



DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR part 479

[Docket No. ATF-2026-0006; ATF No. 2025R-19P]

RIN 1140-AA75

Transferring Machine Guns Between Qualified Licensees

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 update the procedure for transferring machine guns between qualified manufacturers, importers, or dealers.

Specifically, the proposed rule would simplify the regulatory requirements for such machine gun transfers pursuant to requests to demonstrate firearms to a government entity or due to a licensee discontinuing business. The proposed changes would allow the implementing regulations to more closely mirror the statutory authority provided by the Gun Control Act.

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-AA75, 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: ATF 1140-AA75*.

Instructions: All submissions must include the agency name and number (RIN 1140-AA75) 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 Gun Control Act (“GCA”), as amended, and the National Firearms Act (“NFA”), as amended.¹ This includes the authority to promulgate regulations necessary to enforce the provisions of the GCA and NFA. *See* 18 U.S.C. 926(a); 26 U.S.C. 7805(a). Congress and the Attorney General have delegated the responsibility for administering and enforcing the GCA and 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 implementing both the GCA and the NFA in 27 CFR parts 478 and 479.

In 1986, Congress passed the Firearms Owners’ Protection Act (“FOPA”), Pub. L. 99–308, 100 Stat. 449, which amended and added provisions to the GCA to include 18 U.S.C. 922(o), which generally makes it unlawful for any person to transfer or possess a machine gun. The general restrictions on transferring and possessing machine guns under section 922(o) do not apply in two situations. The first is a “transfer to or by, or possession by or under the authority of, the United States or any department or agency thereof or a State, or a department, agency, or political subdivision thereof.” The second is lawfully transferring or possessing a machine gun that was lawfully possessed before the date the FOPA provision went into effect. *See* 18 U.S.C. 922(o)(2)(A)–(B). Section 922(o) became effective on May

¹ Some NFA and 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 notice of proposed rulemaking 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, 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.

19, 1986. Accordingly, all machine guns manufactured or imported after that date are subject to the restrictions imposed by section 922(o).

Section 922(o) does not specifically provide an exemption for transferring or possessing any machine gun manufactured or imported after May 19, 1986, (commonly referred to as a “post-86 machine gun”) other than by a government entity or a person acting under its authority. However, since 1988, the regulation implementing section 922(o), 27 CFR 479.105, has interpreted the statute as allowing qualified licensees to make, transfer, and possess such machine guns under limited circumstances, including transferring a post-86 machine gun when a licensee discontinues business.³

Section 479.105(c) authorizes qualified manufacturers and importers to manufacture or import machine guns on or after May 19, 1986, to sell or distribute them to any department or agency of the United States, or any state or political subdivision thereof. Paragraph (c) is silent as to whether the manufacturer or importer may maintain an inventory of machine guns or must wait until there is a specific government contract or purchase order before manufacturing or importing a machine gun. Clearly, though, Congress did not intend for government entities to wait until after a specific need arises to manufacture or import machine guns, particularly when such government entities typically do not manufacture or import their own machine guns. The authority-of-government exemption is designed to ensure military and law enforcement agencies have enough machine guns for times of war or national emergency.

In 2014, ATF published ATF Ruling 2014-1, which authorized manufacturers to stockpile machine guns, i.e., maintain an inventory of manufactured machine guns, provided that subsequent transfers of such machine guns are to a federal, state, or local government

³ ATF final rule, “Commerce in Firearms and Ammunition,” 53 FR 10480, 10510 (Mar. 31, 1988).

entity for official use.⁴ ATF reasoned that manufacturers must be able to maintain an inventory of manufactured machine guns because section 922(o) authorizes machine gun transfers after May 19, 1986, to government entities. The stockpiling authorization was specifically granted to manufacturers because of the breadth of section 922(o)(A)'s "possession . . . under the authority of" a government entity, and the fact that the statute contemplates manufacturers possessing machine guns prior to transferring to a government entity.

Pursuant to 27 CFR 479.105(d), ATF may approve applications to transfer and register a post-86 machine gun to a qualified dealer if the qualified dealer can establish that a government entity requests them to demonstrate the weapon (i.e., a dealer sales sample). Section 479.105(d) provides that qualified dealers need to identify the governmental customers who would require them to demonstrate the weapon and provide information on the dealer's ability to fill any subsequent orders for the machine gun. Additionally, the qualified dealer must provide letters from the government entities expressing a need for a particular model or interest in seeing a particular weapon demonstrated (a "law letter"). As described more fully below, currently the qualified dealer can use ATF Form 5320.24, Description of Firearm and Information on Request for Demonstration ("Form 5320.24"), as an alternative to a law letter drafted by a potential government customer. Applications to transfer more than one machine gun of a particular model to a dealer must also establish the dealer's need for the quantity of samples sought. Such dealer sales sample transfers fall under the exception provided by 18 U.S.C. 922(o)(2)(A) as transferring and possessing "under the authority of the United States or any department or agency thereof or a State, or department, agency, or political subdivision thereof."

In an attempt to prevent misuse of this dealer sales sample transfer procedure, ATF

⁴ ATF Ruling 2014-1, *Marking Variance for Government Defense Contractors* (Sept. 4, 2014), <https://www.atf.gov/firearms/docs/ruling/2014-1-manufacturinginventory-machineguns-le-and-military/download> (last visited July 16, 2025) [<https://perma.cc/BH8G-4VVN>].

issued an open letter in 2023 titled “Machinegun Dealer Sales Sample Letters”⁵ (“2023 open letter”) to all federal firearms licensees (“FFLs”). The purpose of the letter was to further explain and expand the law letter requirement contained in 27 CFR 479.105(d).

The open letter explained that ATF had been receiving legally insufficient law letters that delayed the process of transferring, importing, and demonstrating machine guns to interested government customers. Accordingly, the open letter explained what to include in a law letter for it to be legally sufficient under 18 U.S.C. 922(o)(2)(A) and 27 CFR 479.105(d). The open letter also explained that ATF would issue a form that qualified dealers could use as an alternative to a law letter drafted by a potential government customer. In November 2023, ATF issued Form 5320.24 for that purpose. The open letter and accompanying form established a guide for licensees to adequately articulate in their law letter submissions the government entity’s bona fide interest in purchasing machine guns.

II. Proposed Rule

While it is true that the dealer sales sample transfer procedure established by 27 CFR 479.105(d) can be misused by unscrupulous dealers or law enforcement, ATF has reviewed the regulation and the 2023 open letter and determined that the regulation’s interpretation of the 18 U.S.C. 922(o)(2)(A) exception departs from statutory language. Section 922(o)(2)(A) simply requires that transferring or possessing in this context be “under the authority of the United States or any department or agency thereof or a State, or department, agency, or political subdivision thereof.” ATF has determined that the plain text of the statute does not require an in-depth analysis of the government entity’s intent or reason for requesting the demonstration.

For these reasons, ATF proposes simplifying its current regulatory language while incorporating some aspects of the open letter requirements to prevent fraud in or abuse of the

⁵ ATF, *Open Letter to All Federal Firearms Licensees Regarding Machinegun Dealer Sales Sample Letters* (Jan. 11, 2023), <https://www.atf.gov/firearms/docs/open-letter/all-ffls-jan-2023-open-letter-machinegun-dealer-sales-sample-letters/download> [<https://perma.cc/4CF9-RDQZ>].

dealer sales sample exception. Accordingly, ATF proposes to strike § 479.105(d)'s requirements that qualified dealers include the availability of the machine gun to fill future orders and establish the need for the requested quantity of machine guns. ATF proposes to require in § 479.105(d) only the basic information necessary in a law letter for ATF to approve a qualified dealer's application to transfer and register post-86 machine guns. The proposed rule would also incorporate into regulations the current process that ATF uses to confirm with the government entity that the law letter is a bona fide request.

In conjunction with the proposed amendments to § 479.105(d), ATF would also clarify throughout this section that the term "government entity" refers to the United States or any department or agency thereof, or a state, or department, agency, or political subdivision thereof. To this end, ATF is proposing to include this definition at the end of § 479.105(a) and to substitute the term "government entity" in paragraphs (a) and (c) where the definition is currently written in full multiple times. Along with this technical edit to these two paragraphs, ATF also proposes some minor plain writing edits to make them easier to read, and a plain writing edit to the section heading for the same reason.

Paragraph (e) of 27 CFR 479.105 also addresses 18 U.S.C. 922(o)(2)(A)'s exception regarding possessing post-86 machine guns. Specifically, 27 CFR 479.105(e) allows persons to apply to make and register a post-86 machine gun at the request and on behalf of a government entity if it is established by specific information that the machine gun is "particularly suitable for use by Federal, State or local governmental entities and that the making of the weapon is at the request and on behalf of such an entity."

As outlined above, 18 U.S.C. 922(o)(2)(A) contains no requirement as to the intent of a requesting government entity. ATF has determined that the clause "particularly suitable" is too vague and is unnecessary to implement the statutory exception. Therefore, ATF proposes to strike the requirement in § 479.105(e) that the maker establish that the machine gun is particularly suitable for use by a federal, state, or local governmental entity. The amended

provision would require only that the application establish that making and registering the post-86 machine gun is at the request and on behalf of a federal, state, or local government entity.

Paragraph (f) of 27 CFR 479.105 allows a licensee to orderly liquidate inventory when going out of business. Specifically, it allows a qualified manufacturer, importer, or dealer to transfer post-86 machine guns to a federal, state, or local governmental entity, or another qualified manufacturer, importer, or dealer, when the qualified licensee discontinues business. Over time, ATF has received inquiries concerning the procedure to transfer post-86 machine guns by licensees that relinquish special occupational taxpayer (“SOT”) status but remain in business as an FFL under the GCA. As currently written, the regulation can be interpreted to require that licensees completely discontinue all business under both the GCA and NFA before they are eligible to avail themselves of this process under § 479.105(f).

Because the relevant inquiry is whether the licensee is discontinuing its NFA business, not whether the licensee intends to relinquish its GCA license as well, ATF has allowed licensees to maintain their GCA license as they transfer post-86 machine guns under § 479.105(d) when they intend to discontinue the NFA side of their business. Accordingly, ATF has determined that it is necessary to clarify in § 479.105(f) that a licensee may transfer post-86 machine guns when they discontinue their NFA firearms business and that the licensee can relinquish the SOT or let it expire while continuing business under a GCA license.

To expedite the transfer process, ATF further proposes to add language to § 479.105(f) to clarify the process for a licensee who wishes to transfer post-86 machine guns upon relinquishing SOT status. Under the proposed rule, licensees would use ATF Form 5320.3, Application to Transfer/Register NFA Firearm (Tax Exempt) to Special Occupational Taxpayer (“Form 3”) to both request approval to transfer their firearms and notify ATF of their intent to discontinue their NFA business. This change would obviate the

need for these SOTs to provide two separate notices to ATF. Accordingly, if this rule is finalized as proposed, ATF would update Form 3 to include how SOTs may indicate that the transfer is pursuant to § 479.105(f)'s provision on discontinuing their NFA business.

Last, the industry frequently encounters scenarios in which a United States government entity wishes to furnish its own machine guns to a licensee for a number of reasons, such as further manufacturing, repairing, or testing. Because the United States government is not required to register its machine guns under the NFA, qualified licensees, who generally must have machine guns in their possession registered, currently may not lawfully receive U.S. government-furnished machine guns for such work. Accordingly, ATF proposes to create a new paragraph (g) under § 479.105 clarifying that a contract or letter from the government department or agency, written on the agency's or department's letterhead, may authorize the licensee to receive and possess the government-furnished, unregistered, NFA firearm for such work, as long as the letter or contract also stipulates that the firearm will be returned to the government.

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 rule would amend 27 CFR 479.105 to bring regulations implementing the general statutory restriction on the possession and transfer of machine guns in line with the statute and to reduce burdens on the industry by simplifying the information licensees would need to provide on a law letter in order to receive approval of an application to

transfer and register a post-86 machine gun. It would also reduce the burden on licensees to submit two notices when discontinuing their NFA business. The rule would instead allow them to use Form 3 to both request approval to transfer their firearms and notify ATF of their intent to discontinue their NFA business.

This proposed rule would provide qualitative benefits to the industry by providing more flexibility in complying with statutes and existing regulatory standards, but ATF does not have sufficient information to calculate quantifiable savings. Therefore, ATF requests more information from the public regarding economic effects this rule may have on the public and the regulated industries. The Office of Management and Budget (“OMB”) has determined that this rule would not be a “significant regulatory action” under Executive Order 12866. Therefore, it did not review this rule.

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 as defined in 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 bring the existing regulations on the possession and transfer of machine guns in line with the statute and would reduce burdens on the industry by simplifying the information licensees would need to provide on a law letter in

order to receive approval of an application to transfer and register a post-86 machine gun. It would also reduce the burden on licensees when discontinuing their NFA business. In addition, because this information would streamline requirements for FFLs, ATF 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 would simplify the regulatory requirements for machine gun transfers to a dealer in response to a request by a government entity, and would reduce burdens when a licensee discontinues its NFA business. This proposed rule would therefore not impose any costs and would be deregulatory.

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 impact two existing information collections under the PRA. One information collection that would be impacted by this proposed rule is OMB control number 1140-0124: Description of Firearm and Information on Request for Demonstration, which includes ATF Form 5320.24. This proposed rule would require qualified dealers to submit a law letter from the government entity to demonstrate that the transfer to, and possession by, the dealer is occurring under the authority of the government entity. This is already part of the existing process, but the rulemaking reduces the amount of information that would be provided in the letter. In addition, the proposed rule would eliminate Form 5320.24 as an alternative to submitting the law letter. As a result, the existing information collection would be revised to remove the Form 5320.24. This change would reduce this information collection's time burden because the rule would reduce the amount of information the dealers must submit for this purpose, but it would not have any other effect.

This proposed rule would also impact OMB control number 1140-0013: Application to Transfer/Register NFA Firearm (Tax Exempt) to Special Occupational Taxpayer, which includes ATF Form 5320.3 ("Form 3"). Currently, this information collection requires licensees to use this form as the mechanism by which they request approval to transfer NFA firearms and register them to another qualified licensee when they discontinue their NFA business. This proposed rule would require qualified licensees to also use Form 3 to notify ATF of their intent to discontinue their NFA firearms business, prior to the lapse or relinquishment of their special occupational taxpayer status. The form would be updated to allow licensees to notify ATF of their intent to discontinue and the planned date for doing so, thereby obviating the current requirement that they provide that information to ATF separately. The hourly burden would be transferred from a separate notice method to a statement in this form, so this change would reduce this collection's time burden, if finalized

as proposed, by cutting out the time it would take to complete a separate notice while also completing this Form to transfer the firearms.

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. 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-AA75 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-AA75. 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-AA75).

Severability

Consistent with the Administrative Procedure Act, the issues raised in this proposed rule may be finalized, or not, independently of each other, after consideration of comments received. ATF has determined that this proposed rule implements and is fully consistent with governing law. However, in the event that this proposed rule is finalized, if any provision of that final rule, an amendment or revision made by that rule, or the application of such provision or amendment or revision to any person or circumstance, is held to be invalid or unenforceable by its terms, the remainder of that final rule, the amendments or revisions made by that rule, and application of the provisions of the rule to any person or circumstance shall not be affected and shall be construed so as to give them the maximum effect permitted by law.

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.

2. Amend § 479.105 by:

- a. Revising the section heading and paragraphs (a), (c), (d), (e), and (f); and
- b. Adding paragraph (g).

The revisions and addition read as follows:

§ 479.105 Transferring and possessing machine guns.

(a) *General.* As provided by 26 U.S.C. 5812 and 26 U.S.C. 5822, an application to make or transfer a firearm must be denied if making, transferring, receiving, or possessing the firearm would place the maker or transferee in violation of law. Section 922(o), Title 18, U.S.C., makes it unlawful for any person to transfer or possess a machine gun, except that a government entity may transfer, receive, or possess a machine gun and persons may transfer to them under the government entity's authority; or persons may lawfully transfer or possess a machine gun that was lawfully possessed before May 19, 1986. Therefore, notwithstanding any other provision of this part, no application to make, transfer, or import a machine gun will be approved except as provided by this section. For purposes of this section, the term "government entity" means the United States or any department or agency thereof, or a state, or a department, agency, or political subdivision thereof.

(b) * * * * *

(c) *Importing and manufacturing.* Subject to compliance with the provisions of this part, importers and manufacturers qualified under this part may import and manufacture machine guns on or after May 19, 1986, to sell or distribute them to any government entity, or for qualified dealers to use as sales samples pursuant to paragraph (d) of this section. Importers and manufacturers may only register and subsequently transfer machine guns they imported or manufactured under this provision if they sell or distribute such weapons to a government entity for its official use, and do so solely for that purpose. Subject to compliance with the provisions of this part, qualified manufacturers may manufacture machine guns on or after May 19, 1986, to export them in compliance with the Arms Export

Control Act (22 U.S.C. 2778) and implementing regulations prescribed by the Department of State.

(d) *Transferring to, and possession by, qualified dealers.*

(1) Subject to compliance with the provisions of this part, ATF will approve applications to transfer and register a machine gun manufactured or imported on or after May 19, 1986, to dealers qualified under this part if the dealers establish by specific information that they are requesting to transfer and possess the machine gun under a government entity's authority.

(2) Dealers may show they have such authority by a letter from a government entity, which must:

(i) Be written on the government entity's letterhead;

(ii) Include a request from the government entity that the dealer obtain a particular machine gun;

(iii) Affirm that transferring to the dealer, and the dealer possessing the machine gun is under the authority of the requesting government entity; and

(iv) Be signed by a person with authority to sign on behalf of the government entity, to include such person's contact information.

(3) ATF will confirm with the signing government official that the letter is a bona fide request by the government entity.

(e) *Making machine guns on or after May 19, 1986.* Subject to compliance with the provisions of this part, ATF will approve applications to make and register machine guns on or after May 19, 1986, for the benefit of a government entity if the applicant establishes by specific information that they are making the weapon at the request and on behalf of the government entity. Making a weapon on behalf of a government entity includes making weapons intended for actual sale to a government entity, developing an invention or

prototype for possible future use by a government entity, and making a weapon in connection with research and development on behalf of a government entity.

(f) *Discontinuing NFA business.* Because 18 U.S.C. 922(o) makes it unlawful to transfer or possess a machine gun except as provided in the law, any qualified manufacturer, importer, or dealer intending to discontinue business involving firearms regulated by this part must notify ATF of their intent before relinquishing or allowing their special occupational taxpayer status to lapse. The licensee must also transfer, in compliance with the provisions of this part, any machine gun manufactured or imported after May 19, 1986, to a government entity or to a qualified manufacturer, importer, or dealer. The licensee must use ATF Form 5320.3, Application to Transfer/Register NFA Firearm (Tax-Exempt) to Special Occupational Taxpayer (“Form 3”) to notify ATF that they are discontinuing business and transferring the firearms.

(g) *Transfers from U.S. government to a qualified licensee.* The U.S. government may transfer an unregistered machine gun in its possession to any qualified licensee pursuant to a valid government contract or letter drafted on government letterhead. The contract or letter must specify that the U.S. government department or agency is transferring the government-furnished machine gun to the licensee to possess it under the department or agency’s authority for a government purpose. Such purpose may include further manufacture, repair, or testing. For purposes of this paragraph, the licensee does not need to register the machine gun while they possess the machine gun, provided the government contract or letter states that the machine gun will be subsequently returned to the U.S. government.

Robert Cekada,
Director.

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