



DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR part 479

[Docket No. ATF-2026-0004; ATF No. 2025R-15P]

RIN 1140-AA65

Removing CLEO Notification Under the National Firearms Act

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”) proposes amending Department of Justice (“Department”) regulations to remove the requirement that a copy of all applications to make or transfer a firearm subject to the National Firearms Act, and the specified form for responsible persons, as applicable, be forwarded to the chief law enforcement officer of the locality in which the applicant/transferee or responsible person is located.

DATES: Comments must be submitted in writing, and must be submitted on or before (or, if mailed, must be postmarked on or before) [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Commenters should be aware that the federal e-rulemaking portal comment system will not accept comments after midnight Eastern Time on the last day of the comment period.

ADDRESSES: You may submit comments, identified by RIN 1140-AA65, by either of the following methods —

- *Federal e-rulemaking portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* 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; *ATTN RIN 1140-AA65*.

Instructions: All submissions must include the agency name and number (RIN 1140-AA65) for this notice of proposed rulemaking (“NPRM” or “proposed rule”). ATF may post all properly completed comments it receives from either of the methods described above, without change, to the federal e-rulemaking portal, <https://www.regulations.gov>. This includes any personally identifying information (“PII”) or business proprietary information (“PROPIN”) submitted in the body of the comment or as part of a related attachment they want posted. Commenters who submit through the federal e-rulemaking portal and do not want any of their PII posted on the internet should omit it from the body of their comment and in any uploaded attachments that they want posted. If online commenters wish to submit PII with their comment, they should place it in a separate attachment and mark it at the top with the marking “CUI//PRVCY.” Commenters who submit through mail should likewise omit their PII or PROPIN from the body of the comment and provide any such information on the cover sheet only, marking it at the top as “CUI//PRVCY” for PII, or as “CUI//PROPIN” for PROPIN. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Participation” heading of the SUPPLEMENTARY INFORMATION section of this document. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at <https://www.regulations.gov>. Commenters must submit comments by using one of the methods described above, not by emailing the address set forth in the following paragraph.

FOR FURTHER INFORMATION CONTACT: Office of Regulatory Affairs, by email at ORA@atf.gov, by mail at Office of Regulatory Affairs; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave, NE; Washington, DC 20226, or by telephone at 202-648-7070 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Attorney General is responsible for enforcing the provisions of the National Firearms Act (“NFA”), 26 U.S.C. chapter 53.¹ Congress and the Attorney General have delegated the responsibility for administering and enforcing the NFA to the Director of ATF (“Director”), subject to the direction of the Attorney General and the Deputy Attorney General. *See* 28 U.S.C. 599A(b)(1), (c)(1); 28 CFR 0.130(a)(1)–(2); Treas. Order No. 221(2)(a), (d), 37 FR 11696–97 (June 10, 1972).² Accordingly, the Department and ATF have promulgated regulations to implement the NFA in 27 CFR part 479.

A. Application to make a firearm

Section 5822 of the NFA prohibits any person from making a firearm unless the person has: (1) filed with the Attorney General a written application, in duplicate, to make and register the firearm; (2) paid any tax required to make the firearm and affixed the proper tax stamp to the original application form;³ (3) identified the firearm in the application form in such manner as prescribed by regulation; (4) identified themselves in the application form in such manner as prescribed by regulation, and that, if such person is an individual, the identification must include the individual’s fingerprints and photograph; and (5) obtained the Attorney General’s approval on the form to make and register the firearm. 26 U.S.C. 5822. Applications must be denied if making or possessing the firearm would place the person making the firearm in violation of law. For purposes of the NFA, the term “person” means “an individual, a trust, estate, partnership, association, company or corporation.” 26 U.S.C. 7701(a)(1).

Regulations implementing 26 U.S.C. 5822 are set forth in 27 CFR part 479, subpart

¹ Some NFA provisions still refer to the “Secretary of the Treasury.” However, the Homeland Security Act of 2002, Pub. L. 107–296, 116 Stat. 2135, transferred the functions of ATF from the Department of the Treasury to the Department of Justice, under the general authority of the Attorney General. 26 U.S.C. 7801(a)(2); 28 U.S.C. 599A(c)(1). Thus, for ease of reference, this proposed rule refers to the Attorney General where relevant.

² In Attorney General Order Number 6353–2025, the Attorney General delegated authority to the Director to issue regulations pertaining to matters within ATF’s jurisdiction, including under the NFA, Gun Control Act, and Title XI of the Organized Crime Control Act. ATF’s jurisdiction also includes those portions of sec. 38 of the Arms Export Control Act pertaining to permanently importing defense articles and services and the Contraband Cigarette Trafficking Act.

³ Effective January 1, 2026, the tax for making NFA firearms (other than machine guns and destructive devices) is \$0. Pub. L. 119–21, sec. 70436 (July 4, 2025).

E. The regulations provide, at 27 CFR 479.62, that no person may make a firearm unless the person has filed with the Director an ATF 5320.1, Application to Make and Register an NFA Firearm (“Form 1”), and has received the Director’s approval to make the firearm.

Approving the application also registers the firearm to the applicant in the National Firearms Registration and Transfer Record (“NFRTR”). Prior to submitting the application to the Director, all applicants and responsible persons must currently forward a complete copy of Form 1 or a complete copy of ATF Form 5320.23, NFA Responsible Person Questionnaire (“Form 23”), respectively, to the chief law enforcement officer (“CLEO”) of the locality in which the applicant or responsible person is located. The CLEO is defined at 27 CFR 479.62(c) as the local chief of police, county sheriff, head of the state police, or state or local district attorney or prosecutor.

B. Application to transfer a firearm

Section 5812(a) of the NFA provides that a firearm may not be transferred unless: (1) the firearm’s transferor has filed a written application, in duplicate, to transfer and register the firearm to the transferee, using the prescribed application form; (2) the transferor has paid any tax required, and affixed the proper tax stamp to the original application form;⁴ (3) the application form identifies the transferee in such manner as prescribed by regulation, and that, if such person is an individual, the identification must include the individual’s fingerprints and photograph; (4) the application form identifies the transferor in such manner as prescribed by regulation; (5) the application form identifies the firearm in such manner as prescribed by regulation; and (6) the application form shows that the Attorney General has approved the transfer and that the firearm has been registered to the transferee. Applications will be denied if transferring, receiving, or possessing the firearm would place the transferee in violation of law. 26 U.S.C. 5812(a). Section 5812(b) of the NFA provides that the

⁴ Effective January 1, 2026, the transfer tax for NFA firearms (other than machine gun and destructive devices) is \$0. Pub. L. 119-21, sec. 70436 (July 4, 2025).

transferee may not take possession of the firearm unless the Attorney General has approved the transfer and registered the firearm to the transferee.

Regulations implementing 26 U.S.C. 5812 are set forth in 27 CFR part 479, subpart F. In general, § 479.84 provides that no firearm may be transferred in the United States unless an application, ATF 5320.4, Application to Transfer and Register NFA Firearm (Tax Paid) (“Form 4”), has been filed and approved by the Director. Prior to submitting the application to the Director, all transferees and responsible persons must forward a complete copy of Form 4 or Form 23, respectively, to the CLEO of the locality in which the applicant or responsible person is located. The CLEO is defined at § 479.84(c) as the local chief of police, county sheriff, head of the state police, or state or local district attorney or prosecutor.

II. Proposed Rule

Before 2014, ATF required individuals applying to make or transfer a firearm under the NFA to receive a certification from the CLEO of the jurisdiction in which the applicant resided. Certifications on Form 1 and Form 4 requested that CLEOs confirm that they had no information indicating the maker or transferee would use the firearm or device described on the application for other than lawful purposes and, further, that CLEOs had no information that receiving or possessing the firearm or device would place the maker or the transferee in violation of state or local law.⁵

In 2009, ATF received a petition for rulemaking from the National Firearms Act Trade and Collectors Association (“NFATCA”) that requested, in part, that ATF eliminate the required CLEO certification for making and transferring NFA firearms.⁶ The petitioner

⁵ See, e.g., ATF Form 1, *Application to Make and Register a Firearm*, (draft 12-31-13), available at https://www.reginfo.gov/public/do/PRAViewIC?ref_nbr=201401-1140-001&icID=12720 (last visited April 22, 2026).

⁶ The term “NFA firearm” means firearms and other weapons to which the NFA applies — specifically, machine guns, shotguns having a barrel or barrels of less than 18 inches in length, rifles having a barrel or barrels of less than 16 inches in length, weapons made from a rifle having an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length or weapons made from a shotgun with an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length, silencers, destructive devices, and any other weapon as defined by the Act. 26 U.S.C. 5845(a).

cited the lack of CLEO cooperation as reason for eliminating the requirement. Additionally, the petitioner asserted that ATF did not accept the CLEO certification as prima facie evidence that the applicant lawfully possesses the NFA firearm because ATF verifies that the applicant may lawfully possess an NFA firearm under state and federal law. In response to this petition, the Department issued an NPRM in 2013 titled, “Machine Guns, Destructive Devices and Certain Other Firearms; Background Checks for Responsible Persons of a Corporation, Trust or Other Legal Entity With Respect To Making or Transferring a Firearm,” to extend NFA requirements, including CLEO certifications, to responsible persons of legal entities. *See* 78 FR 55014, 55016–17 (Sept. 9, 2013).

The comments in response to the NPRM echoed the NFATCA petition. *See* Machineguns, Destructive Devices and Certain Other Firearms; Background Checks for Responsible Persons of a Trust or Legal Entity With Respect To Making or Transferring a Firearm, 81 FR 2658, 2680 (Jan. 15, 2016) (“2016 final rule”). Commenters explained that, in practice, many applicants struggled to obtain CLEO sign-off. CLEOs would refuse to sign for a variety of reasons. Some CLEOs feared civil liability should weapons be misused. Others were ideologically opposed to persons possessing certain weapons. Applicants would respond by going to different CLEOs in their jurisdiction to find one who would sign. Alternatively, they would form a trust or legal entity because ATF did not require CLEO sign-off for trusts and legal entities. But when individuals formed entities, ATF also did not perform a background check on individuals authorized to possess NFA firearms under the auspices of the entity.

ATF changed both practices in the 2016 final rule when it required responsible persons of an entity to submit to a background check and also changed the CLEO certification requirement to a notice-based system. *See* 81 FR 2658. Specifically, ATF changed its regulations to require that applicants forward a copy of their application to a CLEO in their jurisdiction and to allow CLEOs who had objections to making or transferring

a firearm to forward their objections to ATF for review. As part of the change, ATF amended its regulations to no longer require CLEO consent to approve an application to make or transfer an NFA firearm. *See* 27 CFR 479.62, 479.84.

Now, ATF proposes to discontinue this notification practice. ATF has no information that the CLEO notification meaningfully aids criminal investigations or serves a significant purpose for local law enforcement. Additionally, ATF does not need the notices for purposes of approving or disapproving firearm transfers. When the CLEO certification requirement was first imposed, ATF relied on local law enforcement to help determine whether a person could lawfully possess NFA firearms. Now, all applicants to make or transfer NFA firearms are subject to a thorough background check through the National Instant Criminal Background Check System. ATF makes its own assessment of state and local law to determine whether specific NFA firearms are lawful in the maker's or transferee's jurisdiction and no longer relies on local law enforcement for that information.

In the 2016 final rule, the Department rejected fully eliminating the CLEO requirement. The Department wrote that the CLEO notice provided "awareness that a resident of the CLEO's jurisdiction has applied to make or obtain an NFA weapon and affords the CLEO an opportunity to provide input to [] ATF of any information that may not be available during a federal background check indicating that the applicant is prohibited from possessing firearms." 81 FR 2682.

In the nearly ten years this system has been in place, it has not worked as intended. During this time period, ATF is not aware of CLEOs performing independent background checks or filing objections to making or transferring a firearm. The general feedback to ATF regarding the CLEO notification has been that law enforcement agencies simply discard these notices. However, ATF encourages public comments from CLEOs on whether these notices provide a benefit to them.

These notices are not costless. In the 2016 final rule, ATF estimated that the notice

requirement would cost applicants (individuals and entities) nearly \$5.8 million annually. 81 FR 2713. That cost is higher today because of the increase in NFA transfers and inflation. In section III.A of this preamble, ATF estimates the savings from removing this requirement to be approximately \$11.4 million annually.

There are also no legal impediments to removing the CLEO notice. The CLEO notice is not in the statutory requirements for applying to make or transfer NFA firearms. This requirement, instead, has been upheld as an implied power based on ATF's "broad authority to promulgate regulations governing application forms." *Lomont v. O'Neill*, 285 F.3d 9, 16 (D.C. Cir. 2002). Thus, removing the notification requirement would lessen the burden on applicants and be consistent with the statutory requirements for approving applications to make or transfer a firearm.

Accordingly, ATF proposes amending 27 CFR 479.62 and 479.84 to remove the requirement that a copy of all applications to make or transfer a firearm, and the specified form for responsible persons, as applicable, be forwarded to the CLEO of the locality in which the maker, transferee, or responsible person is located.

III. Statutory and Executive Order Review

A. Executive Orders 12866 and 13563

Executive Order 12866 (Regulatory Planning and Review) directs agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits.

Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of agencies quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting public flexibility.

This proposed rulemaking responds to the inquiries ATF has received regarding the purpose of the CLEO notification, and further addresses confusion expressed by CLEOs as to whether their respective law enforcement agency qualifies as the chief law enforcement

agency, or whether that agency can be removed as the chief law enforcement agency. The Office of Management and Budget (“OMB”) has determined that this proposed rule would not be a “significant regulatory action” under Executive Order 12866. Therefore, it did not review this rule. ATF provides the following analysis to comply with Executive Orders 12866 and 13563.

1. Need statement

CLEO notification may not meaningfully aid criminal investigations or serve a significant purpose for local law enforcement that outweighs the burdens imposed by the rule; therefore, this proposed rule would amend 27 CFR part 479 to remove the requirement to submit a completed NFA application form or responsible person questionnaire to CLEOs, thereby lessening the burdens on persons who make or transfer such firearms. ATF’s current understanding is that CLEOs do not make use of these notifications. However, ATF encourages public comments from CLEOs as to whether receiving such notices provides benefits to them.

2. Population

ATF maintains a record of applications to make or transfer NFA firearms. Over the last ten years, the number of NFA applications has increased.⁷ Table 1 shows the number of applications by year from 2015 through 2024.

Table 1. Historical number of applications

Year	Estimated CLEO notifications
2015	307,524
2016	548,235
2017	259,147
2018	339,278
2019	370,347
2020	487,745
2021	689,822
2022	764,814
2023	1,061,068

⁷ *National Firearms Act Division*, ATF, <https://www.atf.gov/firearms/national-firearms-act-division> [<https://perma.cc/9TRZ-63BV>].

2024	1,170,028
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ATF determined the average rate of change from one year to the next in Table 1’s data, then used statistical software to forecast the number of future applications for years 2025 to 2034 applying that same rate of change. Table 2 provides the anticipated increase in Form 4 applications over the next ten years.

Table 2. Projected number of CLEO notifications

Future years	Projected CLEO notifications
1	1,243,806
2	1,335,050
3	1,426,295
4	1,517,540
5	1,608,785
6	1,700,030
7	1,791,275
8	1,882,519
9	1,973,764
10	2,065,009

3. Benefits and savings

This proposed rule would no longer require individuals to notify CLEOs by submitting a copy of their NFA applications. ATF anticipates this proposed rule would primarily affect individuals who make or transfer NFA items for personal use. For purposes of this analysis, ATF estimates that it would take 15 minutes (0.25 hours) for an individual to copy the relevant form prior to submitting the original to ATF.

Furthermore, individuals applying to purchase an NFA firearm would likely be doing so during their leisure time; therefore, ATF estimated a leisure wage rate based on methodology from the Department of Health and Human Services (“HHS”), updated to account for the latest available data.⁸ The HHS methodology is to first obtain the average

⁸ <https://aspe.hhs.gov/sites/default/files/private/pdf/257746/VOT.pdf>.

U.S. median non-leisure weekly wage from the Bureau of Labor Statistics (“BLS”), and divide it by 40 hours to derive the median hourly non-leisure wage. Step two is to obtain the average U.S. real household income before taxes and after taxes from the Census Bureau, and divide one by the other to determine the net household income rate. Step three applies the net income rate to the median non-leisure hourly rate derived in step one, to calculate the hourly leisure wage. Table 3 shows the steps and data ATF used under this methodology to determine an updated leisure wage.

Table 3. Calculating leisure wage

Inputs for leisure wage rate	Numerical inputs	Source
1a. Median non-leisure weekly wage	\$1,214	News Release, BLS, Usual Weekly Earnings for Wage and Salary Workers https://www.bls.gov/opub/ted/2025/median-weekly-earnings-were-1076-for-women-1333-for-men-in-third-quarter-2025.htm (https://www.bls.gov/news.release/archives/wkyeng_04162025.pdf)
1b. Median non-leisure hourly wage	\$30.35	$\$1,214 / 40 \text{ hours a week} = \30.35
2a. Real household income pre-tax	\$83,730	U.S. Census Bureau, Median Household Income https://www.census.gov/library/publications/2025/demo/p60-286.html
2b. Real household income post-tax	\$72,330	U.S. Census Bureau, Median Household Income https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww2.census.gov%2Fprograms-surveys%2Fdemo%2Ftables%2Fp60%2F286%2FtableB1.xlsx&wdOrigin=BROWSELINK
2c. Net household income rate	86 percent	$\$72,330 \text{ post-tax income} / \$83,730 \text{ pre-tax income} = .86 \text{ net household income rate}$
3a. Hourly leisure wage	\$26.10	$\$30.35 \text{ hourly non-leisure wage} * .86 \text{ net household income rate} = \$26.10 \text{ hourly leisure wage}$
3b. Rounded hourly leisure wage	\$26	

Based on the methodology outlined by HHS, the estimated leisure wage is \$26 per

hour, which ATF then used to calculate the hourly savings. At 0.25 hours to copy per application, ATF estimates that this proposed rule would provide a \$7 (rounded) hourly time savings per application.

Table 4. Deregulatory savings over ten years*

Year	Undiscounted	3-percent discount	7-percent discount
2025	\$8,706,642	\$8,453,050	\$8,137,049
2026	\$9,345,350	\$8,808,889	\$8,162,591
2027	\$9,984,065	\$9,136,834	\$8,149,971
2028	\$10,622,780	\$9,438,202	\$8,104,068
2029	\$11,261,495	\$9,714,265	\$8,029,290
2030	\$11,900,210	\$9,966,239	\$7,929,612
2031	\$12,538,925	\$10,195,293	\$7,808,612
2032	\$13,177,633	\$10,402,545	\$7,669,502
2033	\$13,816,348	\$10,589,080	\$7,515,178
2034	\$14,455,063	\$10,755,924	\$7,348,221
Total	\$115,808,511	\$97,460,322	\$78,854,095
Annualized		\$11,425,323	\$11,227,049

* The “Undiscounted” column represents totals from the underlying costs. Consistent with guidance provided by OMB in Circular A-4, the “3-percent discount rate” and “7-percent discount rate” columns result from applying an economic formula to the number in each row of the “Undiscounted” column to show how these future costs over time would be valued today; they do not contain totals from other tables.

By multiplying the \$7 savings by the number of applications by year, ATF anticipates this proposed rule would have a total, ten-year undiscounted, savings of \$115.8 million or annualized savings of \$11.4 million at a 3 percent discount rate and \$11.2 million at a 7 percent discount rate.

This NPRM’s proposals would alleviate the burden on individuals and CLEOs from providing and receiving, respectively, NFA applicant and responsible person notifications. As stated above, CLEOs are confused about the purpose for the notification requirement and what they should do with these forms when they receive them. This proposed rulemaking would remove that confusion in a manner that would not hinder public safety.

B. Executive Order 14192

Executive Order 14192 (Unleashing Prosperity Through Deregulation) requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed or

revised when the agency publicly proposes for notice-and-comment or otherwise promulgates a new regulation that qualifies as an Executive Order 14192 regulatory action (defined in OMB Memorandum M-25-20 as a final significant regulatory action under section 3(f) of Executive Order 12866 that imposes total costs greater than zero). In furtherance of this requirement, section 3(c) of Executive Order 14192 requires that any new incremental costs associated with such new regulations must, to the extent permitted by law, also be offset by eliminating existing costs associated with at least ten prior regulations. However, this proposed rule would not be an Executive Order 14192 regulatory action because it is not a significant regulatory action as defined by Executive Order 12866 and it would not impose total costs greater than zero. This proposed rule would remove the previous regulatory requirement to notify CLEOs about applications to make or transfer NFA firearms and save the public from the costs and burdens of complying with them. ATF therefore expects this rule, if finalized as proposed, to qualify as an Executive Order 14192 deregulatory action (defined by OMB Memorandum M-25-20 as a final action that imposes total costs less than zero).

C. Executive Order 14294

Executive Order 14294 (Fighting Overcriminalization in Federal Regulations) requires agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the *mens rea* standard applicable to each element of those offenses. This proposed rule would not create a criminal regulatory offense and is thus exempt from Executive Order 14294 requirements.

D. Executive Order 13132

This proposed rule would not have substantial direct effects on the states, the relationship between the federal government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with

section 6 of Executive Order 13132 (Federalism), the Director has determined that this proposed rule would not impose substantial direct compliance costs on state and local governments, preempt state law, or meaningfully implicate federalism. It thus does not warrant preparing a federalism summary impact statement.

E. Executive Order 12988

This proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform).

F. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (“RFA”), 5 U.S.C. 601–612, agencies are required to conduct a regulatory flexibility analysis of any proposed rule subject to notice-and-comment rulemaking requirements unless the agency head certifies, including a statement of the factual basis, that the proposed rule would not have a significant economic impact on a substantial number of small entities. Small entities include certain small businesses, small not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Director certifies, after consideration, that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule does not negatively impact small entities; it removes the burden for individuals who currently have to notify CLEOs when they apply to make or transfer an NFA firearm, and does the same for responsible persons. Because entities have responsible persons, this rule would reduce the burden for those persons, and thereby reduce the burden for the entities by extension. This proposed rule would thus result in a minor indirect benefit to entities from the time saved by their responsible persons. It does not create costs or burdens and does not generate a barrier to entry for small businesses.

G. Unfunded Mandates Reform Act of 1995

This proposed rule does not include a federal mandate that might result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it would not significantly or uniquely affect small governments. Therefore, ATF has determined that no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

H. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (“PRA”), 44 U.S.C. 3501–3521, agencies are required to submit to OMB, for review and approval, any information collection requirements a rule creates or any impacts it has on existing information collections. An information collection includes any reporting, record-keeping, monitoring, posting, labeling, or other similar actions an agency requires of the public. *See* 5 CFR 1320.3(c). This proposed rule would not create any new information collection requirements, but it would impact three existing information collections covered under the PRA. As discussed above, this proposed rule would require ATF to remove the sections of Form 1 (OMB control number 1140-0011), Form 4 (OMB control number 1140-0014), and Form 23 (OMB control number 1140-0107) that require applicants to submit a copy of the form to the CLEO and to certify that they have done so, along with accompanying instructions. ATF anticipates the impacts from this rule would reduce respondents’ time burden to complete the forms.

Impacted ICR 1:

Title: Application to Make and Register NFA Firearm

OMB control number: 1140-0011

Form number: ATF Form 5320.1 (“Form 1”)

Summary of the information collection: Any person other than a qualified manufacturer who wishes to make and register an NFA firearm must submit a written application to ATF on a form prescribed by ATF. 26 U.S.C. 5822. They must also identify the firearm they are making, themselves as the maker, and, if an individual, must include their fingerprints and a

photograph with the application. In § 479.62, ATF prescribed ATF Form 5320.1 (“Form 1”), Application to Make and Register NFA Firearm, for these required purposes.

Need for information and proposed use: ATF’s NFA Division uses the information on this form to determine whether the applicant may legally make and register the firearm under federal, state, tribal, and local law. Section 5822 provides that ATF cannot approve an application if making or possessing the firearm would place the person making the firearm in violation of law. The form asks an individual applicant to respond, under penalties of perjury, to questions to determine whether they are prohibited by federal law from possessing firearms. For a trust or legal entity, which cannot answer these questions on the Form 1 because they are not an individual, each responsible person for that trust or legal entity instead provides this information when they submit Form 5320.23, NFA Responsible Person Questionnaire (covered by 1140-0107, below).

Description of the respondents affected by this proposed rule: Individuals or households

Number of respondents: 148,975 annually

Frequency of response: once

Response time estimate: 12 minutes (overall reduction from 30 minutes, due to conversion to eForm, changes proposed in this rule, and other related changes)

Burden of response: 29,795 hours total for all respondents

Impacted ICR 2:

Title: Application to Transfer and Register NFA Firearm (Tax-Paid)

OMB control number: 1140-0014

Form number: ATF Form 5320.4 (“Form 4”)

Summary of the information collection: Persons with an NFA firearm must apply to ATF for approval to transfer and register the firearm as required by the NFA (26 U.S.C. 5812). ATF Form 5320.4 (“Form 4”), is the prescribed means for submitting this application, facilitates

and records the firearms transfer, and also serves as proof of registration once approved.

Need for information and proposed use: ATF's NFA Division uses the information on this form to determine whether the applicant may legally make and register the firearm under federal, state, tribal, and local law. The form also identifies the transferor, transferee, and firearm(s). 26 U.S.C. 5812 provides that ATF cannot approve an application if receiving or possessing the firearm would place the person receiving the firearm in violation of law. The form asks an individual transferee to respond, under penalties of perjury, to questions to determine whether they are prohibited by federal law from possessing firearms. For a trust or legal entity, which cannot answer these questions on the Form 4 because they are not an individual, each responsible person for that trust or legal entity instead provides this information when they submit Form 5320.23, NFA Responsible Person Questionnaire (covered by 1140-0107, below).

Description of the respondents affected by this proposed rule: Individuals or households

Number of respondents: 546,424 annually

Frequency of response: once

Response time estimate: 12 minutes (overall reduction from 30 minutes, due to conversion to eForm, changes proposed in this rule, and other related changes)

Burden of response: 109,285 hours total for all respondents

Impacted ICR 3:

Title: NFA Responsible Person Questionnaire

OMB control number: 1140-0107

Form number: ATF Form 5320.23 ("Form 23")

Summary of the information collection: When a trust or other legal entity (including corporations, etc.) must submit Form 1 as the maker, or is identified as the transferee on Form 4 or ATF Form 5320.5 ("Form 5"), Application to Transfer and Register NFA Firearm

(Tax-Exempt), they are not able to submit individually identifying information for purposes of a background check. When one of these forms is filled out by an entity other than an individual, the entity provides the information on the Forms 1, 4, or 5. In such cases, each responsible person for that entity must provide the same information that is requested for an individual on the Form 1, 4, or 5, but provides this information on a separate form. This is to ensure that each person is legally permitted to make, transfer, or receive an NFA firearm. As a result, ATF Form 5320.23 (“Form 23”) is required for any responsible person (as defined in 27 CFR 479.11) who is part of such trust or other legal entity.

Need for information and proposed use: ATF’s NFA Division uses the information on this form to determine whether the applicant may legally make, possess, or receive the firearm under federal, state, tribal, and local law. Sections 5812 and 5822 provide that ATF cannot approve an application if making or possessing the firearm would place the person in violation of law. The form asks the responsible person to respond, under penalties of perjury, to questions to determine whether they are prohibited by federal law from possessing firearms.

Description of the respondents affected by this proposed rule: Entity responsible persons

Number of respondents: 749,242 annually

Frequency of response: once

Response time estimate: 12 minutes (overall reduction to 30 minutes, due to conversion to eForm, changes proposed in this rule, and other related changes)

Burden of response: 149,848 hours total for all respondents

I. Congressional Review Act

This proposed rule would not be a major rule as defined by the Congressional Review Act, 5 U.S.C. 804.

IV. Public Participation

A. Comments sought

ATF requests comments on the proposed rule from all interested persons. ATF specifically requests comments on the clarity of this proposed rule and how it may be made easier to understand. ATF also requests comments on the costs or benefits of the proposed rule and on the appropriate methodology and data for calculating those costs and benefits.

All comments must reference this document's RIN 1140-AA65 and, if handwritten, must be legible. If submitting by mail, you must also include your complete first and last name and contact information. If submitting a comment through the federal e-rulemaking portal, as described in section IV.C of this preamble, you should carefully review and follow the website's instructions on submitting comments. Whether you submit comments online or by mail, ATF will post them online. If submitting online as an individual, any information you provide in the online fields for city, state, zip code, and phone will not be publicly viewable when ATF publishes the comment on <https://www.regulations.gov>. However, if you include such personally identifying information ("PII") in the body of your online comment, it may be posted and viewable online. Similarly, if you submit a written comment with PII in the body of the comment, it may be posted and viewable online. Therefore, all commenters should review section IV.B of this preamble, "Confidentiality," regarding how to submit PII if you do not want it published online. ATF may not consider, or respond to, comments that do not meet these requirements or comments containing excessive profanity. ATF will retain comments containing excessive profanity as part of this rulemaking's administrative record but will not publish such documents on <https://www.regulations.gov>. ATF will treat all comments as originals and will not acknowledge receipt of comments. In addition, if ATF cannot read your comment due to handwriting or technical difficulties and cannot contact you for clarification, ATF may not be able to consider your comment.

ATF will carefully consider all comments, as appropriate, received on or before the closing date.

B. Confidentiality

ATF will make all comments meeting the requirements of this section, whether submitted electronically or on paper, and except as provided below, available for public viewing on the internet through the federal e-rulemaking portal, and subject to the Freedom of Information Act (5 U.S.C. 552). Commenters who submit by mail and who do not want their name or other PII posted on the internet should submit their comments with a separate cover sheet containing their PII. The separate cover sheet should be marked with “CUI//PRVCY” at the top to identify it as protected PII under the Privacy Act. Both the cover sheet and comment must reference this RIN 1140-AA65. For comments submitted by mail, information contained on the cover sheet will not appear when posted on the internet, but any PII that appears within the body of a comment will not be redacted by ATF and may appear on the internet. Similarly, commenters who submit through the federal e-rulemaking portal and who do not want any of their PII posted on the internet should omit such PII from the body of their comment and in any uploaded attachments. However, PII entered into the online fields designated for name, email, and other contact information will not be posted or viewable online.

A commenter may submit to ATF information identified as proprietary or confidential business information by mail. To request that ATF handle this information as controlled unclassified information (“CUI”), the commenter must place any portion of a comment that is proprietary or confidential business information under law or regulation on pages separate from the balance of the comment, with each page prominently marked “CUI//PROPIN” at the top of the page.

ATF will not make proprietary or confidential business information submitted in compliance with these instructions available when disclosing the comments that it receives, but will disclose that the commenter provided proprietary or confidential business information that ATF is holding in a separate file to which the public does not have access. If ATF receives a request to examine or copy this information, it will treat it as any other

request under the Freedom of Information Act (5 U.S.C. 552). In addition, ATF will disclose such proprietary or confidential business information to the extent required by other legal process.

C. Submitting comments

Submit comments using either of the two methods described below (but do not submit the same comment multiple times or by more than one method). Hand-delivered comments will not be accepted.

- *Federal e-rulemaking portal:* ATF recommends that you submit your comments to ATF via the federal e-rulemaking portal at <https://www.regulations.gov> and follow the instructions. Comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that is provided after you have successfully uploaded your comment.
- *Mail:* Send written comments to the address listed in the ADDRESSES section of this document. Written comments must appear in minimum 12-point font size, include the commenter's first and last name and full mailing address, and may be of any length. See also section IV.B of this preamble, "Confidentiality."

Disclosure

Copies of this proposed rule and the comments received in response to it are available through the federal e-rulemaking portal, at <https://www.regulations.gov> (search for RIN 1140-AA65).

List of subjects in 27 CFR part 479

Administrative practice and procedure, Arms and munitions, Exports, Imports, Military personnel, Penalties, Reporting and record-keeping requirements, Seizures and forfeitures, Taxes, Transportation.

For the reasons discussed in the preamble, ATF proposes to amend 27 CFR part 479

as follows:

**PART 479—MACHINE GUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER
FIREARMS**

1. The authority citation for 27 CFR part 479 continues to read as follows:

Authority: 26 U.S.C. 5801–5812; 26 U.S.C. 7801; 26 U.S.C. 7805.

§ 479.62 [Amended]

2. Amend § 479.62 by removing paragraph (c) and redesignating paragraph (d) as paragraph (c).

§ 479.84 [Amended]

3. Amend § 479.84 by removing paragraph (c) and redesignating paragraph (d) as paragraph (c).

Robert Cekada,

Director.

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