



## DEPARTMENT OF JUSTICE

### Bureau of Alcohol, Tobacco, Firearms, and Explosives

#### 27 CFR part 478

[Docket No. ATF-2026-0071; ATF No. 2025R-10P]

RIN 1140-AA97

#### Importing Training Rounds

**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 clarify that certain training rounds do not meet the definition of “ammunition” as defined by the Gun Control Act and are not regulated by the Arms Export Control Act. Less-than-lethal ammunition, which is distinct from training rounds, will still generally be considered ammunition.

**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 90 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-AA97, 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-AA97*.

*Instructions:* All submissions must include the agency name and number (RIN 1140-AA97) 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 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](mailto: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 Gun Control Act of 1968 (“GCA”), as amended. This includes the authority to promulgate regulations necessary to enforce the provisions of the GCA.<sup>1</sup> *See* 18 U.S.C. 926(a). Congress and the Attorney General have delegated the responsibility for administering and enforcing the GCA 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).<sup>2</sup> Accordingly, the Department and ATF have promulgated regulations to implement the GCA in 27 CFR part 478.

Under section 38 of the Arms Export Control Act (“AECA”), the President is authorized, in furtherance of world peace and the security and foreign policy of the United States, to control the import, export, and brokering of defense articles and defense services. 22 U.S.C. 2778(a)(1). The AECA also authorizes the President to designate items as defense articles and defense services for the purposes of section 38, and to promulgate regulations for the import and export of such articles and services. *Id.* Through Executive Order 13637, the President delegated to the Attorney General authority under the AECA to control the permanent import of defense articles and defense services. *See* E.O. 13637, sec. 1(n)(ii). In exercising that authority, the Attorney

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<sup>1</sup> Some GCA 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.

<sup>2</sup> 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 National Firearms Act, GCA, 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.

General “shall be guided by the views of the Secretary of State on matters affecting world peace, and the external security and foreign policy of the United States.” *Id.* The Attorney General has delegated this AECA permanent import control authority to ATF. *See* 28 CFR 0.130(a)(6)(vi). ATF promulgated its AECA regulations at 27 CFR part 447. ATF’s AECA regulations include the United States Munitions Import List (“USMIL”) at 27 CFR 447.21. The USMIL enumerates AECA defense articles and defense services that are controlled by the Attorney General for permanent import purposes pursuant to the AECA, 22 U.S.C. 2778, and Executive Order 13637.<sup>3</sup>

The AECA generally requires a license prior to exporting or importing defense articles or defense services, issued in accordance with the AECA and regulations promulgated thereunder. 22 U.S.C. 2778(b)(2). Additionally, when permanently importing<sup>4</sup> items into the United States, the item must be importable under all applicable laws and the importer must submit an ATF Form 5330.3A, Application/Permit to Import Firearms, Ammunition, and Defense Articles (“Form 6, part I”), to ATF and receive ATF approval before doing so. *See* 27 CFR §§ 447.42, 478.112, 479.111.

The GCA at 18 U.S.C. 922(l) prohibits importing ammunition into the United States unless it meets an exception under 18 U.S.C. 925(d).<sup>5</sup> The GCA defines “ammunition” as “ammunition or cartridge cases, primers, bullets, or propellant powder

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<sup>3</sup> Additionally, the President delegated authorities under the AECA to the Secretary of State, including controls for the export, temporary import, and brokering of defense articles and defense services. E.O. 13637, sec. 1(n)(i), 78 FR 16129 (Mar. 8, 2013). The International Traffic in Arms Regulations (“ITAR”), 22 CFR part 120 *et seq.*, implement the Secretary of State’s delegated AECA authorities and enumerates the defense articles and defense services the Secretary of State regulates for export and temporary import purposes on the regulatory United States Munitions List (“USML”) at 22 CFR 121.1. While the defense articles and services on the USML under ITAR for export and temporary import and the defense articles and services on the USMIL for permanent import purposes are separate lists, there is some overlap of items listed on the USML and USMIL. The USML at 22 CFR 121.1 and the USMIL at 27 CFR 447.21 collectively compose the United States Munitions List described at 22 U.S.C. 2778(a)(3). All defense articles and defense services are controlled by the Department of State for purposes of brokering (*see* 22 CFR 129.1). In addition, the Department of State has delegated authority over other sections of the AECA not relevant to this rulemaking.

<sup>4</sup> References to imports in this preamble are to permanent imports controlled by ATF, unless specifically preceded by the word “temporary,” which indicates control under the ITAR by Department of State.

<sup>5</sup> With respect to ammunition, 18 U.S.C. 925(d) addresses a few scenarios where the Attorney General can authorize its import. For example, ammunition can be imported if it is brought in for scientific or research purposes or if it is suitable or readily adaptable for sporting purposes.

designed for use in any firearm.” 18 U.S.C. 921(a)(17)(A). The statutory definition of “ammunition” includes the element that components are “for use in any firearm.” The GCA defines a “firearm” as: “(A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.” 18 U.S.C. 921(a)(3). Congress specifically included starter guns “which will . . . or may readily be converted to expel a projectile by the action of an explosive.” 18 U.S.C. 921(a)(3)(A). This provision prevented circumvention of the GCA by regulating weapons that could be converted into fully functioning firearms by “boring a hole through an obstruction in the barrel,” “substitution of a barrel,” or some other ready means of “conver[sion] to fire a projectile.” *See* Federal Firearms Amendments of 1966, S. Rep. 89–1866, at 73 (explaining earlier congressional proposal). As mentioned above, the USMIL enumerates AECA defense articles and defense services that are controlled by the Attorney General for permanent import purposes pursuant to the AECA. Category III of the USMIL includes ammunition for arms in Category I of the USMIL. *See* 27 CFR 447.21. Category I of the USMIL includes nonautomatic and semiautomatic firearms, to caliber .50 inclusive, combat shotguns, and shotguns with barrels less than 18 inches in length, and all components and parts for such firearms. *See id.* For those AECA authorities delegated to ATF, regulations at 27 CFR 447.11 define “firearms” as “a weapon, and all components and parts therefor, not over .50 caliber which will or is designed to or may be readily converted to expel a projectile by the action of an explosive . . .” Under both the GCA and AECA, a “firearm” is a type of weapon. 18 U.S.C. 921(a)(3)(A); 27 CFR 447.11.

ATF’s prior position was that training rounds were “ammunition” because the round included cartridge cases, primers, bullets, or propellant powder. As such, there has

been a general prohibition on importing training rounds. However, there are a few exceptions under which ammunition may be imported, including if the ammunition is imported “for the use of” the federal, state, or local government (18 U.S.C. 925(a)(1); 27 CFR 478.115(b)) or if the ammunition is deemed suitable or readily adaptable for sporting purposes (18 U.S.C. 925(d)(3)). ATF has received numerous inquiries from regulated firearms industry members on the importability of training rounds that contain ammunition components such as cartridge cases, primers, or propellant powder with the only two general exceptions being importability by a licensee pursuant to the government exception under section 925(a)(1) or by a licensee should the training round come within the sporting purposes exception under 925(d)(3).

In reviewing the text of the definition, ATF has recognized that its initial analysis is flawed and that training rounds do not come within the statutory definition of “ammunition” because training rounds are not “designed for use in any firearm” which is an element of the definition under 18 U.S.C. 921(a)(17)(A). These training rounds do not function in conventional firearms. Rather, they are designed to be fired from specially adapted training guns, which usually consist of a conversion kit (including special slide or bolt, barrel, or assembly and other components) that is placed on the firearm frame or receiver. Therefore, ATF submits this proposal to clarify the definition of “ammunition.”

## **II. Proposed Rule**

ATF proposes to clarify that training rounds are not “ammunition” because they are not designed to be fired from a “firearm,” as defined by the GCA. Although training rounds consist of cartridge cases, primers, propellant powder, and projectiles, they are not “designed for use in any firearm.”

As applicable here, the definition of “firearm” includes “any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive.” 18 U.S.C. 921(a)(3)(A). Although “weapon” is not further

defined by the GCA or AECA, the Supreme Court in *Bondi v. VanDerStok*, explained that the GCA’s definition of “firearm” demonstrates congressional intent to regulate inoperable firearms and firearms capable of being readily converted to expel a projectile by the action of an explosive. 145 S. Ct. 857, 868–69 (2025). The Court highlighted that the statute indicates that a starter gun is a weapon prior to any attempted conversion.<sup>6</sup> *Id.* at 868–69. Additionally, the Court explained that a “weapon,” as it pertains to the definition of firearms, is “an instrument of offensive or defensive combat.” *Id.* at 868. As discussed below, training rounds are designed for use in, and are fired from, training guns, which are not “firearms” within the meaning of the GCA.

First, unlike starter guns, Congress did not expressly regulate training guns as weapons under 18 U.S.C. 921(a)(3). Moreover, training guns, unlike starter guns, are generally not capable of being readily converted to expel a projectile by the action of an explosive.<sup>7</sup> Under these two aspects of the definition, training guns do not fall within the definition of “firearm.”

Second, training guns as assembled<sup>8</sup> are not weapons designed for offensive or defensive combat because they are incapable of firing conventional firearm ammunition. The conversion kits used in a training gun are specifically designed so that the gun can function only with a training round that has significantly less propellant powder than conventional firearm ammunition, which allows the training round to safely and effectively cycle the conversion kit bolt. Using conventional firearm ammunition in a

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<sup>6</sup> A starter gun is a firearm that normally fires blanks and is usually found at sporting events, not in combat. *United States v. Hall*, 396 F.2d 841, 842, n. 2 (CA4 1968); *United States v. Mullins*, 446 F.3d 750, 755 (CA8 2006).

<sup>7</sup> Should a training gun be designed or be able to incorporate components that make it readily convertible to expel a projectile by the action of an explosive, a separate analysis would be necessary to determine if it a weapon and thus a “firearm” under 18 U.S.C. 921(a)(3)(A).

<sup>8</sup> Training guns are generally assembled by placing a conversion kit on the frame or receiver of the gun, which limits the type of caliber and rounds the gun can expel. The GCA definition of “firearm” includes “frame or receiver” of a weapon. 18 U.S.C. 921(a)(3)(B). The mere fact that a training gun includes a component (i.e., frame or receiver) regulated as a statutory “firearm” does not transform the training gun into a weapon capable of using ammunition as set out in section 921(a)(17)(A). The GCA does this because the frame or receiver are the essential component parts of completed weapons, not because they are independently capable of expelling projectiles.

training gun would be unsafe. Thus, training guns are designed with additional safety features including offset firing pins to ensure they can fire only training rounds in specific calibers. In other words, the devices that fire training rounds are not “firearms” within the meaning of the GCA or the AECA.

Additionally, with respect to the training round itself, the cartridges, when discharged, produce low-energy projectiles that are designed to provide immediate feedback to a trainee during a military or law enforcement training exercise. The projectiles provide impact awareness for the shooter by providing imprint markings on the target or provide immediate non-lethal feedback to a user in close-range reality-based training scenarios often leaving bruising or welts on a person. These projectiles are not intended to cause death or serious bodily injury, nor will they likely cause such injury when used with proper safety equipment. Because they are low-energy, the projectiles are also ineffective as “less-than-lethal” ammunition in riot control situations, unlike bean bag rounds and rubber pellets that are used in weapons for nonlethal riot control. Given that these training rounds are not useful for offensive or defensive combat, they are not designed for use in instruments of offensive or defensive combat.

Moreover, based on the design of the cartridge, the training rounds themselves typically have design features consistent with use in a training device and not for use in unmodified firearms. For example, a training round for a 9mm training pistol or AR-type training rifle (or device with a conversion kit) has insufficient propellant powder to cycle a firearm’s slide or bolt. The training rounds are also not reloadable, i.e., they cannot be altered to be lethal or less-than-lethal ammunition. The cartridge case of each training round contains a plastic piston that, when removed, weakens and damages the casing so the training round cannot be reloaded without being destroyed. Nevertheless, if a manufacturer makes a “training round” that is designed for use only in a firearm, then the round may be ammunition. ATF notes that an item marketed or advertised as a “training

round” would not by itself make it exempt from regulation as “ammunition.” Rather, ATF must make a determination based on an examination of the item that the round is not designed for use in offensive or defensive combat and in a firearm.

Accordingly, ATF proposes to amend the definition of “ammunition” by adding a new paragraph (c) under the existing exemptions to clarify that the term would not include “any fully assembled training round that is not designed (1) for offensive or defensive combat and (2) to be used in a device that constitutes a weapon.”

Consequently, importers would not need to complete a Form 6, part I under 27 CFR parts 447 and 478 to bring training rounds into the United States.

### **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.

The Office of Management and Budget (“OMB”) has determined that this proposed rule would be a “significant regulatory action” under section 3(f) of Executive Order 12866, although it would not be economically significant under section 3(f)(1). OMB has therefore reviewed this rule. ATF provides the following analysis to comply with Executive Orders 12866 and 13563. By clarifying that training rounds do not meet the definition of “ammunition,” the effect of this proposed rule would be to codify a June 2025 Open Letter so that training rounds can continue to be imported without any future restrictions. ATF has laid out the impacts of this proposed rulemaking in OMB’s A-4 accounting statement here, in Table 1. Table 1 also illustrates the range of future

estimates in a low, primary, and high range as part of ATF's Circular A-4 sensitivity analysis. ATF then provides its normal regulatory cost-benefit analysis.

**Table 1. OMB Circular A-4 accounting statement (\$ millions) and sensitivity analysis**

Category	Primary estimate	Minimum estimate	Maximum estimate	Units		
				Dollar year	Percent discount	Period covered
<b>Benefits</b>						
Annualized monetized benefits	n/a	n/a	n/a	2025	7	10 years
	n/a	n/a	n/a	2025	3	10 years
Annualized quantified benefits	n/a	n/a	n/a	2025	7	10 years
	n/a	n/a	n/a	2025	3	10 years
Annualized non-monetized benefits	Benefits to consumers who would see lower prices and importers who would see higher profits. Disbenefits (i.e., adverse impacts) to the domestic training rounds industry.					
<b>Costs</b>						
Annualized monetized costs	\$0.00	\$0.00	\$0.00	2025	7	10 years
	\$0.00	\$0.00	\$0.00	2025	3	10 years
Annualized quantified costs	n/a	n/a	n/a	2025	7	10 years
	n/a	n/a	n/a	2025	3	10 years
Annualized non-monetized costs	n/a					
<b>Transfers</b>						
Federal annualized monetized transfers	n/a	n/a	n/a	2025	7	10 years
	n/a	n/a	n/a	2025	3	10 years
	From: federal government			To: individuals		
Other annualized monetized transfers	n/a	n/a	n/a	2025	7	10 years
	n/a	n/a	n/a	2025	3	10 years
<b>Effects</b>						
State, local, and/or tribal governments	The rule would not impose an intergovernmental mandate or have significant or unique effects on small governments, or have federalism or tribal implications					

Small businesses	This rule will increase competition to domestic producers of training rounds or high-end, realistic CO2 cartridges					
Wages	n/a					
Growth	n/a					
<b>Alternatives</b>	Defining training rounds as ammunition. \$0 cost and \$0 benefits. This was rejected as more stringent without any incremental benefit.					
	Proposed alternative: \$4,522 in cost savings. This alternative was selected because the benefits exceed the costs.					
	Issuing Guidance Documentation. This alternative has already been implemented, but this alternative was deemed not to have the same force and effect of a regulation; therefore, this alternative was rejected.					
<b>Net benefits</b>						
Annualized monetized net benefits	n/a	n/a	n/a	2025	7	10 years
	n/a	n/a	n/a	2025	3	10 years

### ***1. Need statement***

This proposed rule reduces a regulatory burden on the public and responds to their request to reduce administrative burdens by providing more flexibility for importing of non-lethal ammunition types. As these cartridges are non-lethal and are not used in firearms, ATF has determined that the need identified by the public request is valid and has identified an area where ATF's regulations impose unwarranted burdens that are not statutorily required.

### ***2. Benefits***

This proposed rule would now clarify that training rounds do not meet the definition of ammunition under the GCA. As ammunition, their import into the United States is restricted except for the use of the United States, any department or agency thereof, any state or any department, agency, or political subdivision thereof, or unless excepted under 18 U.S.C. 925(d) (e.g., if the ammunition is considered sporting). By stipulating that training rounds are not ammunition, these training rounds would no longer fall under ATF purview or be subject to ATF regulations. Currently, importers import training rounds only for governmental or law enforcement purposes under the

government exception 18 U.S.C. 925(a)(1). In other words, this proposed rule would allow FFL importers to import training rounds and import them without needing to complete and submit an ATF import forms (including the Form 6, part I application).<sup>9</sup> This rule would also allow importers to sell training rounds for retail or commercial use as well as law enforcement purposes.

ATF does not have information on the wholesale costs or value of imported training rounds and thus does not incorporate the difference between wholesale costs versus retail costs, nor does ATF have any data on the current domestic market for training rounds. As a result, ATF is unable to make any quantitative assessments of the benefits of this rulemaking. It is highly likely that there will be benefits to consumers who face a lower price for training rounds and for importers who will have more flexibility to import foreign training rounds. Accordingly, ATF requests any information from the public regarding the economic effects that this rulemaking may have on the public and the regulated entities.

Additionally, there are an estimated two domestic entities that may be affected by this proposed regulation. One entity is a domestic subsidiary of a large business that produces their training rounds abroad. The other is a small entity that produces their training rounds domestically. Of these two entities, the business that produces domestically is likely to experience disbenefits (i.e., adverse impacts) in the form of lower prices and demand from foreign competition. The other business may indirectly benefit because while they are a domestic company, they appear to manufacture overseas and subsequently import into the United States, thus they would be able to import more without restrictions and reduced burdens. Because this proposed rule may have an impact on domestic manufacturers, ATF requests public comments regarding the overall

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<sup>9</sup> OMB-1140-0005, Application/Permit to Import Firearms, Ammunition, and Defense Articles (“ATF Form 6, part I”), <https://www.atf.gov/media/22521/download> [<https://perma.cc/5XCC-8G23?type=image>]

estimated revenue impact that this proposed rule would have on domestic manufacturers.

### ***3. Cost Savings***

In addition to the additional potential revenue this proposed rule would add to an FFL importer's business, ATF anticipates that there would be some cost savings to importers because they no longer must complete a Form 6, part I to receive approval for the items they wish to import and then subsequently complete an ATF Form 5330.3C, Releasing/Receiving Imported Firearms, Ammunition, and Defense Articles ("Form 6A") to confirm the items imported. As mentioned above, ATF estimates that importers brought in the equivalent of one import per year, thus completing one Form 6, part I.

ATF estimates for purposes of this analysis that not completing a Form 6, part I would save a retail salesperson, who works for an FFL, an estimated 30 minutes in hourly burden. To determine the monetized value of the hourly burden, ATF uses the unloaded wage rate of \$17.64 for a retail salesperson based on the Bureau of Labor Statistics ("BLS").<sup>10</sup> To account for fringe employment benefits such as insurance, ATF determined the average load rate based on BLS's calculated national hourly compensation (salaries/wages plus paid benefits) for all private-sector occupations (average of \$44.20 for 2024)<sup>11</sup> divided by the national average hourly wages and salaries without benefits (average of \$31.10 for 2024),<sup>12</sup> making a load rate of 1.42.<sup>13</sup> ATF then applied this load rate to the \$17.64 to calculate their total compensation. Multiplying BLS's estimated hourly wage rate for a retail salesperson (\$17.64) by the load rate of 1.42, ATF estimates that a rounded, loaded wage rate for a retail salesperson would be

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<sup>10</sup> 41-2031 Retail Salespersons <https://www.bls.gov/oes/2023/may/oes412031.htm> [<https://perma.cc/V5T8-T455>].

<sup>11</sup> U.S. Bureau of Labor Statistics, *Total compensation cost per hour worked for private industry workers (2023–2025)*, <https://data.bls.gov/dataViewer/view/timeseries/CMU2010000000000D> [<https://perma.cc/T2ZL-2UUB>].

<sup>12</sup> U.S. Bureau of Labor Statistics, *Wages and salaries cost per hour worked for private industry workers (2023–2025)*, <https://data.bls.gov/dataViewer/view/timeseries/CMU2020000000000D> [<https://perma.cc/8WEJ-2TRW>].

<sup>13</sup> 1.4 load rate = \$44.20 total hourly compensation / 31.95 hourly wages and salaries.

\$25 and that an FFL would save \$12.50 in loaded monetized time per hour under this rule for submitting an ATF Form 6, part I.

For imports received, the importing FFL would subsequently submit a Form 6A, which is estimated to take 35 minutes (0.583 hours). Using the same loaded wage rate of \$25 per hour, an FFL would save an hourly burden of \$14.58 per Form 6A submittal, with a combined total of \$27.08 per import.

With a population of 167 importers, and assuming one less Form 6, part I application and one less Form 6A submittal, ATF estimates that the cost savings for this rule from no longer applying and submitting a Form 6, part I or Form 6A would be \$4,522 annually.<sup>14</sup>

ATF notes that this would be the minimum cost savings from this rule. There may be additional cost savings with importers not needing to obtain and submit the government or law enforcement agency contract and letter to show the import comes under the government exception pursuant to 18 U.S.C. 925(a)(1). However, as government and law enforcement agency procedures may vary, ATF seeks additional comment on whether there are any additional steps, time, and burden that importers may save by not having to submit additional documentation with the Form 6, part I. Overall, this rule would provide an annual cost savings of \$4,522 per year, or \$45,215 over the course of ten years.

#### ***4. Regulatory alternatives***

Alternative 1. Maintaining the status quo (no action alternative).

ATF considered determining that these training rounds are considered ammunition, which would prohibit importation of these training rounds unless an exception applied under 18 U.S.C 925(d) or unless imported for governmental use under

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<sup>14</sup> \$4,522= 167 importers \* \$25 loaded wage \* (0.5 hours Form 6 part I application + 0.583 Form 6A application).

18 U.S.C. 925(a). While government and law enforcement are the primary users of these training rounds, the ability for importers to import only pursuant to a government contract severely limits the importer's ability to retain sufficient stock in the event that state or local law enforcement unexpectedly need more than requested. As a result, ATF currently believes that retaining the status quo is not the best alternative as this does not provide the most qualitative flexibility for importation.

#### Alternative 2 Issuing Guidance.

Another alternative ATF considered was only issuing guidance. Currently, this is the status quo, and guidance has been in effect in the recent year. However, guidance does not have the same force and effect of a regulation, so ATF is choosing to undertake a regulation to solidify in regulation the interpretation it has provided in guidance.

#### Alternative 3: Rulemaking (proposed alternative).

Finally, an alternative that ATF considered is the proposed alternative. This is to publish a regulation amending the definition of ammunition to make clear the term does not include any fully assembled training round that is not designed for (1) offensive or defensive combat; and (2) use in a device that constitutes a weapon. Items that meet this description would no longer be restricted from import and thus importers would not need to complete a Form 6, part I. This alternative is estimated to have qualitative benefits for consumers who will face lower prices for training rounds and for importers who will have more flexibility to import foreign training rounds. There are also estimated cost savings of \$4,552 per year from removing the need for importers to complete a Form 6, part I and Form 6A to import these types of items. ATF believes this alternative provides the most flexibility to importers or any business that deals or otherwise retails in training rounds and reduces regulatory and administrative burdens.

#### *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. Although this proposed rule would be a significant regulatory action as defined by Executive Order 12866, it would not count as an Executive Order 14192 regulatory action because it has total costs less than zero. The rule would add an exception to the definition of ammunition for training rounds, which would allow persons to import training rounds without having to comply with the restrictions and requirements on importing ammunition. ATF therefore expects this proposed rule, if finalized as proposed, to qualify as an Executive Order 14192 deregulatory action (defined in 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.

ATF performed an initial regulatory flexibility analysis of the potential impacts on small businesses and other entities that would occur due to this proposed rule, if finalized as proposed.

**Initial Regulatory Flexibility Analysis (“IRFA”)**

The RFA establishes “as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies

are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to ensure that such proposals are given serious consideration.” Pub. L. 96-354, sec. 2(b), 94 Stat. 1164 (1980).

Under the RFA, the agency is required to consider whether the proposed rule would have a significant economic impact on a substantial number of small entities. Agencies must perform a review to determine whether the proposed rule would have such an impact. If the agency determines that it would, the agency must prepare an IRFA (or a regulatory flexibility analysis for a final rule) as described in the Act. *See* 5 U.S.C. 603(b).

### **1. Describing the reasons why the agency is considering taking action**

ATF is proposing this action to allow persons to import training rounds as an exemption from general restrictions on importing ammunition, thereby increasing the opportunities for importers and permitting more selection among consumers.

### **2. Succinctly stating the objectives of, and legal basis for, the proposed rule**

The objective of this proposed rulemaking is to reduce the regulatory burden on importers and the public by streamlining requirements to allow training rounds to be imported for use in training guns. Additionally, the goal of this rule is to avoid unnecessary delays in the sale and transfer of non-lethal ammunition types from abroad. For example, the existing framework, under which importers can generally import only limited circumstances, severely limits importers’ ability to retain sufficient stock in the event state and local law enforcement unexpectedly need more than requested.

### **3. Describing and, where feasible, estimating the number of small entities to which the proposed rule would apply**

Based on ATF’s Federal Firearm Licensing Center, there are 1,666 FFLs that import firearms that may benefit from this proposed rule from no longer needing to complete a Form 6, part I or Form 6A to import training rounds as they would no longer

be considered ammunition. The majority of these FFLs are likely to be small.

However, there are an estimated two domestic entities that may be indirectly affected by this proposed regulation. One entity is a domestic subsidiary of a large business that produces their training rounds abroad. The other is a small entity that produces their training rounds domestically. Of these two entities, the business that produces domestically is likely to experience disbenefits (i.e., adverse impacts) in the form of lower prices and demand from foreign competition. The other business may indirectly benefit because while they are a domestic company they appear to manufacture overseas and subsequently import into the United States, thus they would be able to import more without restrictions and reduced burdens.

Furthermore, there may be other small entities that may be indirectly affected due to ATF's decision to classify training rounds as not meeting the definition of ammunition. These companies manufacture high-end air rifles and CO<sub>2</sub> cartridges that also mimic realistic firing. While training rounds might be considered to provide more realistic firearm feedback than their CO<sub>2</sub> counterparts, these CO<sub>2</sub> cartridges sell for less than training rounds.<sup>15,16,17</sup> While training rounds retail for approximately \$0.57 per cartridge, CO<sub>2</sub> cartridges are less expensive, selling for an average at retail of \$0.37 per cartridge. Furthermore, rifles that use CO<sub>2</sub> cartridges retail for less than a firearm that needs a conversion kit in order to use training rounds.

Entities indirectly affected by this proposed rule fall under Small Business Administration ("SBA") industry NAICs standard: 332992 for Small Arms Ammunition Manufacturing. The SBA size standard for this industry is less than 1,300. These entities have employee sizes of less than 1,000.

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<sup>15</sup> T4E guns, <https://training.t4eguns.com/t4e-paintballs-43-blue-430-ct-2292119> [<https://perma.cc/2VRX-CK8Z>]

<sup>16</sup> Unit 4 Solutions <https://unitsolutions.com/products/markings-round-value-packs?variant=45703050625177> [<https://perma.cc/S283-TPFG>]

<sup>17</sup> Byrna, <https://byrna.com/collections/less-lethal-training-ammo> [<https://perma.cc/T8NM-SUAN>]

**4. Describing the proposed rule’s projected reporting, record-keeping, and other compliance requirements, including an estimate of the classes of small entities which would be subject to the requirement and the type of professional skills necessary to prepare the report or record**

This rule would remove the reporting requirement that FFL importers file a Form 6, part I prior to importing training rounds pursuant to a government contract and remove the subsequent need to complete a Form 6A upon importation of the goods. This rule would provide cost savings of \$27.08 per importer and would remove a restriction on the public, with an added benefit of \$174.6 million in increase retail sales. There are no additional requirements or costs imposed by this proposed rule

**5. Identifying, to the extent practicable, all relevant Federal rules which might duplicate, overlap, or conflict with the proposed rule**

This proposed rule would not duplicate or conflict with other federal rules.

**6. Describing any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize and significant economic impact the proposed rule might have on small entities**

ATF has considered the alternative of maintaining the status quo and continuing to restrict the import of training rounds. Compared to the status quo, the proposed approach would benefit firearms importers, individuals would have more options on places from where they could obtain training ammunition, and small entities would benefit from being able to run their enhanced self-defense training courses with sufficient quantities of training rounds. ATF notes, however, that this alternative will increase competition for one or two domestic manufacturers of training rounds.

*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 involves two existing information collections under the PRA. These information collections, as currently approved by OMB, are OMB control number 1140-0005, ATF Form 5330.3A, Application/Permit to Import Firearms, Ammunition, and Defense Articles (“Form 6, part I”), and OMB control number 1140-0007, ATF Form 5330.3C, Releasing/Receiving Imported Firearms, Ammunition, and Defense Articles (“Form 6A”). The title and description of the information collection impacted by this rule, a description of those who provide the information, and an estimate of the total annual burden follow.

#### Impacted ICR 1

*Title:* ATF Form 5330.3A, Application/Permit to Import Firearms, Ammunition, and Defense Articles (“Form 6, part I”)

*OMB control number:* 1140-0005

*Summary of the information collection:* Importation of firearms, ammunition, and defense articles into the United States is subject to the provision of 18 U.S.C. 925(d) and (e), 22 U.S.C. 2778, and 26 U.S.C. 5844. Except as provided, or specifically authorized by the Attorney General, the importation of articles coming within the purview of these statutes is restricted or prohibited. In general, the importation of firearms is permitted only if the

firearms meet certain criteria and the Attorney General authorizes the importation.

*Need for information and proposed use:* Data provided on the Application and Permit for Importation of Firearms, Ammunition, and Defense Articles - ATF Form 6, part I allows ATF to determine if the article(s) described on the application qualifies for importation by the importer. It also serves as authorization for the importer. The approved form also serves as authorization for U.S. Customs and Border Protection to allow the listed articles entry into the United States. Many importers use the form for internal accounting purposes. Information may be disclosed to other federal, state, foreign, and local law enforcement and regulatory agency personnel, to verify information on the application. Disclosure also aids them in the performance of their duties regarding the enforcement and regulation of firearms and/or ammunition, where such disclosure is not prohibited by law. The licensee is required to retain this form permanently

*Description of the respondents affected by this proposed rule:* Importer FFLs

*Number of current respondents:* 1,666

*Frequency of response:* as needed

*Number of responses:* this proposed rule would decrease the number of responses by 1,666

*Response time estimate:* 0.5 hours

*Burden of response:* this proposed rule would decrease hourly burden by 833 hours.

Impacted ICR 2

*Title:* ATF Form 5330.3C, Release/Receipt of Imported Firearms, Ammunition, and Defense Articles (“Form 6A”)

*OMB control number:* 1140-0007

*Summary of the information collection:* Under 18 U.S.C. 925(a), 22 U.S.C. 2778, and 26 U.S.C. 5844, the import of firearms, ammunition and defense articles coming within the

purview of these statutes is prohibited. The statutes also require that persons engaged in the business of importing such articles be licensed and/or registered. Implementing regulations in 27 CFR parts 447, 478, and 479, prescribe the forms and procedures necessary to fulfill the import permit requirements. Through these requirements, the law and regulations establish a comprehensive system for regulating the importation of firearms, ammunition, and defense articles.

*Need for information and proposed use:* The data provided by this information collection request are used by ATF to determine if articles imported meet the statutory and regulatory criteria for importation and if the articles shown on the permit application have actually been imported. Form 6A serves as the certification of release and receipt of the articles described on the permit application. The form is used by FFLs (registered importers, Federal firearms licensees other than importers), members of the U.S. Armed Forces, and persons not licensed by or registered with ATF.

*Description of the respondents affected by this proposed rule:* Importer FFLs

*Number of current respondents:* 1,666

*Frequency of response:* as needed

*Number of responses:* this proposed rule would decrease the current inventory by 1,666 responses

*Response time estimate:* 0.583 hours

*Burden of response:* this proposed rule would decrease hourly burden by 971 hours.

#### **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. In addition, ATF 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-AA97 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> by ATF. 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-AA97. 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 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."

### *D. Request for hearing*

Any interested person who desires an opportunity to comment orally at a public hearing should submit his or her request, in writing, to the Director within the 90-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing is necessary.

### **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-AA97).

### **List of subjects in 27 CFR part 478**

Administrative practice and procedure, Arms and munitions, Exports, Freight, Imports, Intergovernmental relations, Law enforcement officers, Military personnel, Penalties, Reporting and record-keeping requirements, Research, Seizures and forfeitures, Transportation.

For the reasons discussed in the preamble, ATF proposes to amend 27 CFR part 478 as follows:

**PART 478—COMMERCE IN FIREARMS AND AMMUNITION**

1. The authority citation for 27 CFR part 478 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 18 U.S.C. 847, 921-931; 44 U.S.C. 3504(h).

2. Revise the definition of “Ammunition” in § 478.11 to read as follows:

**§ 478.11 Meaning of terms.**

\* \* \* \* \*

*Ammunition.* Ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm other than an antique firearm. The term does not include —

(a) any shotgun shot or pellet not designed for use as the single, complete projectile load for one shotgun hull or casing;

(b) any unloaded, non-metallic shotgun hull or casing not having a primer; or

(c) any fully assembled training round that is not designed:

(1) for offensive or defensive combat; and

(2) to be used in a device that is a weapon.

\* \* \* \* \*

**Robert Cekada,**  
*Director.*