

FAIR Trade Group Firearms and Ammunition Import and Export Conference



U.S. Department of Justice

Bureau of Alcohol, Tobacco, Firearms and Explosives

Licensing

ATF Licensing Requirements (Firearms)

- Federal firearms licensees (FFLs), licensed under the Gun Control Act of 1968 (GCA) as manufacturers (Type 10) or importers (Type 11) and who pay a special occupational tax (unless exempt) under the National Firearms Act (NFA), are permitted to manufacture or import destructive devices under Federal law.
- Destructive devices are generally sold to the USG and include destructive device munitions such as explosive or incendiary bombs, grenades, mines and other explosive, incendiary or poison gas weapons as defined in the GCA, 18 U.S.C. 921(a)(4)(A), and the NFA, 26 U.S.C. 5845(f)(1).
- Under the Gun Control Act and the National Firearms Act, a destructive device is a firearm.

ATF Licensing Requirements (Firearms)

License Types:

- **Type 10-** Manufacturer of Destructive Devices, Ammunition for Destructive Devices, or Armor Piercing Ammunition.
- **Type 11-** Importer of Destructive Devices, Ammunition for Destructive Devices, or Armor Piercing Ammunition.

DOS Licensing Requirements (Firearms)

- Licensees holding a manufacturer's license (FFL Type 10) must register as a manufacturer with the Department of State unless exempted by the Directorate of Defense Trade Control (DDTC), regardless of whether the manufacturer actually exports any of the items manufactured. Therefore, applicants intending to manufacture and/or export defense articles, as defined on the United States Munitions List (Part 121 of the ITAR), may need to register with Directorate of Defense Trade Controls (DDTC).
- Licensees intending to import firearms and/or ammunition may need to register with ATF under the provisions of the Arms Export Control Act.
- Licensees intending to deal in, import, or manufacture weapons subject to the National Firearms Act (NFA) (e.g., machine guns, short-barreled shotguns, silencers, destructive devices, etc.) may be required to pay a Special Occupational Tax (SOT).

Exemptions to Tax Requirements (Firearms)

Exemptions to the Special Occupational Tax (SOT):

- Licensees are exempt from the SOT if it is established that the business is conducted exclusively with, or on behalf of, an agency of the United States.
 - This exemption must be obtained by filing a letter application addressed to the NFA Division setting out the manner in which the applicant conducts business,
 - the type of firearms to be manufactured,
 - and satisfactory proof of the existence of the applicant's contract with the Government.
- The exemption must be renewed by letter on or before July of each year. Approval of the application entitles the applicant to the exemption.

Exemptions to Tax Requirements (Firearms)

Exemptions to the Making or Transfer Tax

- ATF may relieve any person manufacturing firearms for or on behalf of the United States from the provisions of the NFA, including tax on making or transfer of firearms.
- NFA firearms may be exported without payment of the transfer tax provided that proof of the exportation is furnished in such form and manner as the regulations prescribe. The form to be filed is ATF Form 9 (Firearms), Application and Permit for Exportation of Firearms. Approval of the form by ATF is required before exportation.

Licensing Requirements (Explosives)

License Types

- **Explosives License**
 - Engaging in the business of Importing, manufacturing, or dealing
- **Explosives User Permit**
 - Acquiring explosives for use
- **Limited Permit**
 - Acquiring explosives for use
 - In the same state and on no more than 6 separate occasions

Licensing Requirements (Explosives)

Prior to Approving an Explosives License or Permit:

- The applicant must have a premises from which to conduct business or operations.
- The applicant must have storage for the class of explosive materials described on your application.
- The applicant must certify in writing that you are familiar with and understands all published State laws and local ordinances.

Licensing Requirements (Explosives)

Responsible Persons

Individual who has the power to direct the management and policies of the applicant pertaining to the explosives.

- Must submit a fingerprint card and passport-style photo.

Employee Possessors

- Employees who have constructive or actual possession of explosives during the course of their employment.
- Must submit an employee possessor questionnaire (ATF Form 5400.28).

Licensing Requirements (Explosives)

Prohibited persons:

- Under indictment or information, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding a year.
- Fugitive from justice.
- Unlawful user of or addicted to any controlled substance.
- Adjudicated as a mental defective or has been committed to a mental institution.
- Alien (with exceptions).
- Dishonorable discharge.
- Renounced citizenship.

If prohibited – Must seek Relief from Federal Explosives Disabilities to possess explosives.

Licensing Requirements (Explosives)

27 CFR 555.141(a)(3):

- U.S. Federal, State and local agencies are exempt from:
 - Transport
 - Shipment
 - Receipt
 - Import

Exemptions extend to contractors/subcontractors transporting, shipping, receiving, or importing exclusively under a current and valid U.S. Government contract.

Licensing Requirements (Explosives)

27 CFR 555.141(a)(5):

Exemptions Include:

- Manufacturing of explosive materials by, or under the U.S. Department of Defense (DoD).
- Distribution to DoD and U.S. Federal agencies.
- Storage and possession by DoD and U.S. Federal agencies.

Exemptions extend to contractors/subcontractors distributing, storing, and/or possessing exclusively under a current and valid DoD or U.S Government contract.

Licensing Requirements (Explosives)

Other considerations:

- Foreign government contracts.
- Rejected, “left-over”, and over-run explosives
- Pre-contract operations.
- Manufacturing for DoD **and** commercial purposes
- Storage of DoD explosives with commercial explosives.

Licensing Requirements (Explosives)

All explosives that are NOT under a current and valid USG contract must meet all applicable requirements in Part 555 – Commerce in Explosives.

- Licensing
- Recordkeeping
- Identification
- Storage

U.S. Government Contracts

Typical manufacturing of a destructive device involves the purchase and manufacture of explosive materials that are ultimately manufactured into the destructive device.

- U.S. Government Furnished Materials: The U.S. Government owns the raw materials/components and therefore has dominion and control and considered under contract.
 - U.S. Government (including foreign military sales at the direction of the U.S. Government) and commercial component and finished goods inventories.
- Foreign Military Sales (FMS) are sales to foreign governments that are purchased under the direction of the U.S. Government. This is considered a sale under a U.S. Government contract.
- Direct Commercial sales to foreign governments that are not purchased under the direction of the U.S. Government, is considered a commercial sale.

U.S. Government Contracts

Prime contractor: holds contract with U.S. Government.

Subcontractor: holds a contract with the prime contractor (and may not have access to the prime contract).

Recordkeeping

Recordkeeping (Firearms)

Under the Gun Control Act, manufacturing of firearms on behalf the U.S. Government is not an exempt activity.

All firearms manufactured must be recorded in the A&D record (regardless of USG affiliation):

- USG owned & controlled items.
- USG owned but under direction/control of an FFL.
- FFL manufactured items under USG contract.

Recordkeeping (Firearms)

Under the Gun Control Act, manufacturing or importing of firearms on behalf the U.S. Government is not an exempt activity.

TABLE 1 TO PARAGRAPH (b)—FIREARMS IMPORTER OR MANUFACTURER ACQUISITION AND DISPOSITION RECORD

Description of firearm						Import/manufacture/acquisition		Disposition		
Importer, manufacturer, and/or “privately made firearm” (PMF) (if privately made in the U.S.)	Type	Model	Caliber or gauge	Country or countries of manufacture (if imported)	Serial No.	Date of import, manufacture, or acquisition	Name and address of nonlicensee; or if licensee, name and license No. (if acquired)	Date of disposition	Name	Address of nonlicensee; license No. of licensee; or Form 4473 transaction No. if such forms filed numerically

TABLE 2 TO PARAGRAPH (b)—ARMOR PIERCING AMMUNITION IMPORTER OR MANUFACTURER DISPOSITION RECORD

Date of disposition	Manufacturer	Caliber or gauge	Quantity of projectiles	Transferee—name and address
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Recordkeeping (Firearms)

Some products are originally manufactured as an explosive and then ultimately manufactured into a destructive device (e.g., when a 40mm grenade is fused). This must be tracked through both the Federal explosive licensee's A&D records and DSMT as well as the Federal firearms licensee's A&D records.

Under the Gun Control Act, the transportation, shipment, receipt, possession, or importation of firearms or ammunition for use by the United States or a political subdivision are exempt. (27 CFR 478.141).

This does not exempt them from marking or for records keeping.

Recordkeeping (Explosives)

ACQUISITION, IMPORTATION or
MANUFACTURE



DAILY SUMMARY of MAGAZINE
TRANSACTIONS (DSMT)
Annual Inventory



DISPOSITION, USE, or EXPORT

Must retain for 5 years from date of transaction

Recordkeeping (Explosives)

Daily Summary of Magazine Transactions:

Daily Summary of Magazine Transactions				
Date	Name or Brand Name of Manufacturer	Quantity In	Quantity Out	Balance

- Must maintain a DSMT for each magazine
- Must maintain by name or brand name of manufacturer
- The annual inventory must be recorded in the DSMT

Explosives Storage

Storage – Type 1 Magazine

- High explosives
- Permanent
- Bullet-resistant
- Fire-resistant
- Weather-resistant
- Theft-resistant
- Ventilated



Storage – Type 2 Magazine



- High explosives
- Portable or Mobile
- Indoor or outdoor
- Bullet-resistant
- Fire-resistant
- Weather-resistant
- Theft-resistant
- Ventilated

Storage – Type 4 Magazine



- Low explosives
- Fire-resistant
- Weather-resistant
- Theft-resistant

Storage – Indoor Magazines



- 50-pound net explosives weight limit
- Not in a residence or dwelling
- Storage within a mobile vehicle
- ATF Rulings 2002-3 and 2002-4

Storage – Tables of Distances



High Explosives – [555.218](#)



Low Explosives – [555.219](#)



Blasting Agent-Ammonium Nitrate – [555.220](#)

Storage – Tables of Distances

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.

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.

QUESTIONS?

Email firearm inquiries to: FIPB@atf.gov

Email explosive inquiries to: EIPB@atf.gov