



GIFFORDS



July 6, 2026

By electronic submission to <https://www.regulations.gov>.

ATF Rulemaking Comments
Mail Stop 6N-518, Office of Regulatory Affairs
Enforcement Programs and Services
Bureau of Alcohol, Tobacco, Firearms and Explosives
99 New York Ave, NE
Washington, DC 20226

**Re: Docket No. ATF-2026-0336; RIN 1140-AB00
Comment on Proposed Rule on “Joint Registration for Spouses under the National Firearms Act”**

**Docket No. ATF-2026-0005; RIN 1140-AA70
Comment on Proposed Rule on “Allowing Makers to Adopt Certain Markings for National Firearms Act Firearms”**

**Docket No. ATF-2026-0006; RIN 1140-AA75
Comment on Proposed Rule on “Transferring Machine Guns Between Qualified Licensees”**

**Docket No. ATF-2026-0331; RIN 1140-AA76
Comment on Proposed Rule on “Clarifying Special (Occupational) Tax Payments Per Business Activity”**

To Whom It May Concern:

Everytown for Gun Safety Support Fund (“Everytown”),¹ GIFFORDS Law Center to Prevent Gun Violence,² and Brady³ submit this comment in response to four notices of proposed

¹ Everytown for Gun Safety Support Fund is the education, research and litigation arm of Everytown for Gun Safety, the largest gun violence prevention organization in the country with nearly 11 million supporters and more than 700,000 donors. The Everytown Support Fund seeks to improve our understanding of the causes of gun violence and help to reduce it by conducting groundbreaking original research, developing evidence-based policies, communicating this knowledge to the American public, and advancing gun safety and gun violence prevention in communities and the courts.

² GIFFORDS is committed to advancing commonsense change that makes communities safer from gun violence. Operating out of offices in San Francisco and Washington DC, and states across the country from Florida to Arizona, our staff partners with lawmakers and advocates at the federal, state, and local levels to craft and enact lifesaving gun safety laws, provide expertise in critical gun violence prevention litigation, and educate the public on the proven solutions that reduce gun violence.

³ Founded in 1974, Brady works across Congress, courts, and communities, uniting gun owners and non-gun owners alike, to take action, not sides, and end America’s gun violence epidemic. Our organization today carries the name of Jim and Sarah Brady. Jim was shot and severely injured in the assassination attempt on President Ronald Reagan. As

rulemaking (“NPRMs” or “proposed rules”) issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) that alter requirements under the National Firearms Act (“NFA”): RIN 1140-AB00 regarding joint spousal registration; RIN 1140-AA70 regarding markings; RIN 1140-AA75 regarding transferring machineguns between licensees; and RIN 1140-AA76 regarding special occupational tax payments. **These proposed rule changes reflect an alarming trend: ATF is seeking to weaken the protections of the National Firearms Act of 1934, one of the most important and long-standing gun crime prevention laws on the books, for the benefit of the firearms industry and to the detriment of public safety. Everytown urges ATF either not to proceed with the changes proposed in these four NPRMs or to revise the proposals to strengthen protections for public safety and to better minimize the risk that NFA weapons will be used to cause harm in our communities.**

ATF and the Justice Department have long recognized the importance of the National Firearms Act in protecting communities from gun violence, including in recent public statements. In 2025, the Justice Department correctly pointed out in a court filing that the NFA “was Congress’s first major attempt at regulating firearms in the United States, a legislative effort animated by the emergence of armed crime as a major national problem.”⁴ As the Justice Department explained, “[s]eeking to curtail armed crime, the NFA targeted particularly dangerous and easily concealable weapons that could be used readily and efficiently by criminals.”⁵ The weapons covered by the NFA include machineguns, short-barreled shotguns and rifles, silencers, destructive devices such as rockets and grenades, and other easily concealed firearms, including those disguised as other objects such as umbrellas, canes, or pens.⁶

As ATF explains, the NFA’s “underlying purpose was to curtail, if not prohibit, transactions in NFA firearms.”⁷ The NFA’s provisions seek to carefully limit and regulate access to these weapons in light of the dangers to public safety that they pose. Among its provisions, the NFA requires those seeking to make or transfer NFA weapons to first submit an application to ATF, which must grant approval before the weapon can be manufactured or transferred.⁸ These applications must include detailed identification information about the firearm and the applicant, including the name, address, fingerprints, and photograph of the person seeking to make or possess the NFA weapon, and the person must also pass a firearms background check.⁹ The law further requires that all NFA weapons be registered in a central registry called the National Firearms Registration and Transfer Record (“NFRTR”), including identification of each weapon and the identification and address of the person possessing the weapon, and that a tax be paid for

victims of gun violence and life-long gun owners, Jim and Sarah dedicated the rest of their lives to passing federal legislation requiring background checks for gun sales. Brady continues to uphold Jim and Sarah’s legacy by uniting Americans from coast to coast, red and blue, young and old, liberal and conservative, to free America from gun violence.

⁴ Department of Justice, [Memorandum in Opposition to Plaintiffs’ Motion for Summary Judgment and In Support of Defendants’ Motion for Summary Judgment](#), *Silencer Shop Foundation v. ATF*, No. 6:25-cv-56-H (N.D. Tex.), filed 11/20/25, at p. 2 (internal citations omitted).

⁵ *Id.* at p. 3, internal quotes and citations omitted.

⁶ 26 U.S.C. § 5845(a).

⁷ ATF website, “National Firearms Act,” viewed on May 21, 2026, [available at https://www.atf.gov/rules-and-regulations/laws-alcohol-tobacco-firearms-and-explosives/national-firearms-act](https://www.atf.gov/rules-and-regulations/laws-alcohol-tobacco-firearms-and-explosives/national-firearms-act).

⁸ 26 U.S.C. §§ 5812, 5822.

⁹ 26 U.S.C. § 5812, § 5822; 27 C.F.R. § 479.63, § 479.64, § 479.85, § 479.86.

makings and transfers of such weapons.¹⁰ The NFA also requires firearm manufacturers, importers, and dealers seeking to engage in the NFA firearms business to register with ATF and pay an annual special occupational tax (SOT).¹¹ In short, for nine decades, federal law has imposed requirements to ensure that only known, vetted persons are entrusted with NFA weapons and that the manufacturing, importation, sale, and movement of such weapons are carefully monitored given the dangers those weapons pose.

Despite acknowledging the legislative intent in enacting the NFA and the present-day value of this law, in 2026, ATF has put forward more than a half-dozen proposals to water down or weaken regulatory provisions that carry out the NFA's requirements. This is a troubling development, especially as many of these proposed regulatory changes provide benefits or cost savings to a limited number of firearm industry participants while creating gaps and loopholes that put public safety at greater risk. There are more proposed rules changes weakening the NFA than can be covered in one comment letter, and our organizations are submitting additional comment letters explaining our strong concerns with ATF's proposed regulatory changes that would eliminate the requirement that chief law enforcement officers receive a copy of NFA applications in their jurisdiction,¹² that would loosen the requirement for ATF approval for interstate transportation of NFA weapons,¹³ and more. With respect to the four proposed regulatory changes discussed in this comment letter, we urge ATF either not to proceed with such changes or to revise the proposals to strengthen protections for public safety and to better minimize the risk that NFA weapons will be used to cause harm in our communities.

I. ATF's proposal for joint spousal applications and registration under the NFA lacks key public safety safeguards (RIN 1140-AB00).

ATF proposes to authorize spouses to file joint applications to make, transfer, or receive NFA firearms as well as to register NFA firearms. Under this proposed rule, spouses whose applications are approved would have a joint right to possess the NFA firearm and would not need to file a transfer application to transfer the firearm between themselves. ATF states in its NPRM that the ATF had received inquiries "from members of the firearms industry requesting" this regulation change.¹⁴

This proposal is a solution in search of a problem. As ATF observes in the NPRM, spouses are not precluded by current law from jointly possessing NFA firearms. Spouses currently can and do establish trusts in which each spouse qualifies a responsible person of the trust entity, and pursuant to this arrangement each spouse may possess NFA firearms registered to the trust. In 2025 alone, there were an estimated 13,000 NFA trust applications submitted by married couples.¹⁵

ATF in its NPRM characterizes the current trust process as a "roundabout process" that imposes cost burdens on applicants, estimating that it takes an average of one hour to generate an

¹⁰ 26 U.S.C. § 5841(a); 26 U.S.C. §§ 5811, 5821 (tax amounts now range between \$0 and \$200). In 2025, Congress, on a partisan basis, zeroed out tax amounts for some of these weapons. Pub. L. No. 119-21, 139 STAT. 72 (2025).

¹¹ 26 U.S.C. §§ 5801, 5802.

¹² 91 Fed. Reg. 24471.

¹³ 91 Fed. Reg. 25229.

¹⁴ 91 Fed. Reg. 25245.

¹⁵ 91 Fed. Reg. 25247.

NFA trust for spouses and that the average cost to create such a trust is \$119.¹⁶ But despite the NPRM's insinuation that this process is unduly burdensome, the NPRM points out that NFA trust applications grew nearly tenfold between 2016 and 2025.¹⁷ Further, the NPRM reveals that out of over 300,000 NFA trust applications submitted in 2025, only 4.4% (13,241) were estimated to be NFA married couple trusts.¹⁸ This means that last year over 287,000 trust applicants felt that it was worth the time and expense to create a NFA trust even though doing so did not even obtain them joint spousal possession privileges. In other words, the cost and burden of creating a NFA trust does not appear to be deterring trust creation in any meaningful way. Also, ATF predicts in the NPRM that if the proposed rule takes effect, the number of NFA joint spousal applications would decrease every year after the rule takes effect, showing that demand for such joint spousal applications is not expected to grow in the same way that the number of trust applications has been growing over the last decade.¹⁹ This evidence of relatively limited demand by potential joint spousal applicants raises questions about the need for this rule change, as well as whether ATF was more motivated to make this change by the requests it received from firearms industry members than by requests from actual married couples who found the trust process too burdensome to pursue.

The NPRM further claims that the proposed rule change is warranted because the current trust system creates administrative burdens on ATF — specifically because “reviewing the trust as a legal instrument and scrutinizing the trust’s responsible persons often requires additional time before ATF can approve the trust’s application to make or transfer firearms.”²⁰ As an initial matter, ATF’s stated goal in reviewing trusts and scrutinizing responsible persons should not be to “approve the trust’s application” as quickly as possible, but rather should be to carefully review the validity of the application and whether its underlying requirements are met to ensure that NFA weapons do not fall into the wrong hands.²¹ These are weapons that Congress has determined are particularly dangerous and that no one would reasonably need one in a hurry.²² But even if the proposed rule is finalized and married couples no longer file trust applications, ATF would still need to continue performing trust reviews and scrutiny for the 95.6% of trust applications they currently receive that do not involve married couples. So the reduction that the proposed rule would make to ATF’s administrative burden in reviewing trusts is proportionally quite small. And, as the NPRM recognizes, ATF would have new administrative burdens placed upon them by the proposed rule, such as having to scrutinize marriage documents to determine whether they constitute proof of a legal marriage and whether marriages such as common-law marriages qualify for joint spousal applications.

ATF further claims in the NPRM that the current process in which spouses use trusts to jointly possess NFA firearms “provides little public safety benefit,” and also claims that the proposed rule would “ensur[e] the same level of public safety currently afforded by registering

¹⁶ 91 Fed. Reg. 25245, 25248.

¹⁷ 91 Fed. Reg. 25247. Dealers in NFA firearms and law firms frequently help create trusts for customers for free or at low cost, which has likely contributed to this dramatic growth.

¹⁸ 91 Fed. Reg. 25247.

¹⁹ *Id.*

²⁰ 91 Fed. Reg. 25245.

²¹ *Id.*

²² Furthermore, ATF is currently processing trust applications filed electronically at an average time period of 25 days, which is not an unduly burdensome length of time for an applicant to wait. See ATF, “Current Processing Times,” as of May 2026, available at <https://www.atf.gov/resource-center/current-processing-times>.

individuals or parties under a trust” because firearms would remain registered in the NFRTR and both spouses would undergo background checks.²³ But the proposed rule appears to create troubling public safety gaps. For example, if one spouse who has jointly applied to make, transfer, or register an NFA firearm later becomes prohibited from firearm possession under federal, state, or local law, the proposed rule states that “the prohibited spouse does not legally need to change the registration status, but the prohibited spouse may not possess (physically or constructively) the firearm.”²⁴ This is inadequate and creates a risk to public safety; in the event such a spouse becomes prohibited, the proposed rule should require that the firearm be formally transferred to the other spouse as sole owner and the NFRTR should be updated to reflect that the prohibited spouse is no longer a “person entitled to possession of the firearm” under 26 U.S.C § 5841(a)(3) and 27 C.F.R. § 479.101(a)(3). Requiring a formal transfer of a jointly registered firearm after one spouse has become prohibited will reduce the risk that a prohibited spouse will take possession of the NFA firearm and transport or use it for illicit purposes.²⁵ ATF should also require that the chief law enforcement officer of the jurisdiction in which the spouses reside receive notification if a spouse has become prohibited (particularly if the spouse became prohibited under 18 U.S.C. § 922(g)(8) or (9) because of a prohibiting restraining order or conviction involving domestic violence²⁶) in order to help ensure that the NFA firearm is not possessed by the prohibited spouse.

Additionally, nowhere does the proposed rule direct approved joint spousal applicants to notify ATF and the NFRTR if the married couple divorces or otherwise dissolves the marriage, even though the dissolution of the marriage removes the legal basis on which the joint registration and application were submitted. The proposed rule should require such notification.

In short, the current process for married couples to jointly possess NFA firearms through establishing a trust is not unduly costly or burdensome — as demonstrated by the enormous increase in trust applications submitted per year. ATF’s proposal to replace that process with a new joint spousal application process for makings, transfers, and registration of NFA weapons creates new public safety gaps and does not create a process to ensure that accurate information about changes to a spouse’s prohibited or marital status is provided in a timely way to ATF and the NFRTR system. For these reasons, this NRPM should be rescinded or revised to address these concerns.

²³ 91 Fed. Reg. 25245.

²⁴ 91 Fed. Reg. 25246.

²⁵ This risk is exacerbated by ATF’s separate regulatory proposals to eliminate chief law enforcement officer notification of NFA making and transfer applications and to weaken requirements for ATF approval for interstate transport of NFA firearms.

²⁶ Note that every month, an average of more than 70 women are shot and killed by an intimate partner and the number of female homicides by violent partners with a firearm has accelerated in recent years. *See* Everytown report, “[Guns and Violence Against Women: America’s Uniquely Lethal Intimate Partner Violence Problem](#),” last updated March 18, 2026 (citing Everytown Research analysis of Centers for Disease Control and Prevention, National Violent Death Reporting System (NVDARS). 2020–2023 and US Census Bureau, “Population Estimates Program (Vintage 2024): Annual Estimates of the Resident Population for Selected Age Groups by Sex,” 2020–2023. Analysis includes firearm homicides involving an intimate partner and women ages 18–85+).

II. ATF should not pursue marking requirement changes that would incentivize more individuals to convert non-NFA firearms into short-barreled rifles, short-barreled shotguns, or machineguns (RIN 1140-AA70).

ATF also proposes to allow those who make NFA firearms by altering existing firearms regulated by the Gun Control Act (“GCA”) to simply adopt the serial number and other identifying markings previously placed on the firearm rather than comply with the current requirement that makers place a new serial number and the maker’s name and location on the firearm.²⁷ ATF’s rationale for this proposed change is that the additional marking requirement is “burdensome and unnecessary because individuals must stamp their name, city, and state onto the frame or receiver of the firearm, which may be crowded with existing markings from the original manufacturer” and that “many makers do not have the necessary equipment to stamp their own firearms.”²⁸ ATF also claims that the current additional marking requirement “does not enhance public safety.”²⁹

We disagree. As the NPRM notes,³⁰ a common way that a maker might alter a GCA firearm to convert it into an NFA firearm is to take a rifle or shotgun and shorten the barrel to less than 16 or 18 inches respectively, thereby making the weapon into a short-barreled rifle or short-barreled shotgun. Short-barreled rifles and shotguns are regulated by the NFA because Congress has determined those weapons to be particularly dangerous, easily concealable, and at serious risk of being used by criminals. The Justice Department has said the same, noting in a legal brief filed before the Supreme Court last year that:

[B]ecause short-barreled rifles combine high destructive power with easy concealability, they are especially susceptible to criminal misuse. See, e.g., *United States v. Thompson/Center Arms Co.*, 504 U.S. 505, 517 (1992) (plurality opinion) (“short-barreled rifles” are “likely to be used for criminal purposes”); *Johnson*, 576 U.S. at 640, 642 (Alito, J., dissenting) (short-barreled shotguns are “notoriously dangerous” and are “uniquely attractive to violent criminals” because they “combine the deadly characteristics of conventional shotguns with the more convenient handling of handguns”).³¹

In 2018, a 17-year-old mass shooter used a short-barreled shotgun to kill 10 people and wound 13 more at Santa Fe High School in Texas.³² In 2024, a short-barreled rifle was among the firearms recovered by police after multiple gunmen opened fire at a Super Bowl rally in Kansas City, killing one person and injuring 22.³³ Short-barreled AR-15s have been used in numerous other mass shootings, including the 2019 Dayton, Ohio, mass shooting that killed nine and

²⁷ 27 C.F.R. § 479.102(a)(1).

²⁸ 91 Fed. Reg. 24467.

²⁹ *Id.*

³⁰ *Id.*

³¹ Department of Justice, [Brief for the United States in Opposition to a Petition for Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit](#), *Robinson v. U.S.*, No. 25-5150 (S. Ct.), filed Oct. 2025, at p. 7.

³² Wajahat S. Khan and Corky Siemaszko, “Pakistani father of Santa Fe victim urges Trump to stop school massacres,” NBC News, May 22, 2018, available at <https://www.nbcnews.com/news/world/pakistani-father-santa-fe-victim-urges-trump-stop-school-massacres-n876456>.

³³ Linda Wagar, “Missouri gun laws in focus after Super Bowl rally shooting,” Fox 4 News, Feb. 15, 2024, available at <https://fox4kc.com/news/missouri-gun-laws-in-focus-after-super-bowl-rally-shooting/>.

wounded over a dozen,³⁴ the 2025 mass shooting of four in Manhattan,³⁵ and more.

These weapons pose heightened risks to communities, and ATF should not be looking for ways to incentivize individuals to make more of these weapons by altering existing GCA rifles and shotguns. From a public safety standpoint, our communities are safer if there are fewer short-barreled rifles and shotguns in circulation among the civilian population, and if the additional marking requirement serves as a modest disincentive for owners of GCA firearms to shorten barrel lengths into short-barreled rifles or shotguns, that disincentive is a public safety benefit of the regulatory status quo. Additionally, by no longer requiring NFA markings to be added to converted short-barreled rifles and shotguns, the proposed rule makes it harder for law enforcement to immediately recognize whether a recovered firearm in a criminal investigation is a short-barreled NFA weapon and determine as part of the investigation whether potential violations of NFA requirements may have occurred.

Furthermore, ATF concedes in the NPRM that the proposed rule would potentially create an “increased risk that this type of NFA firearm might not be traceable if the maker’s markings are not also included.”³⁶ ATF dismisses the impact of this risk by saying that the firearm could still be traced to the first retail purchaser based on the manufacturer’s or importer’s markings, but it may also be valuable in a law enforcement investigation for investigators to immediately be able to identify the NFA maker through additional markings on the firearm.³⁷ ATF also claims that this traceability concern is not problematic because the number of NFA firearms recovered from crime scenes is a “very small subset of the overall firearms traced” and thus “even if an NFA firearm is made by adopting the existing markings and is recovered at a crime scene but could not be traced using the original manufacturer markings, the number of such firearms would be exceedingly small.”³⁸ However, whether the number is exceedingly small or not is inapposite; a firearm that should be traceable but is no longer is an unnecessary public safety risk because tracing generates crime gun intelligence which generates investigative leads which allows law enforcement “to track and stop violent offenders.”³⁹ The proposed rule would increase the likelihood of unsuccessful investigations by eliminating the possibility of the maker’s markings serving as an additional investigative lead. That is not helpful to public safety. It is remarkable for a law enforcement agency to promulgate a regulatory change that would make it harder to trace certain NFA weapons when they are used in crime, particularly in light of the fact that these weapons have been determined by Congress to be particularly dangerous.

In its NPRM, ATF revealingly states that “[t]he objective of this proposed rulemaking is to reduce the regulatory burden on those who make NFA firearms.”⁴⁰ We believe this is a misguided objective for a law enforcement agency whose job is to enforce the NFA, a critically important law on the books that seeks to protect communities from the dangers of particularly

³⁴ Bill Chappell, “The Pistol that Looks Like a Rifle: The Dayton Shooter’s Gun,” NPR, Aug. 8, 2019, *available at* <https://www.npr.org/2019/08/08/748665339/the-pistol-that-looks-like-a-rifle-the-dayton-shooters-gun>.

³⁵ Greg Lickenbrock, “Report: NYC Mass Shooter Used Palmetto State Armory AR-15,” The Smoking Gun, July 29, 2025, *available at* <https://smokinggun.org/report-nyc-mass-shooter-used-palmetto-state-armory-ar-15/>.

³⁶ 91 Fed. Reg. 24468.

³⁷ Additionally, the original manufacturer or importer of the GCA firearm would not know that the firearm had been altered or converted into an NFA firearm.

³⁸ 91 Fed. Reg. 24468.

³⁹ 91 Fed. Reg. 24421.

⁴⁰ 91 Fed. Reg. 24469.

dangerous firearms. ATF further states that this regulatory change “would provide savings to individuals who choose to modify a GCA weapon into an NFA weapon.”⁴¹ But ATF should not be seeking to remove costs and burdens in existing longstanding regulations that incentivize firearms owners to keep their weapons as GCA weapons rather than convert them into more dangerous and more concealable NFA weapons—weapons for which Congress, for nearly a century, has required heightened regulation due to their significant public safety risks.

We urge that ATF withdraw this proposed rule, or, at minimum, modify the proposed rule so it does not eliminate the additional marking requirement for firearms that a maker has converted specifically into a short-barreled rifle, short-barreled shotgun, or a machinegun.

III. ATF should not weaken safeguards governing transfers of machineguns (RIN 1140-AA75).

ATF also proposes to significantly roll back regulations governing transfers of NFA-regulated machineguns between licensed manufacturers, importers, and dealers. This proposed rule change would almost certainly elevate the risk of unscrupulous transfers of machineguns, one of the most dangerous types of weapons regulated by the NFA. Yet ATF’s NPRM provides minimal analysis of the proposed rule’s potential risks and costs and does not even mention public safety, let alone give considered analysis to how the rule would impact public safety considerations. Nor does the proposed rule identify any quantifiable savings that would be achieved by the rule. Instead, the NPRM places an open call for information regarding economic effects the rule may have on the public and the regulated industries.⁴² The cursory and deficient process ATF has used for promulgating and evaluating this proposed rule seeks a shortcut through the rulemaking process required by federal law and does no justice to the communities whose safety would be affected by it.

The current system of regulating machinegun transfers is not perfect and would benefit from refinements that strengthen safeguards against unscrupulous transfers and schemes. However, this proposed rule would go in the opposite direction and wipe away longstanding safeguards on the books. Currently, 18 U.S.C. § 922(o) prohibits possession and transfers of machineguns with certain exceptions, including a “transfer to or by, or possession by or under the authority of” a government agency.⁴³ In 1988, ATF issued regulations at 27 C.F.R. § 479.105 to implement this statutory provision, including providing that manufacturers and importers can manufacture or import post-1986 machineguns for sale or distribution to a government agency “or for use by dealers . . . as sales samples.”⁴⁴ The regulation then provides that applications to transfer machineguns to qualified dealers as sales samples will be approved if certain safeguards are met, namely “if it is established by specific information the expected governmental customers who would require a demonstration of the weapon, information as to the availability of the machine gun to fill subsequent orders, and letters from governmental entities expressing a need for a particular model or interest in seeing a demonstration of a particular weapon.”⁴⁵

⁴¹ 91 Fed. Reg. 24468.

⁴² 91 Fed. Reg. 24487.

⁴³ 18 U.S.C. § 922(o)(2)(A).

⁴⁴ 27 C.F.R. § 479.105(c).

⁴⁵ 27 C.F.R. § 479.105(d).

As the NPRM notes, over the years ATF observed “that the dealer sample procedures established by 27 CFR § 479.105(d) can be misused by unscrupulous dealers or law enforcement.”⁴⁶ Reports indicate that dealers have sought law letters from friendly law enforcement contacts in order to obtain post-1986 machineguns which the dealers then use not for government purposes but for personal enjoyment or to generate revenue by letting customers pay to use them at dealers’ shooting ranges. For example, in 2023 several firearms dealers were indicted and pleaded guilty to a conspiracy to acquire machineguns by obtaining false law letters representing that the machineguns would be used for demonstration to law enforcement agencies when in fact the machineguns were being imported for resale or for the dealers’ own use.⁴⁷ In an effort to prevent such abuses, ATF issued an open letter in 2023 explaining the safeguards that are necessary for a law letter to be considered legally sufficient under § 479.105(d) to establish the government entity’s bona fide interest in purchasing machine guns and to justify approval of machinegun transfer applications.⁴⁸

ATF now seeks to roll back many of the safeguards described in its 2023 open letter and to water down the provisions of § 479.105. As a rationale for doing so, ATF claims that the regulation and open letter depart from the statutory language of 18 U.S.C. § 922(o)(2)(A) because, in ATF’s view, “the plain text of the statute does not require an in-depth analysis of the government entity’s intent or reason for requesting the demonstration.”⁴⁹ However, the statute does not preclude such an analysis either, and for nearly 40 years ATF’s 1988 regulations have provided for such an analysis as a safeguard against misconduct. ATF now proposes to amend § 479.105(d) to only require basic information in a law letter, and also proposes to revise § 479.105(e) to allow machinegun makers to make post-1986 machineguns simply at the request of or on behalf of a government agency, thus eliminating a requirement that the maker establish that the machinegun is “particularly suitable” for government use. ATF states that its proposed rule would “reduce burdens on the industry by simplifying the information licensees would need to provide on a law letter in order to receive approval of an application to transfer and register a post-86 machine gun.”⁵⁰

ATF’s proposed changes to these decades-old regulations are unjustified and misguided. As a process matter, the NPRM does not adequately explain why the 1988 regulations, which have been in effect for nearly four decades, are now suddenly deemed disallowed by the statute. Nor does ATF even discuss the serious public safety risks that arise from unscrupulous machinegun transfers or the public safety impact of rolling back the current regulation’s safeguards and the 2023 open letter which had sought to reduce those risks. Additionally, there are numerous changes in the proposed rule that ATF does not explain at all or that it describes as

⁴⁶ 91 Fed. Reg. 24486.

⁴⁷ See Department of Justice Press Release, “North Carolina and North Dakota Police Chiefs and Federal Firearms Licensees Indicted for Conspiracy to Illegally Acquire Machineguns and Other Firearms,” October 20, 2023, available at <https://www.justice.gov/usao-md/pr/north-carolina-and-north-dakota-police-chiefs-and-federal-firearms-licensees-indicted>; Matthew Reisen, “Former Albuquerque gun store owner pleads guilty in machine gun trafficking scheme,” Albuquerque Journal, Oct. 5, 2025, available at <https://www.yahoo.com/news/articles/former-albuquerque-gun-store-owner-035900532.html>.

⁴⁸ ATF, “Open Letter to All Federal Firearms Licensees Regarding Machinegun Dealer Sales Sample Letters,” Jan. 11, 2023, available at <https://www.atf.gov/media/14331/download>.

⁴⁹ 91 Fed. Reg. 24486.

⁵⁰ 91 Fed. Reg. 24487.

“plain writing edits” without further explanation or justification.⁵¹

With respect to its substantive impact, the proposed rule’s weakening of § 479.105 will undoubtedly increase the proliferation of machineguns possessed by non-governmental entities and will also increase the opportunity for dealers to engage in unscrupulous transfers and to use the machineguns they obtain for unsanctioned purposes. Our specific concerns with the proposed rule includes the following:

- In the first sentence of the revised § 479.105(a), ATF replaces the current word “shall” with “must,” saying that an application to make or transfer a firearm “must” be denied if making, transferring, receiving or possessing the firearm would place the maker or transferee in violation of law. The NPRM provides no explanation for this change. ATF should explain if “must” has the same meaning as “shall” in this sentence and why the word was changed.
- The revised § 479.105(d) eliminates the longstanding regulatory requirements that approval of applications to transfer post-1986 machineguns sales samples to dealers must be conditioned upon establishing that government customers require a demonstration of the weapon, that machineguns must be available to fill subsequent orders, and that the government agency submitting the law letter has expressed a need for a particular model or interest in seeing a demonstration of a particular weapon. ATF does not explain why these current safeguards, which have an important public safety purpose, are incompatible with the statutory requirement that dealer possession of sales samples must be established as “under the authority of” a government agency.⁵² Since 1988, these safeguards have been used to help define the contours of what falls under the authority of a government agency, but ATF does not engage with that history or explain why it now deviates from it.
- ATF’s revised § 479.105(d) provides in new clause (iv) that the letter from the government entity must “[b]e signed by a person with authority to sign on behalf of the government entity,” but if the government entity providing the letter is a law enforcement agency, the provision does not require that the signer must be a law enforcement officer. This raises concerns about law enforcement letters being issued by staff who are not sworn law enforcement officers and who do not have familiarity with the public safety risks of machineguns.
- ATF proposes to revise § 479.105(e) to allow makers to make post-1986 machineguns simply at the request of or on behalf of a government agency, eliminating a requirement that the maker establish that the machinegun is “particularly suitable” for government use. In ATF’s view, the “particularly suitable” safeguard is “unnecessary to implement the statutory exception.”⁵³ But the safeguard is not foreclosed by the statute either, and ATF does not engage in any discussion of how public safety considerations may favor the maintenance of the safeguard. Without this safeguard in place, it appears for example that if a maker unscrupulously obtains a law letter requesting a Glock modified with a machinegun conversion device, the application to make such a machinegun would be granted regardless

⁵¹ *Id.*

⁵² 18 U.S.C. § 922(o)(2)(A).

⁵³ 91 Fed. Reg. 24487.

of whether the law enforcement agency would actually use such a gun.⁵⁴ This raises significant public safety concerns which the NPRM does not evaluate or even mention.

- The proposed rule also seeks to revise § 479.105(f) to simplify the process of transfers of machineguns by discontinued SOT licensees to other licensees, even while the transferor licensee retains a GCA license. This change is not compelled by statute and would create more opportunities for gamesmanship by licensees to transfer machineguns for profit while still engaging in the business of dealing in GCA firearms. ATF should explain how this provision advances the cause of public safety as opposed to simply serving industry interests.
- New paragraph § 479.105(g), which applies to transfers from the U.S. government to licensees, states that transfers of unregistered machineguns may be made to licensees based on a government letter stating that the agency is transferring the machinegun to the licensee “to possess it under the department’s agency or authority for a government purpose.” The new paragraph then provides a non-exhaustive list of purposes that can qualify as a government purpose, including “further manufacture, repair, or testing by the qualified licensee.” Because the paragraph allows for other unspecified purposes as well, it creates yet more opportunity for unscrupulous transfer arrangements. For example, unregistered machinegun transfers from the government to dealers “for a government purpose” should not be an allowance for dealers to let customers “test” the machineguns at their shooting range, yet the proposed rule does not forbid it.
- Additionally, new paragraph § 479.105(g) says that the licensees do not need to register the transferred machinegun while they possess it, provided that the government letter states that the machinegun “will be subsequently returned to the U.S. government.” However, the paragraph contains no time limitation on when the machinegun must be returned, potentially leading to unregistered machineguns remaining in the dealer’s possession and use for years. The NPRM does not explain why there is no time limit specified on this requirement of subsequent return.

In sum, the sweeping changes that this proposed rule would make to the system governing transfers of NFA machineguns have no reasonable justification, are inadequately explained, and pose unacceptable risks to public safety. At a time when states across the nation are taking action to rein in the proliferation of machineguns due to the risks they create for public safety, ATF should not go in the other direction and make these weapons more widely available.⁵⁵ ATF should withdraw this proposed rule and instead conduct a review of § 479.105 that focuses on preventing and deterring unscrupulous transfers of these exceptionally dangerous weapons rather than facilitating them.

⁵⁴ See The Smoking Gun, “[Glock Switches and Auto Sear: A closer look at the machine gun conversion devices showing up at crime scenes across the U.S.](#)” (discussing the increase in recoveries of machinegun conversion devices (MCDs) at crime scenes, with 814 MCDs recovered between 2012 and 2016 but 11,088 recovered between 2019 and 2023).

⁵⁵ For example, 13 states have passed legislation just since 2022 to prohibit auto sear devices that convert semiautomatic weapons into machineguns (AL, DE, IL, IN, LA, MD, MA, MS, NJ, NM, OR, TN, VA) and in total 29 states so far have adopted such laws. See <https://everytownresearch.org/rankings/law/auto-sears-glock-switches-prohibited/>.

IV. ATF’s proposed revisions to NFA special occupational tax regulations raise questions about how ATF assesses the costs of its regulatory proposals (RIN 1140-AA76).

ATF also proposes to revise SOT regulations under the NFA to clarify when Federal Firearms Licensees (“FFLs”) owe SOTs on their NFA manufacturing, importing, or dealing business activity.⁵⁶ This regulatory clarification would be for the benefit of the “approximately 496 FFLs with multiple SOTs of the same business activity at the same location,”⁵⁷ and ATF states in the NPRM that this regulatory revision would provide a total estimated savings to those FFLs of \$280,240 in reduced SOT payments made per year.⁵⁸

While clarifications that help avoid confusion over tax obligations are not per se objectionable, we note that ATF’s explanation of this proposed regulatory change raises questions about ATF’s overall approach towards assessing the benefits and costs of its regulatory proposals, particularly those proposals affecting taxes required under the NFA. In its NPRM, ATF states that “[t]his proposed rule would not result in quantifiable costs” even though ATF explains elsewhere in the NPRM that the rule would lead to reduced SOT payments, which the NPRM characterizes as “a transfer from the government to the public.”⁵⁹ Tax payments that would have been made under the current NFA regulatory landscape but that would be foregone under this regulatory change are lost revenue and a cost on the government’s ledger. The NPRM very precisely quantifies that lost revenue at \$280,240 per year, yet ATF nonetheless states that the “proposed rule would not result in quantifiable costs.”⁶⁰

ATF must clarify how it defines and evaluates the costs of its regulatory proposals. It would be troubling if ATF’s assessment of the costs of its proposals did not acknowledge revenue impacts that its proposals might have on the government. This is particularly true with respect to regulatory proposals affecting tax obligations under the NFA, as the NFA’s tax obligations were a key part of the law’s statutory and enforcement structure. As ATF has acknowledged, the “underlying purpose” of the NFA “was to curtail, if not prohibit, transactions in NFA firearms.”⁶¹ If ATF’s assessment of cost considerations disregards the impact of reduced NFA tax obligations and instead focuses exclusively upon reducing costs for industry so that industry members are more incentivized to engage in more manufacturing, importing, and dealing in NFA weapons, ATF runs the risk of undermining the public safety purpose of the NFA. ATF should therefore explain its statement that the proposed rule “would not result in

⁵⁶ As ATF explains in its NPRM, the proposed revised regulation clarifies that a person engaged in the business of dealing, importing, or manufacturing firearms regulated under the NFA “must pay a [SOT] for each business activity conducted at the same location. However, they are not required to pay a tax for each license that they have at that location if the licenses are for the same type of business activity. The rule proposes clarifying that licensees pay one SOT per business activity (manufacturing, importing, dealing).” 91 Fed. Reg. 24478. Under the revised rule the NFA still imposes SOTs on businesses that import, manufacture, or deal in all types of NFA firearms, which is important as “[i]t’s long been settled that the NFA’s requirements aid in the assessment, collection, and enforcement of the Act’s taxes and are thus justified under Congress’s taxing power.” Department of Justice, [Memorandum in Opposition to Plaintiffs’ Motion for Summary Judgment and In Support of Defendants’ Motion for Summary Judgment](#), *Silencer Shop Foundation v. ATF*, No. 6:25-cv-56-H (N.D. Tex.), filed 11/20/25, at p. 7.

⁵⁷ 91 Fed. Reg. 24481.

⁵⁸ *Id.*

⁵⁹ 91 Fed. Reg. 24482.

⁶⁰ *Id.*

⁶¹ ATF website, “National Firearms Act,” *supra* note 7.

quantifiable costs” and clarify whether ATF views reduced tax revenue as a cost to be considered in any proposed rulemaking affecting the NFA or other laws ATF enforces that carry tax obligations.

V. Conclusion

The National Firearms Act is a foundational gun law that has been on the books for nearly a century and has helped reduce gun crime and save lives. But we are seeing a multi-front effort to chip away at the NFA’s provisions in order to expand the civilian market for these dangerous weapons. This puts public safety at greater risk.

The four proposed rules discussed in this comment all weaken or water down aspects of the NFA, and apparently do so primarily for the benefit of industry members who have urged ATF to make these changes. While ATF summarily claims in its NPRMs that these changes will not impact public safety, there is legitimate concern that they will make the public less safe if they are finalized as proposed. And each individual proposed rule must be considered in the context of the overall wave of changes that ATF is proposing to make to regulations implementing the NFA.

In light of the concerns highlighted above, we urge ATF either not to proceed with these proposed regulatory changes or, at minimum, to revise their proposals to strengthen protections for public safety and to better minimize the risk that NFA weapons will be used to cause harm in our communities.

Thank you for your consideration of this comment.

Sincerely,

/s/ Justin Wagner

Justin Wagner
Senior Vice President for Law & Policy
Everytown for Gun Safety Support Fund

/s/ T. Christian Heyne

T. Christian Heyne
Chief Officer, Policy & Programs
Brady United Against Gun Violence

/s/ Lindsay Nichols

Lindsay Nichols
Policy Director
GIFFORDS Law Center to Prevent Gun
Violence