



Are You Ready for Your Audit?

Perhaps nothing strikes more fear in the heart of an FFL holder than the news that it's time for a compliance audit. It really doesn't matter how accurate and precise your records are. Knowing that you have conducted your own inventory and meticulously accounted for every inbound and out-



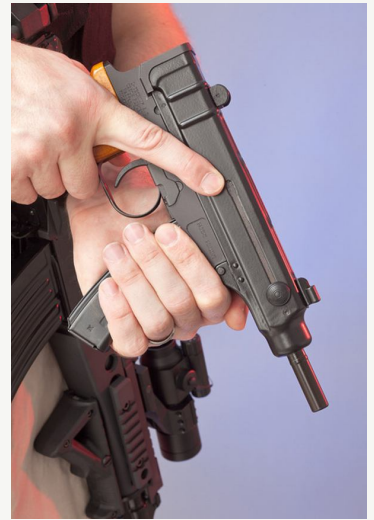
bound weapon does nothing to quell your apprehension. The simple fact is that an Industry Operations Investigator (IOI) from ATF is going to be combing through your livelihood and you would much rather be having root canal. Without

anesthesia. Performed by a raccoon. Make no mistake about it: maintaining your FFL operation in strict compliance with the law is the most important aspect to your continued ability to stay in business.

Inspections can and do "go off the rails" with amazing frequency and the punitive results can be both severe and astonishing. Understand that inspections can also be relatively painless and undeserving of the dread that many feel at receiving the heads up from

ATF. You don't have to endure the apprehension that so commonly goes along with this process.

The NFATCA has begun working with a new organization to help address the accelerated inspection and audit needs of FFL's who also hold SOT documentation. We are assisting them in developing a set of programs that will help implement effective self-audit protocols and also deliver top-shelf assistance in dealing with active inspections and audits. FFL's will be able to access best practice direction, legal representation when needed and recommendations on remedial action plans. Look for more information as the offering becomes formalized.



A strong body makes the mind strong. As to the species of exercises, I advise the gun. While this gives moderate exercise to the body, it gives boldness, enterprise and independence to the mind. Games played with the ball, and others of that nature, are too violent for the body and stamp no character on the mind. Let your gun therefore be your constant companion of your walks. ~ Thomas Jefferson

Priorities: 2012

Many folks want to know just what the NFATCA will be working on in 2012. The truth is that it is pretty much the same thing that we worked on last year, and many of the years before. Sounds boring, right? There's a very good reason for staying the course: it's a long journey!

As most of you are well aware, the process of changing laws, regulations and mindsets is both long and arduous. Nothing happens quickly when it involves the government. More importantly, the NFATCA is not deterred by the slow pace of change, progress or achieving success.

As an example, we have been working for over six years to spearhead the elimination of the CLEO signature requirements on NFA Form 1 & 4. We're almost there! ATF and DOJ have given their green lights and all we are waiting for is publication of the enabling regulations in the *Federal*

Register and the publication by OMB of the revised forms. At that point, with your collective wish granted, no Sheriff or Chief will ever deprive you



of your ability to legally own NFA weapons. But that took more than six years and isn't quite done yet.

As we witness the dawn of 2012, we will redouble our efforts on a variety of fronts. We will continue to:

- Press for an additional amnesty registration period by supporting Congressional efforts to enact the Veterans Heritage Act.
- Develop an improved Form 3 process that eliminates the

possibility of weapons being transferred without the owner's knowledge or consent.

- Assist our members with ongoing ATF issues that affect the entire community.

- Try to eliminate arbitrary and onerous restrictions regarding the acquisition of so-called "post-sample" weapons.

- Help implement an electronic forms filing system for certain NFA applications, including credit card payments.

- Explore methods to facilitate law enforcement trade-in of multiple post-sample weapons.

- Continue to defend against the needless expansion of weapon and ammunition definitions that would hinder our rights without serving a public safety need.

Of course, dealing with any government bureau insures that the best laid plans are

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NFATCA UPCOMING EVENTS:

- ◆ SHOT Show, January 17-20, 2012, Las Vegas, NV
- ◆ NRA Convention, April 13-15, 2012, St. Louis, MO



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§922(r), Bad Assumptions

In the previous issue we gave you an overview of the issues surrounding §922(r), and painted with some fairly broad strokes. Our last article left you with the caution against making assumptions and this is where we will pick up. Most people assume that if they read it on the Internet, well, it must be true.

Let's take care of this one right up front. The Internet and search tools are quite powerful and are one of the most productive aspects of interconnected global communication. Unfortunately, this productivity also allows false information and opinion to be broadcast and received with amazing alacrity. Let's look again at the 1994 FTB letter from Ed Owen that ignited the still-burning furor regarding "NFA trumps §922(r)." The FTB letter was addressing a specific concern regarding a specific weapon and Ed Owen answered that specific inquiry with a response that only had bearing on the original inquirer. Unfortunately, ignorance apparently had absolutely zero impact on a whole host of Internet "authorities" that instantly opined that all you had to do to get around §922(r) was apply for the making a weapon into an NFA item on a Form 1 and be done.

Those same authorities leveled a raucous hue and cry when another specific inquiry generated an FTB response that appeared to contradict the original 1994 Ed Owen letter. The mean old ATF had flip flopped and now 1000's of folks were in possession of illegal weapons! How dare ATF do such a thing and "how do we get this fixed?!"

As in most cases, the Internet authorities were wrong and probably needed to adjust their tin foil hats. Rule #1: ATF Opinion Letters to others can provide useful guidance but only have legal bearing on the intended recipient. Never assume that it means what you think it does and never assume that it is giving you legal advice. It doesn't and it isn't. Rule #2: You cannot rely on Internet authorities if your goal is certainty.

The really nice thing about the Internet is that it allows anyone with a keyboard and a connection to appear to be something they are not. Such as allowing a part-time mall cop with a penchant for modded AR's to suddenly be the font of legal wisdom in matters that may or may not land you on the wrong side of federal prosecution. Take the Ed Owen letter again...

The first incorrect application of thought was the whole NFA trumps thing. The second was assuming that the possession of a §922(r) "violation" weapon would be contraband. Here's another example of Internet authorities being just plain wrong. A legal reading of the §922(r) regulations shows that the only violations that can occur do so on the act of making or assembling. There are no enumerated violations for mere possession. This was also confirmed, in general, with FTB. So contrary to the sky-is-

falling outrage, there were no 1000's of folks in deep kimchee. And while there probably were 1000's of folks who had violated the making/



assembly prohibitions of §922(r) as a result of following the guidance of folks who had no clue about that which they wrote, those concerned folks were not in grave peril. The federal government would have to prove the who and the how of the making/assembly violation in order to make the charge stick. This is not an easy prosecution to mount. So difficult, in fact, that it might be interesting for you to research how many times §922(r) was the primary or singular charge in a firearms prosecution. (Hint: a 3-toed sloth would have plenty of leftover counting digits.)

If you want the answer, ask the right question and get the answer from a recognized authority. The Internet and its forums and chat groups are great places to learn, but you need to know who you are talking to and establish bona fides if you are wagering your property or freedom on the outcome.

Priorities: 2012 (continued)

greeted with a host of surprises, twists, and road blocks. We expect that 2012 will be no different. After all, the regulation of firearms is still a matter that unfortunately involves politics. Because of this, it is inevitable that there will always be those who seek to deprive our members and the public at large of their Constitutional rights.

The NFATCA is cultivating relationships that give us access to leaders and legislators that would defend our positions and support our rights. We expect these relationships

to strengthen and grow throughout 2012 and to help us deliver on our Priorities. We would ask that each of you exercise your right to vote and help us help you by making sure that legislators are elected that will support us instead of destroy us.

We are committed to preserving, defending and expanding the federal rights of everyone to enjoy a complete level of responsible firearm ownership, unfettered by onerous regulation that serves no public safety interest. We know that the vast majority of our readers support

these goals, as well. So we ask for your help: Continue or increase your membership support, vote for those that would help our cause and take a youngster out to shoot your NFA weapons.

