

§ 178.45

part, shall file an application, ATF Form 7CR (Curios and Relics), with ATF in accordance with the instructions on the form. If the applicant (including, in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is a nonimmigrant alien, the application must include applicable documentation demonstrating that the nonimmigrant alien falls within an exception to or has obtained a waiver from the nonimmigrant alien provision (e.g., a hunting license or permit lawfully issued in the United States; waiver). The application must be executed under the penalties of perjury and the penalties imposed by 18 U.S.C. 924. The application shall be accompanied by a completed ATF Form 5300.37 and ATF Form 5300.36 and shall include the appropriate fee in the form of a money order or check made payable to the Bureau of Alcohol, Tobacco and Firearms. ATF Forms 7CR (Curios and Relics), ATF Forms 5300.37, and ATF Forms 5300.36 may be obtained by contacting any ATF office.

(Paragraphs (a) and (b) approved by the Office of Management and Budget under control number 1512-0570)

[T.D. ATF-363, 60 FR 17453, Apr. 6, 1995, as amended by T.D. ATF-471, 67 FR 5425, Feb. 5, 2002]

§ 178.45 Renewal of license.

If a licensee intends to continue the business or activity described on a license issued under this part during any portion of the ensuing year, the licensee shall, unless otherwise notified in writing by the Chief, National Licensing Center, execute and file with ATF prior to the expiration of the license an application for a license renewal, ATF Form 8 Part II, accompanied by a completed ATF Form 5300.37 and ATF Form 5300.36, in accordance with the instructions on the forms, and the required fee. If the applicant is a nonimmigrant alien, the application must include applicable documentation demonstrating that the nonimmigrant alien falls within an exception to or has obtained a waiver from the nonimmigrant alien provision

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(e.g., a hunting license or permit lawfully issued in the United States; waiver). The Chief, National Licensing Center, may, in writing, require the applicant for license renewal to also file completed ATF Form 7 or ATF Form 7CR in the manner required by § 178.44. In the event the licensee does not timely file an ATF Form 8 Part II, the licensee must file an ATF Form 7 or ATF Form 7CR as required by § 178.44, and obtain the required license before continuing business or collecting activity. If an ATF Form 8 Part II is not timely received through the mails, the licensee should so notify the Chief, National Licensing Center.

(Approved by the Office of Management and Budget under control number 1512-0570)

[T.D. ATF-363, 60 FR 17453, Apr. 6, 1995, as amended by T.D. ATF-471, 67 FR 5426, Feb. 5, 2002]

§ 178.46 Insufficient fee.

If an application is filed with an insufficient fee, the application and any fee submitted will be returned to the applicant.

(18 U.S.C. 847 (84 Stat. 959); 18 U.S.C. 926 (82 Stat. 1226))

[T.D. ATF-200, 50 FR 10498, Mar. 15, 1985]

§ 178.47 Issuance of license.

(a) Upon receipt of a properly executed application for a license on ATF Form 7, ATF Form 7CR, or ATF Form 8 Part II, the Chief, National Licensing Center, shall, upon finding through further inquiry or investigation, or otherwise, that the applicant is qualified, issue the appropriate license. Each license shall bear a serial number and such number may be assigned to the licensee to whom issued for so long as the licensee maintains continuity of renewal in the same location (State).

(b) The Chief, National Licensing Center, shall approve a properly executed application for license on ATF Form 7, ATF Form 7CR, or ATF Form 8 Part II, if:

(1) The applicant is 21 years of age or over;

(2) The applicant (including, in the case of a corporation, partnership, or association, any individual possessing,

directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is not prohibited under the provisions of the Act from shipping or transporting in interstate or foreign commerce, or possessing in or affecting commerce, any firearm or ammunition, or from receiving any firearm or ammunition which has been shipped or transported in interstate or foreign commerce;

(3) The applicant has not willfully violated any of the provisions of the Act or this part;

(4) The applicant has not willfully failed to disclose any material information required, or has not made any false statement as to any material fact, in connection with his application;

(5) The applicant has in a State (i) premises from which he conducts business subject to license under the Act or from which he intends to conduct such business within a reasonable period of time, or (ii) in the case of a collector, premises from which he conducts his collecting subject to license under the Act or from which he intends to conduct such collecting within a reasonable period of time; and

(6) The applicant has filed an ATF Form 5300.37 (Certification of Compliance with State and Local Law) with ATF in accordance with the instructions on the form certifying under the penalties of perjury that—

(i) The business to be conducted under the license is not prohibited by State or local law in the place where the licensed premises are located;

(ii) Within 30 days after the application is approved the business will comply with the requirements of State and local law applicable to the conduct of business;

(iii) The business will not be conducted under the license until the requirements of State and local law applicable to the business have been met; and

(iv) The applicant has completed and sent or delivered ATF F 5300.36 (Notification of Intent to Apply for a Federal Firearms License) to the chief law enforcement officer of the locality in which the premises are located, which indicates that the applicant intends to

apply for a Federal firearms license. For purposes of this paragraph, the “chief law enforcement officer” is the chief of police, the sheriff, or an equivalent officer.

(c) The Chief, National Licensing Center, shall approve or the Director of Industry Operations shall deny an application for a license within the 60-day period beginning on the date the properly executed application was received: *Provided*, That when an applicant for license renewal is a person who is, pursuant to the provisions of §178.78, §178.143, or §178.144, conducting business or collecting activity under a previously issued license, action regarding the application will be held in abeyance pending the completion of the proceedings against the applicant’s existing license or license application, final determination of the applicant’s criminal case, or final action by the Director on an application for relief submitted pursuant to §178.144, as the case may be.

(d) When the Director of Industry Operations or the Chief, National Licensing Center fails to act on an application for a license within the 60-day period prescribed by paragraph (c) of this section, the applicant may file an action under section 1361 of title 28, United States Code, to compel ATF to act upon the application.

(Paragraph (b)(6) approved by the Office of Management and Budget under control numbers 1512-0522 and 1512-0523)

(18 U.S.C. 847 (84 Stat. 959); 18 U.S.C. 926 (82 Stat. 1226))

[33 FR 18555, Dec. 14, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-135, 48 FR 24068, May 31, 1983; T.D. ATF-241, 51 FR 39619, Oct. 29, 1986; T.D. ATF-270, 53 FR 10495, Mar. 31, 1988; T.D. ATF-290, 54 FR 53054, Dec. 27, 1989; T.D. ATF-363, 60 FR 17453, Apr. 6, 1995]

§ 178.48 Correction of error on license.

(a) Upon receipt of a license issued under the provisions of this part, each licensee shall examine same to ensure that the information contained thereon is accurate. If the license is incorrect, the licensee shall return the license to the Chief, National Licensing Center, with a statement showing the nature of the error. The Chief, National Licensing Center, shall correct the error, if