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Firearms & Explosives Law Division (FELD) Bureau of Alcohol, Tobacco, Firearms and Explosives



U.S. Department of Justice

Bureau of Alcohol, Tobacco, Firearms and Explosives

922(o) Restricted Machineguns

- In 1986, Congress passed the Firearms Owners Protection Act (FOPA), which added section 922(o) under the Gun Control Act of 1968 (GCA).
- Under section 922(o), it is unlawful for any person to transfer or possess a machinegun. Except-
 - a transfer to or by, or possession by or under the authority of, a government entity;
 - any machinegun that was lawfully possessed before **May 19, 1986.**

922(o) Restricted Machineguns

- ATF recognized that government entities generally do not manufacture, import, and deal their own machineguns, but utilize licensees.
- Implemented NFA regulations that allow licensees to manufacture, import, and deal machineguns.
- Requires certain government connection.

Importation

- 26 U.S.C. § 5844
 - Imported or brought in for 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
 - Imported or brought in for scientific or research purposes; or
 - Imported or brought in solely for testing or use as a model by a registered manufacturer or solely for use as a sample by a registered importer or registered dealer.
- 18 U.S.C. § 922(o)

NFA Regulation 27 CFR 479.105(c)

- Qualified Importers and Manufacturers may import and manufacture machineguns 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.
- Registration and 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.***

NFA Regulation 27 CFR 479.105(d)

- Qualified Importers and Manufacturers may also transfer machineguns to a qualified Dealer to be used as a sales sample.
- An application to transfer a machinegun to a qualified dealer as a sales sample must have a **law letter**.

What is a law letter?

Law Letter – A “demonstration letter” or “law letter” is a letter written by an authorized official of a government entity detailing the government entity’s desire for a demonstration of a restricted machinegun for possible future purchase.

NFA Division has received questionable law letters that raise concerns whether the law letter is a legitimate request for demonstration.

Examples include requests for crew served weapons, multiple machineguns of varying types, machineguns that are no longer in production.





NFA Processing

- Law Letter Requirements:
 - Written on the government entity's letterhead
 - Signed by someone having authority to sign on behalf of government entity (or designee)
 - Signer's printed name, phone number, and email address
 - Dated within 1 year of the date of application
 - Identification of machinegun being transferred
 - Identification of the government entity's interest in possible future purchase of the firearm

NFA Processing

- Law Letter Requirements:
 - If requesting more than 1 of a particular model, the dealer must explain the need for more than 1 machinegun
 - Size of government entity
 - Type of demonstration
 - Type of machinegun demonstrated
 - Size of demonstration
 - *See 27 C.F.R. 479.105(d).*

NFA Processing

- Purpose or reason for sales sample is to generate orders from potential government customers.
- Reasons of interest that are beyond the scope of a sales sample:
 - Training and/or familiarity
 - Enhancement of firearm knowledge
 - Enhancement of personal collection
 - Testing for other purposes than possible future purchase
- May contact law enforcement agency on sales sample letter.

FFL Open Letter

[Machinegun Dealer Sales Sample Letters \(atf.gov\)](https://www.atf.gov)

OPEN LETTER TO ALL FEDERAL FIREARMS LICENSEES

The purpose of this letter is to provide guidance regarding your obligations as a Federal firearms licensee when submitting applications to transfer or import a restricted, *i.e.*, post-1986 machinegun as a sales sample. Specifically, this open letter clarifies what information must be included in the government letter that must accompany the application to transfer or import¹ a restricted machinegun as a sales sample.

The Gun Control Act (GCA) at 18 U.S.C. 922(o) prohibits the transfer or possession of machineguns; however, this restriction does not apply to “a transfer to or by, or possession 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 machinegun that was lawfully possessed before the date this subsection takes effect.” The National Firearms Act (NFA) regulation at 27 CFR 479.105(a) clarifies that the restriction found in section 922(o) of the GCA applies to machineguns manufactured or imported after May 19, 1986, and further states that “no application to...transfer or import a machinegun will be approved except as provided by this section.”

Section 479.105(c) of the NFA regulations specifically permits, in relevant part, the importation or manufacture of machineguns after May 19, 1986 “for sale or distribution . . . for use by dealers qualified under this part as sales samples as provided in paragraph (d) of this section.” Accordingly, any application to transfer or import a machinegun as a dealer’s sales sample must meet the requirements under 27 CFR 479.105(d).

New ATF Form 5320.24

- Standardized form that includes all necessary information to process sales sample transfers to qualified dealers;
- Published in the Federal Register for notice and comment, 88 FR 23466.
- Comments close June 16, 2023.