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MEMO

To: ~~Russell Scott~~, MGR Market & Industry Relations, Competitions Department
From: Daniel M. Zavadil, Esq., NRA Assistant General Counsel *DZ*
Via: Bob Dowlut, Esq., NRA General Counsel
Subject: Recent Changes in the law regarding Importation of Firearms and Ammunition by Non-immigrant Visa Holders
Date: February 21, 2002

Per your request I have researched the applicability of Public Law 105-277 to foreign competitors traveling to the U.S. to participate in NRA sanctioned shooting events.

In short, **ALL immigrant visa holders must file a ATF Form 6-- even if they fall within the exception for shooting competitions.** Furthermore, the alien must obtain U.S. Custom approval or waiver prior to attempting to import the firearms or ammunition. Please note that the ATF's Release (i.e. their approval of the ATF Form 6 Application) constitutes U.S. Custom approval in that they are acting in concert to process the applications.

I contacted the ATF and was apprised that the **processing time for ATF Form 6 is currently about eight (8) to twelve (12) weeks.** However, they are attempting to expedite those applicants scheduled to attend shooting competitions in the near future. I was advised by the Import Department, that if the Competition is schedule within the next 12 weeks, they should attach an Itinerary from the event including a calender of the events--highlighting and noting the date of the event for which they need approval.

I was also advised that they recommend the **applications should be sent via FedEx or UPS to: ATF, Attn. FEA IMPORTS, 650 Massachusetts Ave, N.W., Washington D.C., 20226.** I was advised to avoid U.S. Mail in that the ATF is still experiencing significant delays as a result of the Brentwood Post Office Anthrax matter.

From a legal stand point, the ATF has interpreted the recent changes in 27 CFR §178 to

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apply to all aliens in a nonimmigrant classification, not just those that physically possess a nonimmigrant visa per se. This is important for the fact, there are a number of nonimmigrant aliens that fall within various categories which classify them as nonimmigrant aliens, but that do not require them to physically obtain a written visa. For example, Canadian visitors or those participating in a Visa Waiver Program. Thus, under the new changes which went into effect February 19, 2002, even Canadians that do not require a written nonimmigrant visa must still file an ATF Form 6 seeking an exception:

I would note that the new changes clearly state that the nonimmigrant alien's importation of firearms and ammunition prohibition does not apply if the nonimmigrant alien is "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." "Admitted to the United States for lawful hunting or sporting purposes" is defined in 27 C.F.R. §178.11 as:

- (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 competitive use or other sporting use of firearms.

Despite the fact the law clearly sets forth the aforementioned exception, the alien must still file the ATF Form 6 to obtain documentation evidencing the fact they fall within such an exception. In fact, the law holds that the alien must obtain such approval before the firearm or ammunition may be imported. 27 CFR §178.129(b) states "(t}his provision applies in all cases, whether or not a Form 6 is needed to bring the firearm or ammunition into the United States."

I would advise event participants that the ATF Importation Department advises that the ATF Form 6 must be filed in triplicate with at least one copy containing an original signature. The forms can be order from the ATF or down loaded from the ATF Web site, (www.atf.treas.gov/forms/5000.htm#firearms) In order to grant the exception they suggest the applicants file the ATF Form 6 along with a copy of the invitation to attend the event, and a highlighted copy of the event itinerary noting the dates and times in which the event is,

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calendered. Lastly, I would note the approval is good for one year following the date of approval.

I trust this helps address your concerns. If my office can be of assistance in the future please do not hesitate to contact us.

The following is what I learned by calling BATF and it is intended to help anyone who may feel just a bit intimidated by the BATF form ATF F6 - PART 1 (5330.3A) (2-2002). This is the February 2002 version of the APPLICATION AND PERMIT FOR IMPORTATION OF FIREARMS, AMMUNITION AND IMPLEMENTS OF WAR (scary title - eh?). The application form is available on the BATF website, <http://www.atf.treas.gov>. If any Canadians ask for help with this form, they could use the following information.

It may be submitted by fax along with an invitation from a match sponsoring organization. If submitted by mail it must be in triplicate.

Filling in the form is straightforward up to Item 4. People not used to filling out forms might appreciate some guidance.

ITEM

4. NAME AND ADDRESS OF BROKER – leave blank - you are bringing the gun with you

5. APPLICANT'S NAME AND ADDRESS – insert mailing address as well as home address if they are different.
6. NAME AND ADDRESS OF FOREIGN SELLER – leave blank. You aren't selling.
7. NAME AND ADDRESS OF FOREIGN SHIPPER – leave blank. You're bringing it.
8. DESCRIPTION OF FIREARMS AND AMMUNITION
 - a. NAME AND ADDRESS OF MANUFACTURER -- example: Winchester – USA. Street addresses are not required.
 - b. TYPE -straightforward – SG=shotgun; RI=rifle; PI=pistol; RE=revolver.
 - c. CALIBER, GAUGE OR SIZE - fill in
 - d. QUANTITY – fill in
 - e. UNIT COST – guesstimate is OK
 - f. U.S. MIL CATEGORY – 1
 - g. MODEL – MFRS DESIGNATION – example: Model 70
 - h. LENGTH OF BARREL – in inches
 - i. OVERALL LENGTH – in inches
 - j. SERIAL NO. – enter it – If it is inspected at the border, make sure the number is visible and not hidden under a sight base.
 - k. NEW OR USED –enter N for new or U for used – most likely Used

IMPLEMENTS OF WAR – LEAVE THIS SECTION BLANK

AMMUNITION

- a. NAME AND ADDRESS OF MANUFACTURER – example: Winchester – USA. Street addresses are not required. Manufacturer is whatever is marked on the ammunition.
- b. TYPE -straightforward – Ball, Wadcutter, Shotshell etc.
- c. CALIBER, GAUGE OR SIZE - fill in

- d. QUANTITY – total number of rounds per caliber
 - e. UNIT COST – guesstimate – per round or per the entire lot
 - f. U.S. MIL CATEGORY – none available
9. CERTIFICATION OF ORIGIN – leave blank
 10. SPECIFIC PURPOSE OF IMPORTATION – shooting competition or whatever the wording is on your invitation or match entry confirmation.
 11. ARE YOU REGISTERED PURSUANT TO THE ARMS EXPORT CONTROL ACT OF 1976 – If you are registered, you will know it – otherwise, check NO
 12. IF “YES”, GIVE REGISTRATION AND EXPIRATION DATE –leave blank
 13. SIGNATURE OF APPLICANT – straightforward, but if you send triplicate copies of this form by mail, make sure each copy has a real, not photocopied, signature.
 14. TITLE – leave blank unless you are nobility or a Prime Minister
 15. DATE – don't forget to put it in.

Do make sure that you submit your telephone number. BATF may want to resolve an issue with you over the phone.

GOOD LUCK!

DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
APPLICATION AND PERMIT FOR IMPORTATION OF FIREARMS,
AMMUNITION AND IMPLEMENTS OF WAR
NOT FOR USE BY MEMBERS OF THE UNITED STATES ARMED FORCES

(Submit in triplicate)

INSTRUCTION SHEET FOR ATF F 6 PART I (5330.3A)
 (Detach this instruction sheet before submitting your application)

PAPERWORK REDUCTION ACT NOTICE

This request is in accordance with the Paperwork Reduction Act of 1995. The purpose of this information collection is to allow ATF to determine if the article(s) described on the application qualifies for importation by the importer and to serve as the authorization for the importer. This information is mandatory (15 U.S.C. 925(c), 26 U.S.C. 5844, 22 U.S.C. 2776).

The estimated average burden associated with this collection of information is 50 minutes per respondent or recordkeeper. Depending on individual circumstances. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be addressed to Reports Management Officer, Document Services Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

GENERAL INFORMATION

1. An approved ATF F 6 - Part I (5330.3A) is required to import firearms, ammunition, and implements of war into the United States or any possession thereof, except for certain exempt importations prescribed in 27 CFR parts 47, 178 and 179. A military member of the U.S. Armed Forces and is on active duty outside the U.S., or who has been on active duty outside the U.S. during the 60-day period immediately preceding the intended importation, should complete ATF F 6 - Part II (5330.3B) to import sporting type firearms or ammunition for his personal use.
2. Any person engaged in the business of importing firearms or ammunition for resale must be licensed as an importer under the Gun Control Act of 1968 and, if he is importing firearms, ammunition, firearms parts or implements of war (other than sporting shotguns, shotgun shells, or shotgun parts) he must also be registered as an importer under the Arms Export Control Act of 1976. No permit to import such articles for resale will be issued until the importer is properly licensed and registered.
3. A Federal firearms licensee, other than an importer, may make an occasional importation of sporting firearms or ammunition (excluding surplus military) for himself or an unlicensed person in the licensee's State, provided that the firearms and ammunition are intended for personal use of the person for whom imported and not for resale. ATF F 6 - Part I (5330.3A) is used to obtain approval for such importation.
4. A permit is not required for a firearm or ammunition 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.
5. A permit is not required for the return of a repaired firearm, or replacement firearm of the same kind and type, to the person in the United States who sent the defective firearm out of the United States for repair.
6. A nonimmigrant alien entering the U.S. temporarily may submit this application to import his personally owned firearms and ammunition. The nonimmigrant alien must attach documentation to the application (e.g., hunting license or permit lawfully issued in the United States; waiver) establishing he falls within an exception to or has obtained a waiver from the prohibition on nonimmigrant aliens possessing or receiving firearms. If the application is otherwise in order, the application (permit) will be approved on the conditions that it is not unlawful for the individual to possess the firearms and ammunition in the States in which he travels and that the firearms and ammunition will not be disposed of in the United States but taken out of the United States when the individual departs.
7. A nonresident person may submit this application to import his personally owned ammunition (not firearms) into the U.S. for his personal use and not for resale.
8. A nonresident U.S. citizen returning to the United States or a nonresident alien immigrating to the United States, from a permanent residence outside of the United States may complete and forward the enclosed ATF F 6 Part I permit application without having to utilize the services of a federally licensed firearms dealer. The nonresident should include a statement, either on the application form or on an attached sheet, that the firearms are being imported for his personal use and not for resale and that he is a nonresident U.S. citizen returning to the United States, or is a nonresident alien immigrating to the United States. The firearms must accompany the nonresident or entry into the United States, since once he is in the United States and has acquired residence in a State, he may not directly import a firearm. If the firearms do not accompany him (either handcarried or in his baggage (accompanying or unaccompanied)), he must engage the services of a federally licensed firearms dealer in his State of residence to import the sporting firearms (excluding surplus military) for him.
9. Under Arms Export Control Act regulations in 27 CFR 47.41(c), a permit is not required for the importation of:
 - a. U.S. Munitions Import List articles from Canada not subject to 27 CFR Part 178 and 179, except articles enumerated in Categories I, II, III, IV, VII(e), VIII(a), XVI, and XX and nuclear weapons, strategic delivery systems, and all specifically designed components, parts, accessories, attachments, and associated equipment thereof. This leaves only non-GCA and NFA articles in Category VI(a) - 10 for Vessels of War, Category VI for Tanks and Military Vehicles, and Category XIV for Toxicological Agents and Equipment.
 - b. Minor components and parts of Category (c) firearms, except barrels, cylinders, receivers (frames) or complete breech mechanisms, when the total value does not exceed \$100 wholesale in any single transaction. The \$100 wholesale value exceeds the previous dollar threshold of \$500 wholesale in any single transaction.
10. If a broker will be employed to facilitate importation, the name and address of that broker must be included in item 4. A broker means any person who acts as an agent for others in negotiating or arranging contracts, purchases, sales or transfers of defense articles or defense services in return for a fee, commission, or other consideration. NOTE: Arms Export Control Act regulations in 27 CFR Part 129 require, with certain exceptions, the registration and licensing of brokers. Questions about such registration and licensing should be directed to the Department of State, Office of Defense Trade Controls, (703) 575-6644.

PREPARATION

11. The applicant shall prepare this form in triplicate. Required signatures must be in ink on all copies. Other entries must be in ink or be typewritten.

INSTRUCTIONS CONTINUED ON REVERSE