
<tr>
<td>Thrift Supervision Office, Department of the Treasury</td>
<td>12, V</td>
</tr>
<tr>
<td>Trade Representative, United States, Office of</td>
<td>15, XX</td>
</tr>
<tr>
<td>Transportation, Department of</td>
<td>2, XII; 5, L</td>
</tr>
<tr>
<td>Commercial Space Transportation</td>
<td>14, III</td>
</tr>
<tr>
<td>Contract Appeals, Board of</td>
<td>48, 63</td>
</tr>
<tr>
<td>Emergency Management and Assistance</td>
<td>44, IV</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 12</td>
</tr>
<tr>
<td>Federal Aviation Administration</td>
<td>14, I</td>
</tr>
<tr>
<td>Federal Highway Administration</td>
<td>23, I; II</td>
</tr>
<tr>
<td>Federal Motor Carrier Safety Administration</td>
<td>49, III</td>
</tr>
<tr>
<td>Federal Railroad Administration</td>
<td>49, II</td>
</tr>
<tr>
<td>Federal Transit Administration</td>
<td>49, VI</td>
</tr>
<tr>
<td>Maritime Administration</td>
<td>46, II</td>
</tr>
<tr>
<td>National Highway Traffic Safety Administration</td>
<td>23, II; 111; 47, IV; 49, V</td>
</tr>
<tr>
<td>Pipeline and Hazardous Materials Safety Administration</td>
<td>49, I</td>
</tr>
<tr>
<td>Saint Lawrence Seaway Development Corporation</td>
<td>33, IV</td>
</tr>
<tr>
<td>Secretary of Transportation, Office of</td>
<td>14, II; 49, Subtitle A</td>
</tr>
<tr>
<td>Surface Transportation Board</td>
<td>49, X</td>
</tr>
<tr>
<td>Transportation Statistics Bureau</td>
<td>49, XI</td>
</tr>
<tr>
<td>Transportation, Office of</td>
<td>7, XXXIII</td>
</tr>
<tr>
<td>Transportation Security Administration</td>
<td>49, XII</td>
</tr>
<tr>
<td>Transportation Statistics Bureau</td>
<td>49, XI</td>
</tr>
<tr>
<td>Travel Allowances, Temporary Duty (TDY)</td>
<td>41, 303</td>
</tr>
<tr>
<td>Treasury Department</td>
<td>2, X,5, XXI; 12, XV; 17, IV; 31, IX</td>
</tr>
<tr>
<td>Alcohol and Tobacco Tax and Trade Bureau</td>
<td>27, I</td>
</tr>
<tr>
<td>Community Development Financial Institutions Fund</td>
<td>12, XVIII</td>
</tr>
<tr>
<td>Comptroller of the Currency</td>
<td>12, I</td>
</tr>
<tr>
<td>Customs and Border Protection</td>
<td>19, I</td>
</tr>
<tr>
<td>Engraving and Printing, Bureau of</td>
<td>31, VI</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 10</td>
</tr>
<tr>
<td>Federal Claims Collection Standards</td>
<td>31, IX</td>
</tr>
<tr>
<td>Federal Law Enforcement/Training Center</td>
<td>31, VII</td>
</tr>
<tr>
<td>Financial Crimes Enforcement Network</td>
<td>31, X</td>
</tr>
<tr>
<td>Fiscal Service</td>
<td>31, II</td>
</tr>
<tr>
<td>Foreign Assets Control, Office of</td>
<td>31, V</td>
</tr>
<tr>
<td>Internal Revenue Service</td>
<td>36, I</td>
</tr>
<tr>
<td>Investment Security, Office of</td>
<td>31, VIII</td>
</tr>
<tr>
<td>Monetary Offices</td>
<td>31, I</td>
</tr>
<tr>
<td>Secret Service</td>
<td>31, IV</td>
</tr>
<tr>
<td>Secretary of the Treasury, Office of</td>
<td>31, Subtitle A</td>
</tr>
<tr>
<td>Thrift Supervision, Office of</td>
<td>12, V</td>
</tr>
<tr>
<td>Truman, Harry S. Scholarship Foundation</td>
<td>45, XVIII</td>
</tr>
<tr>
<td>United States and Canada, International Joint Commission</td>
<td>22, IV</td>
</tr>
<tr>
<td>United States and Mexico, International Boundary and Water Commission, United States Section</td>
<td>22, XI</td>
</tr>
<tr>
<td>Agency</td>
<td>CFR Title, Subtitle or Chapter</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>--------------------------------</td>
</tr>
<tr>
<td>U.S. Copyright Office</td>
<td>37, II</td>
</tr>
<tr>
<td>Utah Reclamation Mitigation and Conservation Commission</td>
<td>43, III</td>
</tr>
<tr>
<td>Veterans Affairs Department</td>
<td>2, VIII; 38, I</td>
</tr>
<tr>
<td>Federal Acquisition Regulation</td>
<td>48, 8</td>
</tr>
<tr>
<td>Veterans’ Employment and Training Service, Office of the Assistant Secretary for</td>
<td>41, 61; 20, IX</td>
</tr>
<tr>
<td>Vice President of the United States, Office of</td>
<td>32, XXVIII</td>
</tr>
<tr>
<td>Wage and Hour Division</td>
<td>29, V</td>
</tr>
<tr>
<td>Water Resources Council</td>
<td>18, VI</td>
</tr>
<tr>
<td>Workers’ Compensation Programs, Office of</td>
<td>20, I, VII</td>
</tr>
<tr>
<td>World Agricultural Outlook Board</td>
<td>7, XXXVIII</td>
</tr>
</tbody>
</table>
# List of CFR Sections Affected

All changes in this volume of the Code of Federal Regulations (CFR) that were made by documents published in the Federal Register since January 1, 2011 are enumerated in the following list. Entries indicate the nature of the changes effected. Page numbers refer to Federal Register pages. The user should consult the entries for chapters, parts and subparts as well as sections for revisions.


## 2011

(No regulations published)

## 2012

<table>
<thead>
<tr>
<th>27 CFR</th>
<th>72 FR</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chapter II</td>
<td></td>
<td></td>
</tr>
<tr>
<td>478 Authority citation revised</td>
<td></td>
<td>33629</td>
</tr>
<tr>
<td>478.11 Amended</td>
<td></td>
<td>33629</td>
</tr>
<tr>
<td>Amended; interim</td>
<td></td>
<td>33633</td>
</tr>
<tr>
<td>478.32 (a)(5)(ii) introductory text, (d)(5)(ii) introductory text and (f) revised</td>
<td></td>
<td>33629</td>
</tr>
<tr>
<td>478.44 (a)(1)(iii) revised; (b) amended</td>
<td></td>
<td>33629</td>
</tr>
<tr>
<td>478.45 Amended</td>
<td></td>
<td>33629</td>
</tr>
<tr>
<td>478.99 (c)(5) introductory text revised</td>
<td></td>
<td>33629</td>
</tr>
<tr>
<td>478.120 Revised</td>
<td></td>
<td>33629</td>
</tr>
<tr>
<td>478.124 (c)(3)(iii) revised</td>
<td></td>
<td>33630</td>
</tr>
<tr>
<td>(c)(3)(ii) removed; (d), (e) and (f) amended; interim</td>
<td></td>
<td>33634</td>
</tr>
<tr>
<td>478.125 (f) revised; interim</td>
<td></td>
<td>33634</td>
</tr>
</tbody>
</table>

## 2013

<table>
<thead>
<tr>
<th>27 CFR</th>
<th>78 FR</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chapter II</td>
<td></td>
<td></td>
</tr>
<tr>
<td>447 Authority citation revised</td>
<td></td>
<td>23676</td>
</tr>
<tr>
<td>447.1 Revised</td>
<td></td>
<td>23676</td>
</tr>
<tr>
<td>447.11 Amended</td>
<td></td>
<td>23677</td>
</tr>
<tr>
<td>447.21 Introductory text revised; amended</td>
<td></td>
<td>23677</td>
</tr>
</tbody>
</table>

## 2014

<table>
<thead>
<tr>
<th>27 CFR</th>
<th>79 FR</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chapter II</td>
<td></td>
<td></td>
</tr>
<tr>
<td>447.11 Amended</td>
<td></td>
<td>46692</td>
</tr>
<tr>
<td>447.21 Amended; interim; eff. 4-28-14</td>
<td></td>
<td>46692</td>
</tr>
<tr>
<td>447.32 (c) amended</td>
<td></td>
<td>46692</td>
</tr>
<tr>
<td>447.35 (b) amended</td>
<td></td>
<td>46692</td>
</tr>
<tr>
<td>447.43 (a) amended; eff. 4-8-14</td>
<td></td>
<td>45092</td>
</tr>
<tr>
<td>447.56 Amended</td>
<td></td>
<td>46692</td>
</tr>
<tr>
<td>478.11 Amended</td>
<td></td>
<td>46692</td>
</tr>
<tr>
<td>478.124 (c)(3)(iii) revised</td>
<td></td>
<td>46692</td>
</tr>
<tr>
<td>(c)(3)(ii) removed; (d), (e) and (f) amended; interim</td>
<td></td>
<td>46692</td>
</tr>
<tr>
<td>479.21 (b) amended</td>
<td></td>
<td>46692</td>
</tr>
<tr>
<td>479.22 Amended</td>
<td></td>
<td>46692</td>
</tr>
<tr>
<td>479.26 (a)(3) and (b) amended</td>
<td></td>
<td>46692</td>
</tr>
<tr>
<td>479.34 (g) amended</td>
<td></td>
<td>46692</td>
</tr>
<tr>
<td>479.37 Amended</td>
<td></td>
<td>46692</td>
</tr>
<tr>
<td>479.38 Amended</td>
<td></td>
<td>46692</td>
</tr>
<tr>
<td>479.46 Amended</td>
<td></td>
<td>46692</td>
</tr>
<tr>
<td>479.47 Amended</td>
<td></td>
<td>46692</td>
</tr>
<tr>
<td>479.50 Amended</td>
<td></td>
<td>46692</td>
</tr>
<tr>
<td>479.84 Amended</td>
<td></td>
<td>46692</td>
</tr>
<tr>
<td>479.11 Amended; eff. 4-8-14</td>
<td></td>
<td>46692</td>
</tr>
<tr>
<td>479.172 Amended</td>
<td></td>
<td>46692</td>
</tr>
</tbody>
</table>
### 27 CFR (4–1–16 Edition)

<table>
<thead>
<tr>
<th>27 CFR—Continued</th>
<th>79 FR Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chapter II—Continued</td>
<td>46693</td>
</tr>
<tr>
<td>555.11 Amended</td>
<td>46693</td>
</tr>
<tr>
<td>555.21 Amended</td>
<td>46693</td>
</tr>
<tr>
<td>555.22 Undesignated text following (a)(3) and (b)(3) amended</td>
<td>46693</td>
</tr>
<tr>
<td>555.23 Amended</td>
<td>46693</td>
</tr>
<tr>
<td>555.45 (c)(3) amended</td>
<td>46693</td>
</tr>
<tr>
<td>555.46 (a) amended</td>
<td>46693</td>
</tr>
<tr>
<td>555.49 (b)(1) introductory text, (2) introductory text and (3) amended</td>
<td>46693</td>
</tr>
<tr>
<td>555.50 (a) and (b) amended</td>
<td>46693</td>
</tr>
<tr>
<td>555.54 (a) and (b) amended</td>
<td>46693</td>
</tr>
<tr>
<td>555.56 Amended</td>
<td>46693</td>
</tr>
<tr>
<td>555.57 (a), (b) and (c) amended</td>
<td>46693</td>
</tr>
<tr>
<td>555.59 (b) amended</td>
<td>46693</td>
</tr>
<tr>
<td>555.60 Amended</td>
<td>46694</td>
</tr>
<tr>
<td>555.61 Amended</td>
<td>46694</td>
</tr>
<tr>
<td>555.63 (a)(4), (c) and (d) amended</td>
<td>46694</td>
</tr>
<tr>
<td>555.71 Amended</td>
<td>46694</td>
</tr>
<tr>
<td>555.72 Amended</td>
<td>46694</td>
</tr>
<tr>
<td>555.73 Amended</td>
<td>46694</td>
</tr>
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### 27 CFR (4–1–16 Edition)

<table>
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<tr>
<th>27 CFR—Continued</th>
<th>79 FR Page</th>
</tr>
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<tbody>
<tr>
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<td>46694</td>
</tr>
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<td>555.125 (b)(1)(iv) and (7) amended</td>
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### 2016

(Regulations published from January 1, 2016, through April 1, 2016)

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<thead>
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<th>27 CFR</th>
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<tbody>
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<td>2721</td>
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<td>479 Authority citation revised</td>
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