Knowing what you have – and don’t have – to provide to an ATF industry operations investigator is only part of optimizing an inspection experience.

So, exactly what records and information are you as a licensee required by the Gun Control Act (GCA) and ATF regulations to make available to ATF during an inspection? What additional records is an ATF IOI likely to request? Why would an IOI ask you for records and information beyond what is required under the law? Finally, what options do you as a licensee have if you are asked to provide records that you are not required to give to ATF? These are all important questions that I hope to answer for you.

To ensure that when you are inspected you pass with flying colors, you want to make 100 percent sure that your inventory of firearms is in complete agreement with your acquisition and disposition records, and that your ATF Forms 4473 are completely and accurately completed by both the purchaser and you.

NSSF offers retailers a lot of compliance resources, including helpful articles such as “How to Pass an ATF Inspection with Flying Colors,” “Take Stock,” and “Sweat the Details.” These have appeared in prior issues of SHOT Business and are excellent tools and resources to assist you in making sure you are in compliance and well prepared when you are inspected. You can find these articles, as well as a variety of compliance aids, in the “Regulatory Compliance” section of the National Shooting Sports Foundation website. (Go to nssf.org/compliance.)

What happens when you are actually inspected? During a compliance inspection, ATF’s IOIs physically inventory all firearms on-site and in approved off-site storage locations and carefully scrutinize your required records—all of them. For most of you, your required records (that is, those an IOI can demand to see) are all records and documents required by the GCA and the regulations in 27 C.F.R. Part 478. At the very minimum, ATF’s investigators will request your A&D records and your ATF Forms 4473. Other required records almost always inspected include

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**What records and information are you required to have?**

- Acquisition and disposition records that are in complete agreement with your firearms inventory.
- ATF 4473 forms are accurately filled out by the purchaser AND you.

**IOIs may also request...**

- All records and documents required by the Gun Control Act (GCA)
- Reports of multiple handgun sales
- Theft or loss reports
- Law enforcement purchase letters

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**When You Are Inspected...**

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**By Harry McCabe**

**Harry McCabe**

ATF Deputy Assistant Director for Field Operations (retired)
reports of multiple handgun (in some instances, long gun) sales, theft or loss reports you have filed, and law enforcement purchase letters. Importers, manufacturers, National Firearms Act licensees, and other “specialized” licensees have additional required records and documents that will be examined.

When the IOIs inventory your firearms, the investigators will make a record of that inventory for comparison with your A&D records. While comparing the physical inventory to your A&D record, the IOIs will examine your A&D records to ensure every entry is complete and accurate. In addition, they will verify that every firearm inventory has an acquisition entry and has not been shown as sold or transferred. They will also verify that every acquisition with no disposition is supported by a firearm they physically inventoried. A one-to-one correspondence is required here. Every firearm acquired must either be in the physical inventory or have a documented disposition. If your acquisition and disposition records are maintained on a computer (which you are permitted to do provided the system meets certain requirements), the IOIs will ask you for a printout of that record. You are obligated to provide this (ATF Ruling 2008-2). The IOIs may also ask you to print your “on-hand inventory” to assist them in verifying the accuracy of the physical inventory they take. ATF Ruling 2008-2 allows you to provide the A&D record on electronic media rather than a paper printout. This is especially helpful (to you and the IOI) if you are a high-volume retailer, because a printout could be hundreds of pages. Either way, the entire A&D record is necessary, even though it may go back 15 years or more, because gun sales do not always follow a neat pattern of “first in/first out.” You may have sold every firearm you received in the last six months, but you may still have a gun you received 12 years ago simply because it has not found that one person who just cannot live without it. That firearm must still be shown in your A&D records as an acquisition with no disposition (an “open entry,” in ATF lingo). So, upon the request of the IOI, you must furnish a complete copy of the A&D record, either printed or on electronic media.

Any disagreement between the physical inventory and the A&D record must be reconciled so firearms are not accounted for, nor firearms in inventory unrecorded as an acquisition in the A&D record. The IOI cannot complete his or her inspection with anything less than 100 percent reconciliation. It is often during the reconciliation phase of the inspection that an IOI may ask you for commercial records or other documents that you are not specifically required by the Gun Control Act or ATF regulations to make available to the IOI. In reality, however, IOIs may “ask” you for any records or documents they believe may assist them in determining your compliance with law and regulations. How you respond to that request is your decision.

You can legally decline the IOIs request, but is that always the best business decision? Clearly, a documented disposition is better for both you and ATF. To you, it is money that you can trace; to the ATF, it is a firearm that can be traced if it should be used in a crime. So, IOIs try to examine any and all available records that will show what actually happened to a firearm that has no associated Form 4473 and is not physically present.

In addition to requesting records and documents that may not be required by law or regulation, ATF requires IOIs to photocopy records and documents that are evidence of any violations they cite. This is as much for your protection as for any other purpose. All inspection reports are reviewed by the IOI’s supervisor to ensure the IOI complied with ATF requirements. In the unlikely event that a revocation or other adverse action is recommended by the IOI, the reports are also reviewed by the director, industry operations, and ATF attorneys. These review reports are to ensure that the IOI correctly cited the violations and that the photocopies secured by the IOI completely and accurately document the facts of the violations. Copies are purged from ATF files when they are no longer needed.

Whether you show an IOI records that are not required by the GCA, the NFA, or associated laws and regulations is completely up to you, and you should never feel obligated to disclose those records. More importantly, you should never feel that your refusal to provide non-required records to an ATF IOI may result in some kind of sanction or retaliation by ATF. The ATF can impose sanctions, up to and including termination, on employees who violate policy, procedure, or conduct requirements. IOIs simply trying to complete their mandatory task of a 100 percent reconciliation of your inventory and records when they request commercial records. If you believe the IOI is making unreasonable demands, or if you believe the IOI is being anything less than fully professional, request the name and telephone number of the IOI’s supervisor and contact that person immediately with your concerns. As a former director of industry operations (DIO) and ATF deputy assistant director, I can tell you the bureau takes such matters very seriously.

The positive side to providing additional records or documents to ATF is fairly broad. First, doing so may enable the IOI to reconcile inventory discrepancies much faster, which means that they will complete their inspection more quickly and “get out of your hair” faster. Second, providing documents to ATF that support the disposition of a firearm results in one less firearm that you have to report missing. That is important: Although ATF revokes fewer than 0.1 percent of the licensees it inspects annually, the majority of those who get revoked are revoked because of the licensee’s inability to account for firearms or other willful violations related to the A&D record. Last, but far from least, is that doing what you can to assist ATF in accomplishing its job will go a long way toward ensuring you have a strong, positive working relationship with the local office and the people stationed there.

In sum, keeping close tabs on your inventory, being meticulous with all your required records (“sweating the details,” if you will), and cooperating fully with the IOIs who are conducting an inspection of your business are all extremely important to you and to ATF. Doing all this offers the added benefit of making for shorter inspections with fewer violations cited—a win/win for all concerned.

Harry McCabe is one of four NSSF FFL Compliance Consultants who are available to NSSF Members for in-store Consultations. Learn more at nssf.org/retailers/consultants.
IMPORTANT PHONE NUMBERS

NSSF’s Retail Member Hotline
A toll-free hotline for members only.
(855) FFL-NSSF (335-6773)

ATF Report of theft or loss of a firearm
(888) 930-9275

ATF Joint Support and Operations Center
(800) 800-3855

ATF Report Illegal Firearms Activity
(800) 283-4867

ATF Field Operations Headquarters
(202) 648-8410

ATF Enforcement Programs and Services Headquarters
(202) 648-7080