§ 478.72 Hearing after application denial.

If the applicant for an original or renewal license desires a hearing to review the denial of his application, he shall file a request therefor, in duplicate, with the Director of Industry Operations within 15 days after receipt of the notice of denial. The request should include a statement of the reasons therefor. On receipt of the request, the Director of Industry Operations shall, as expeditiously as possible, make the necessary arrangements for the hearing and advise the applicant of the date, time, location, and the name of the officer before whom the hearing will be held. Such notification shall be made not less than 10 days in advance of the date set for the hearing. On conclusion of the hearing and consideration of all relevant facts and circumstances presented by the applicant or his representative, the Director of Industry Operations shall render his decision confirming or reversing the denial of the application. If the decision is that the denial should stand, a certified copy of the Director of Industry Operations findings and conclusions shall be furnished to the applicant with a final notice of denial, Form 4501. A copy of the application, marked ''Disapproved,'' will be returned to the applicant. If the decision is that the license applied for should be issued, the applicant shall be so notified, in writing, and the license shall be issued as provided by § 478.47.

§ 478.73 Notice of revocation, suspension, or imposition of civil fine.

(a) *Basis for action.* Whenever the Director of Industry Operations has reason to believe that a licensee has willfully violated any provision of the Act or this part, a notice of revocation of the license, ATF Form 4500, may be issued. In addition, a notice of revocation, suspension, or imposition of a civil fine may be issued on ATF Form 4500 whenever the Director of Industry Operations has reason to believe that a licensee has knowingly transferred a firearm to an unlicensed person and knowingly failed to comply with the requirements of 18 U.S.C. 922(t)(1) with respect to the transfer and, at the time that the transferee most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that the transferee's receipt of a firearm would violate 18 U.S.C. 922(g) or 922(n) or State law.

(b) *Issuance of notice.* The notice shall set forth the matters of fact constituting the violations specified, dates, places, and the sections of law and regulations violated. The Director of Industry Operations shall afford the licensee 15 days from the date of receipt of the notice in which to request a hearing prior to suspension or revocation of the license, or imposition of a civil fine. If the licensee does not file a timely request for a hearing, the Director of Industry Operations shall issue a final notice of suspension or revocation and/or imposition of a civil fine on ATF Form 4501, as provided in § 478.74.

[T.D. ATF–415, 63 FR 58278, Oct. 29, 1998]

§ 478.74 Request for hearing after notice of suspension, revocation, or imposition of civil fine.

If a licensee desires a hearing after receipt of a notice of suspension or revocation of a license, or imposition of a civil fine, the licensee shall file a request, in duplicate, with the Director of Industry Operations within 15 days after receipt of the notice of suspension or revocation of a license, or imposition of a civil fine. On receipt of such request, the Director of Industry Operations shall, as expeditiously as possible, make necessary arrangements for the hearing and advise the licensee of the date, time, location and the name of the officer before whom the hearing will be held. Such notification shall be made no less than 10 days in advance of the date set for the hearing. On conclusion of the hearing and consideration of all the relevant presentations made by the licensee or the licensee's representative, the Director of Industry Operations shall render a decision and shall prepare a brief summary of the findings and conclusions on which the decision is based. If the decision is that the license should be revoked, or, in actions under 18 U.S.C. 922(t)(5), that the license should be revoked or suspended, and/or that a civil fine should be imposed, a certified copy of the summary

shall be furnished to the licensee with the final notice of revocation, suspension, or imposition of a civil fine on ATF Form 4501. If the decision is that the license should not be revoked, or in actions under 18 U.S.C. 922(t)(5), that the license should not be revoked or suspended, and a civil fine should not be imposed, the licensee shall be notified in writing.

[T.D. ATF–415, 63 FR 58278, Oct. 29, 1998]

§ 478.75 Service on applicant or licensee.

All notices and other documents required to be served on an applicant or licensee under this subpart shall be served by certified mail or by personal delivery. Where service is by certified mail, a signed duplicate original copy of the formal document shall be mailed, with return receipt requested, to the applicant or licensee at the address stated in his application or license, or at his last known address. Where service is by personal delivery, a signed duplicate original copy of the formal document shall be delivered to the applicant or licensee, or, in the case of a corporation, partnership, or association, by delivering it to an officer, manager, or general agent thereof, or to its attorney of record.

[33 FR 18555, Dec. 14, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975, and further redesignated by T.D. ATF–241, 51 FR 39619, Oct. 29, 1986; T.D. ATF–270, 53 FR 10496, Mar. 31, 1988]]

§ 478.76 Representation at a hearing.

An applicant or licensee may be represented by an attorney, certified public accountant, or other person recognized to practice before the Bureau of Alcohol, Tobacco and Firearms as provided in 31 CFR Part 8 (Practice Before the Bureau of Alcohol, Tobacco and Firearms), if he has otherwise complied with the applicable requirements of 26 CFR 601.521 through 601.527 (conference and practice requirements for alcohol, tobacco, and firearms activities) of this chapter. The Director of Industry Operations may be represented in proceedings by an attorney in the office of the Assistant Chief Counsel or Division Counsel who is authorized to execute and file motions, briefs and other papers in the proceeding, on behalf of the Director of Industry Operations, in his own name as ''Attorney for the Government.''

[33 FR 18555, Dec. 14, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF–48, 44 FR 55842, Sept. 28, 1979; T.D. ATF–92, 46 FR 46916, Sept. 23, 1981. Further redesignated by T.D. ATF–241, 51 FR 39619, Oct. 29, 1986; T.D. ATF–270, 53 FR 10496, Mar. 31, 1988]

§ 478.77 Designated place of hearing.

The designated place of the hearing shall be a location convenient to the aggrieved party.

[T.D. ATF–270, 53 FR 10496, Mar. 31, 1988]

§ 478.78 Operations by licensee after notice.

In any case where denial, suspension, or revocation proceedings are pending before the Bureau of Alcohol, Tobacco and Firearms, or notice of denial, suspension, or revocation has been served on the licensee and he has filed timely request for a hearing, the license in the possession of the licensee shall remain in effect even though such license has expired, or the suspension or revocation date specified in the notice of revocation on Form 4500 served on the licensee has passed: *Provided*, That with respect to a license that has expired, the licensee has timely filed an application for the renewal of his license. If a licensee is dissatisfied with a posthearing decision revoking or suspending the license or denying the application or imposing a civil fine, as the case may be, he may, pursuant to 18 U.S.C. 923(f)(3), within 60 days after receipt of the final notice denying the application or revoking or suspending the license or imposing a civil fine, file a petition for judicial review of such action. Such petition should be filed with the U.S. district court for the district in which the applicant or licensee resides or has his principal place of business. In such case, when the Director of Industry Operations finds that justice so requires, he may postpone the effective date of suspension or revocation of a license or authorize continued operations under the expired license, as applicable, pending judicial review.

[T.D. ATF–415, 63 FR 58278, Oct. 29, 1998]