



DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR part 479

[Docket No. ATF-2026-0336; ATF No. 2025R-13P]

RIN 1140-AB00

Joint Registration for Spouses under the National Firearms Act

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”) proposes amending Department of Justice (“Department”) regulations to authorize spouses to file a joint application to make, transfer or receive, and register a firearm under the National Firearms Act (“NFA”). If the joint application is approved, both spouses would have a joint right to make or possess the firearm(s), and transferring the firearm(s) between the registered spouses would not constitute a further transfer within the meaning of the NFA, thus not requiring a transfer application.

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-AB00, 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-AB00.*

Instructions: All submissions must include the agency name and number (RIN 1140-AB00) 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, 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 National Firearms Act (“NFA”), as amended, 26 U.S.C. chapter 53.¹ Congress and the Attorney General have delegated the responsibility for administering and enforcing the NFA to the Director of ATF (“Director”), subject to the direction of the Attorney General and the Deputy Attorney General. *See* 28 U.S.C. 599A(b)(1), (c)(1); 28 CFR 0.130(a)(1)–(2); Treas. Order No. 221(2)(a), (d), 37 FR 11696–97 (June 10, 1972).² Accordingly, the Department and ATF have promulgated regulations to implement the NFA in 27 CFR part 479.

Firearms subject to NFA provisions include machine guns, a shotgun having a barrel or barrels of less than 18 inches in length, a rifle having a barrel or barrels of less than 16 inches in length, a weapon made from a rifle, a weapon made from a shotgun, silencers, destructive devices, and any other weapons as defined by the NFA. 26 U.S.C. 5845(a). Section 5841 requires the Attorney General to maintain the National Firearms Registration and Transfer Record (“NFRTR”), a central registry of NFA firearms in the United States that are not possessed by or under the control of the United States. Section 5841 also requires that all NFA firearms must be registered by their maker, manufacturer, or importer.

The NFA also sets requirements for making and transferring firearms. Under

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

² In Attorney General Order Number 6353-2025, the Attorney General delegated authority to the Director to issue regulations pertaining to matters within ATF’s jurisdiction, including under the NFA, Gun Control Act, and Title XI of the Organized Crime Control Act. ATF’s jurisdiction also includes the Arms Export Control Act and the Contraband Cigarette Trafficking Act.

section 5822, makers must apply to the Attorney General, and the Attorney General must approve making NFA firearms, before they may be made. Section 5822 also requires makers to identify themselves in the application in such manner as the Attorney General may by regulations prescribe. Section 5812 contains the same requirements for transferring NFA firearms, except that transferors must identify the transferees in the application in such manner as the Attorney General may by regulations prescribe.

Pursuant to 27 CFR 479.62, one of ATF's regulations implementing the NFA, ATF has prescribed that no person may make an NFA firearm unless the person has filed with the Director a completed application on ATF Form 5320.1, Application to Make and Register NFA Firearm ("Form 1"), in duplicate, executed under the penalties of perjury, and has received the Director's approval to make the firearm. This approval also registers the firearm to the applicant in the NFRTR. If the applicant is a partnership, company (including a limited liability company), association, trust, or corporation ("entity"), but is not a licensed manufacturer, importer, or dealer qualified under this part, the entity must complete Form 1 with information about the entity instead of an individual, and each "responsible person" of the entity must complete ATF Form 5320.23, NFA Responsible Person Questionnaire ("Form 23"), which requests the same information as Form 1 requires for individual makers.

Similarly, pursuant to § 479.84, no person may transfer an NFA firearm unless the parties to the transfer have submitted an application on ATF Form 5320.4, Application to Transfer and Register NFA Firearm (Tax-Paid) ("Form 4"), in duplicate, executed under the penalties of perjury, and have received the Director's approval to transfer the firearm to the applying transferee.³ As with applications to make firearms, this approval also

³ In some cases, the transfer qualifies as tax-exempt, such as transfers as part of an estate. *See* § 479.90a. In those cases, the same requirements apply, but the transferor would submit ATF Form 5320.5, Application to Transfer and Register NFA Firearm (Tax-Exempt) ("Form 5") instead of Form 4. For easier reading, ATF discusses the transfer aspects of this rule with references only to Form 4, rather than both, because tax-exempt transfers in this context are a small proportion.

registers the firearm to that transferee. Form 4 requires that the parties identify the transferee by name and address and, if the transferee is a person not qualified as a manufacturer, importer, or dealer under this part, the transferee must be further identified in the manner prescribed in § 479.85. In addition, § 479.84 requires that if the transferee is an entity but is not a licensed manufacturer, importer, or dealer qualified under this part, the entity must complete Form 4 with information about the entity instead of an individual, and each responsible person of the entity must complete Form 23, which requests the same information as Form 4 requires for individual transferees.

Individuals who qualify as responsible persons for a trust may lawfully possess NFA firearms registered to the trust. Likewise, trust applications created by spouses allow each spouse — if named in the trust and qualified as a responsible person to the trust like any other person who is a party to a trust — to lawfully and independently possess the NFA firearm registered to the trust. The trust documents received by ATF that involve spouses are generally substitutes for jointly registering NFA firearms rather than primarily for estate planning or other trust purposes.

ATF has received inquiries from the public and from members of the firearms industry requesting that ATF permit spouses to jointly make, transfer or receive, and register NFA firearms. A number of spouses have formed trusts to permit them to jointly possess firearms. However, forming a trust, and subsequently registering NFA firearms to the trust as the maker or transferee, can be time-consuming and costly. As a part of the application process, the trust (also an “entity”) must identify each person who is part of the trust, and ATF must determine the trust’s legal sufficiency and the legal authority of each person in the trust — including whether they may qualify as “responsible persons” — before ATF may initiate a background check. *See* 27 CFR 479.85 and 479.63; *see also* 81 FR 2658 (Jan. 15, 2016). ATF reviews the trust as a legal instrument. Reviewing the trust as a legal instrument and scrutinizing the trust’s responsible persons often requires

additional time before ATF can approve the trust's application to make or transfer firearms. For example, current processing times for paper Form 4 applications are 59 days for trust applications and 49 days for individual applications, a difference of 10 days; likewise, electronic Form 4 applications take 11 days for trust applications and 7 days for individual applications, a difference of 4 days.⁴

II. Proposed Rule

A. Proposed regulatory amendments

ATF has determined that it is unnecessarily burdensome for spouses who desire to jointly register an NFA firearm to have to create a trust to do so. The current process also imposes administrative burdens on ATF, which must review each trust's legal instruments and determine whether they meet statutory requirements. ATF's processing times for applications involving trusts are thus longer than for applications by individuals. Permitting spouses to jointly register NFA firearms would relieve applicants and ATF of unnecessary burdens caused by the current roundabout process, which ATF has determined provides little public safety benefit.

Permitting spouses to jointly register firearms would also alleviate legal hurdles after the death of NFA registrants who have registered firearms in their name only. After spouses die as sole NFA firearm registrants, surviving spouses can end up possessing a firearm not registered to them in the NFRTR and may fail to transfer that property during probate. When this occurs, the NFA firearm cannot subsequently be transferred because the current possessor is not the registered owner. Allowing spouses to jointly register firearms would alleviate this problem. It would also allow spouses to obtain a federal registration status that aligns with marital property ownership in some locations. NFA firearms registered to one spouse may be joint marital property under some state laws,

⁴ See ATF, *Current Processing Times* (last updated Jan. 27, 2026), <https://www.atf.gov/resource-center/current-processing-times> [<https://perma.cc/27C7-JGG5>]. ATF updates processing times routinely, most often on a weekly basis.

even though ATF currently allows only one spouse to register the firearm.

ATF agrees with the general public and industry members that allowing spouses to jointly make, transfer or receive, and register NFA firearms would reduce burdens while still complying with the NFA's requirements. These firearms would remain registered in the NFRTR, and both spouse applicants would undergo background checks, thereby ensuring the same level of public safety currently afforded by registering individuals or parties under a trust. Section 5841 of the NFA provides that the NFRTR must include the "identification and address of person entitled to possession of the firearm." There is nothing under this provision that precludes spouses from being jointly registered or from each being able to possess the firearm. Amending the regulations to allow spouses to jointly make, transfer or receive, and register NFA firearms would be consistent with 26 U.S.C. 5811-5812, 5821-5822, and 5841 by still requiring all makers, transferors, and transferees to submit applications, receive Attorney General approval, pay tax (if applicable), and register their NFA firearms.

However, ATF also believes that it is reasonable to limit joint individual registration to spouses. Allowing non-marital joint registration could result in pretextual joint registrations that attempt to circumvent the NFA's transfer provisions and the Gun Control Act's interstate transfer restrictions, e.g., 18 U.S.C. 922(a)(3), both of which require approval by the Attorney General. Such attempts are unlikely within a marriage, since both parties typically live in the same household and may legitimately share property. ATF's concern with regard to administering the NFA is the person's right to possess the property, and more specifically in this context, documentation of their right to own property jointly with another person. Marriages document a legal relationship between two persons and are generally verifiable through official documents, such as marriage licenses, divorce decrees, etc. (or equivalents), from beginning to dissolution. Unlike other relationships, marriages by themselves also establish property rights to joint

or marital property under relevant state laws; other familial relationships do not establish property rights or a binding relationship merely due to the persons being in the same family. Property rights in those cases are usually established by an estate plan, a trust, or a partnership — which both document and establish a relationship between the parties and establish property rights. They are all alternative means to register NFA firearms. Married couples can also make use of these mechanisms, but because the marriage itself establishes the relationship and property rights, ATF believes that is unnecessary.

Based on these considerations, this proposed rule responds to the inquiries by proposing to amend the regulations in 27 CFR 479.62, 479.63, 479.84, 479.85, and 479.101 so that spouses would be able to jointly make, transfer or receive, and register NFA firearms without needing to create a trust. This rule also proposes amending §§ 479.62 and 479.84 by adding new paragraphs to explain that applicants who are spouses filing jointly would need to provide documents demonstrating a legal marriage, which can include a marriage certificate or proof of a legal marriage otherwise recognized under state law. Where no marriage certificate is available, applicants would be able to submit some other evidence of marriage (e.g., affidavits, joint tax returns). If spouses filing jointly falsely attest to marriage, they would be subject to charges for making a false statement on an NFA form.⁵

ATF is considering whether to include common-law marriages in the seven states that permit them or grandfathered common-law marriages in the seven states that permit common-law marriages that occurred before a certain date. However, ATF is not in a position to assess whether a particular couple meets the specific state's requirements to constitute a common-law marriage. ATF would therefore propose accepting common-law marriages for joint registration that can be reliably verified, such as by a state document

⁵ See, e.g., 18 U.S.C. 922(a)(6); 18 U.S.C. 924(a)(2); 18 U.S.C. 1001, which make it a felony to provide false information on a firearms application or to the government in general.

acknowledging that couple's common-law marriage. To this end, ATF welcomes comments on how a common-law marriage could be reliably verified as a part of the NFA application process. ATF also seeks public comment on all aspects of this proposal to accommodate allowing spouses to jointly register NFA firearms.

ATF also notes that other non-conflicting changes to §§ 479.63(a) and 479.85(a), and a new § 479.27 are being proposed in a separate notice of proposed rulemaking to address submitting photographs and fingerprints with NFA applications. Concurrent revisions to Forms 1, 4, 5, and 23 will accompany this and the other rules in any final stages.

B. Processes for spouses filing jointly

If finalized as proposed, ATF would also revise the forms discussed below to incorporate joint registration for spouses. The following explains how the process would work and how the forms would operate or be revised in conjunction with this rule.

1. Making and registering NFA firearms as spouses filing jointly

Spouses who wish to jointly make and register an NFA firearm would submit Form 1 by selecting the type of application in box 2 as "other legal entity" and noting on the form that the firearm is being jointly registered. The instructions on the form would clarify that "other legal entity" includes joint spouses. Joint spouses making a destructive device would check box "a" under item 1, application type, and remit \$200 (machine guns and destructive devices are subject to a \$200 tax). Joint spouses making other types of NFA firearms would check box "b" under item 1, "\$0 making tax for other types of NFA firearms," and remit \$0. This is because, as of January 1, 2026, Congress reduced the tax paid for all NFA firearms except machine guns and destructive devices to \$0⁶ (which is not the same as tax-exempt; tax-exempt status is reserved for certain specifically designated transfers, like "by law" transfers, discussed below). Each spouse

⁶ One Big Beautiful Bill Act, Pub. L. 119-21, 139 Stat. 72 (2025).

would then complete Form 23 to submit their individual information following the form's instructions, as outlined above, and submit their two Forms 23 with their Form 1 application.

2. Transferring and registering NFA firearms as, or to, spouses filing jointly

Spouses who wish to acquire and register a firearm together, and individuals who currently have a firearm registered to themselves and wish to add their spouse, would follow the same registration process. Spouses who want to jointly transfer or receive, and register, NFA firearms would use Form 4. They would select the type of transfer in box 2b as "other legal entity" and note on the form that the transfer is being jointly registered. The instructions on the form would clarify that "other legal entity" includes joint spouses. Each spouse would then complete Form 23, to submit their individual information following the form's instructions. Spouses registering their firearms jointly must complete a Form 4 for each registered firearm that they transfer or receive and register jointly, but they may submit copies of their original Forms 23 to include with each successive Form 4 if their information has not changed in the interim.

Although Form 4 is for tax-paid transfers and registration, if the NFA firearm involved is not a machine gun or destructive device, the spouses would not have to pay taxes to transfer from a trust or individual registration to joint registration, or to transfer and register a new firearm jointly, because of the recent change to \$0-tax rates. Therefore, when transferring these \$0-tax firearms to joint-spouse registration, persons would check the "\$0 for any other type of NFA firearm" box under item 1, Transfer type, on Form 4. However, because machine guns and destructive devices are still subject to a \$200 NFA tax, persons transferring a machine gun or destructive device to joint-spouse registration would check the "\$200 for machine gun or destructive device" box under item 1 instead.

3. Transferring jointly registered firearms upon divorce or separation

Should a married couple divorce or separate after jointly registering a firearm, they would have the same options that already exist for dealing with this joint property as for other similar property. In the case of a divorce or separation, a court decree or order that transfers the firearm to a specific party would be a transfer “by operation of law,” and would be handled in the same way as other transfers by law (such as through estate probate), which are tax-exempt and accomplished via Form 5.

The spouses may also voluntarily agree to transfer the firearm to one spouse individually because both are registrants. As of January 1, 2026, such voluntary transfers have a \$0 tax (unless the firearm is a machine gun or destructive device). The spouses would request this transfer via Form 4, and check the \$0-tax box under item 1, transfer type. If the spouses are transferring or registering a machine gun or destructive device, they are still subject to a \$200 tax under the NFA. In that case, the spouses would check the \$200 tax box under item 1, transfer type, on Form 4.

4. Spouse becomes prohibited from possessing firearms

In the event a jointly registered spouse becomes prohibited from possessing firearms under federal, state, or local law, the prohibited spouse does not legally need to change the registration status, but the prohibited spouse may not possess (physically or constructively) the firearm. *See Henderson v. United States*, 575 U.S. 622, 624 (2015).

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 to reduce burdens on spouses who wish to jointly register to make, transfer or receive, and register NFA firearms so they would be able to do so without needing to create a trust.

The Office of Management and Budget (“OMB”) has determined that this proposed rule would be a “significant” rule under Executive Order 12866. Therefore, OMB has reviewed this rule. ATF provides the following analysis to comply with Executive Orders 12866 and 13563.

1. Need statement

ATF has determined that it can reduce the regulatory burden for spouses who both desire to jointly register an NFA firearm without having to create a trust to do so. Furthermore, ATF has determined that permitting spouses to jointly register an NFA firearm without having to do so through a trust would pose no additional risk to public safety. Allowing spouses to jointly register firearms would also alleviate legal hurdles after the death of NFA registrants who have registered firearms in their name only. After spouses die as sole NFA firearm registrants, surviving spouses can end up possessing a firearm not registered to them in the NFRTR and fail to transfer that property during probate. This scenario may result in circumstances where an NFA firearm cannot subsequently be transferred because the current possessor is not the registrant.

2. Savings

Allowing joint-spouse registrations would eliminate the need to create a legal trust, which would provide annual savings to spouses who currently are unable to register NFA firearms jointly. Spouses would also be able to transfer their firearms from a trust to a joint registration with a \$0 tax (except transfers of machine guns and destructive devices, which would still incur a \$200 tax). Although many spouses who jointly own firearms under a trust might not have a need to transfer to joint registration instead, some might, and many individual owners who wanted to register jointly with their spouse but

did not create a trust for that purpose are likely to transfer from individual registration to joint registration. These combined factors would likely create an incentive for spouses who have wanted to register firearms jointly with their spouse to do so during the first year, if this rule is finalized as proposed. No longer having to expend funds to create and possibly maintain a legal trust to effectuate joint ownership would constitute savings for the portion of the public who want to jointly register but would have had to create a trust to do so before this proposed rule, if finalized. While ATF calculated only savings from no longer having to create a trust in this analysis, ATF requests comments from the public as to whether there are any costs for maintaining trusts established to jointly own NFA firearms that would also constitute savings arising from this rule.

ATF does not have direct data on the number of NFA trusts transferees have created for the purposes of married couples jointly registered. As a result, using historical data on the annual number of NFA trust applications submitted to ATF from 2016 to 2025, ATF searched for applications in which the owners were a man and a woman with the same last name, as an estimated proxy for applications involving married couples. Based on these search parameters, ATF estimates that 4.4 percent of trust applications meet these factors and, while not a complete set of joint-registration trusts, it represents the best proxy. Table 1 provides the historical number of trust applications from years 2016 through 2025 and the estimated subset of trust applications that might consist of married couples.

Table 1. Historical number of NFA trust applications, estimated subset of trusts for married couples, and estimated portions of that subset by firearm type

Year	Total number of trust applications	Estimated total NFA married couple trusts	Estimated machine gun/DD married trusts	Estimated number to switch to joint registration*
2016	33,080	1,456	20	1,436
2017	57,428	2,527	35	2,492
2018	77,803	3,423	48	3,375
2019	91,269	4,016	56	3,960
2020	140,060	6,163	86	6,077

2021	197,392	8,685	122	8,563
2022	266,839	11,741	165	11,576
2023	304,489	13,398	188	13,210
2024	320,509	14,102	198	13,904
2025	300,940	13,241	186	13,055

*Estimated number to switch also represents trusts involving all other NFA firearms

ATF then input these historical application numbers into forecasting software to project the likely future trend in number of NFA trusts that spouses who wish to jointly register would generate over the next 10 years, if the current growth trend were to continue in the absence of this proposed rule’s changes. Table 2 provides the projected numbers for the next 10 years.

Table 2. Projected number of new NFA joint-spouse applications (not switching from a trust or single ownership)

Year	Number of new joint-spouse applications
1	12,550
2	11,856
3	11,162
4	10,468
5	9,774
6	9,080
7	8,386
8	7,692
9	6,998
10	6,304

Based on an internet search, fees to create a trust for NFA firearms could range from \$59.95 to \$300, but a small number of dealers also offer free trusts as a purchase incentive, so ATF included \$0 in the cost range as well, resulting in an average (rounded) cost of \$119 per trust.⁷ For illustrative purposes, ATF used one hour as the average time

⁷ See, e.g., Silencer Central, *How To Set Up An NFA Trust* (June 18, 2024), <https://www.silencercentral.com/blog/how-nfa-trusts-work/> [<https://perma.cc/H7ME-P24X>]; National Gun Trusts, *National Firearms Act NFA Gun Trust*, <https://www.nationalguntrusts.com/products/buy-nfa-gun-trust> [<https://perma.cc/CU93-852E>]; Gun Trusts Guru, *50-State ATF 41F Compliant NFA Gun Trusts*, <https://www.guntrustguru.com/> [<https://perma.cc/YT4D-LD3L>]; Texas Gun Trust, <https://www.texas-gun->

it might take to generate an NFA trust for spouses, since the time could vary widely depending on unrelated factors. Once the trust is formed, a trustee would also need to have the legal documents notarized. Based on an internet search, it costs an average of \$9 to have documents notarized.⁸ Again, for illustrative purposes, ATF used 15 minutes (0.25 hours) as the hourly burden to notarize legal documents, based on the best available estimate from anecdotal experience. Fees such as fingerprinting and photographing are not included in this estimate because fingerprints and photographs are required for both persons regardless of whether they file jointly, as individuals, or as parties to a trust.

Spouses jointly making, transferring or receiving, and registering NFA firearms would likely be doing so in their leisure time; therefore, ATF estimated a leisure wage rate based on methodology from Health and Human Services (“HHS”), updated to account for the latest available data.⁹ The HHS methodology is to first obtain the average U.S. median non-leisure weekly wage from the Bureau of Labor Statistics (“BLS”), and divide it by 40 hours to derive the median hourly non-leisure wage. Step two is to obtain the average U.S. real household income before taxes and after taxes from the Census Bureau, and divide the post-tax income by the pre-tax income to determine the net household income rate. Step three applies the net income rate to the median non-leisure hourly rate derived in step one, to calculate the hourly leisure wage. Table 3 shows the steps and data used under this methodology to determine the leisure wage.

Table 3. Calculating leisure wage

Inputs for leisure wage rate	Numerical inputs	Source
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trust.com/ [<https://perma.cc/39UQ-XG7C>]; Silencer Shop, *Single Shot NFA Gun Trust*, <https://www.silencershop.com/single-shot-nfa-gun-trust.html> [<https://perma.cc/QH7U-NSH4>].

⁸ National Notary Association, *2026 Notary Fees By State* (last updated Jan. 14, 2026), <https://www.nationalnotary.org/knowledge-center/about-notaries/notary-fees-by-state> [<https://perma.cc/MZ22-AEXF>].

⁹ Jennifer R. Baxter, et al., *Valuing Time in U.S. Department of Health and Human Services Regulatory Impact Analyses: Conceptual Framework and Best Practices* (June 2017), <https://aspe.hhs.gov/sites/default/files/private/pdf/257746/VOT.pdf>.

1a. Median non-leisure weekly wage	\$1,214	News Release, Bureau of Labor and Statistics, <i>Usual Weekly Earnings for Wage and Salary Workers</i> , third quarter 2025, (Dec. 4, 2025), https://www.bls.gov/news.release/archives/wkyeng_12042025.pdf [https://perma.cc/MD6E-TYDX?type=image]
1b. Median non-leisure hourly wage	\$30.35	\$1,214 median weekly wage / 40 hours a week = \$30.35
2a. Real household income pre-tax	\$83,730	U.S. Census Bureau, <i>Income in the United States: 2024</i> , (Sept. 9, 2025), https://www.census.gov/library/publications/2025/demo/p60-286.html [https://perma.cc/RU47-LLBX]
2b. Real household income post-tax	\$72,330	U.S. Census Bureau, <i>Post-Tax Household Income Summary Measures by Selected Characteristics: 2023 and 2024</i> , https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww2.census.gov%2Fprograms-surveys%2Fdemo%2Ftables%2Fp60%2F286%2FtableB1.xlsx&wdOrigin=BROWSELINK [https://perma.cc/M33M-EWY7]
2c. Net household income rate	86 percent	\$72,330 post-tax income / \$83,730 pre-tax income = .86 net household income rate
3a. Hourly leisure wage	\$26.10	\$30.35 hourly non-leisure wage * .86 net household income rate = \$26.10 hourly leisure wage
3b. Rounded hourly leisure wage	\$26.00	

Based on the methodology outlined by HHS, the estimated leisure wage is \$26, which is used to calculate the hourly savings.

Based on the fees, costs, and time used in this example for creating a trust and notarizing the legal documents, ATF estimates for purposes of this analysis that the per-couple savings from this proposed rule could be \$185 per application. Table 4 illustrates the savings that would accrue from removing the need to create an NFA trust to jointly register an NFA firearm using this analysis.

Table 4. Savings from removing need to create a trust to jointly register NFA firearms

Regulatory action	Item cost	Hourly leisure wage value	Subtotal
Cost to create trust	\$119	\$26	\$145

Notary	\$9	\$7	\$16
Per-trust total cost (savings)			\$161

Based on the savings generated per couple, or per trust, ATF estimated the annual savings that would flow from this proposed rule over the next 10 years. Table 5 provides the annual estimated savings from no longer creating a trust to jointly register as spouses to make, transfer or receive, and register an NFA firearm.

Table 5. Annual savings from no longer filing as a trust

Year	Future married registrants that would not have to create a trust	Savings
1	12,550	\$2,020,602
2	11,856	\$1,908,863
3	11,162	\$1,797,125
4	10,468	\$1,685,386
5	9,774	\$1,573,648
6	9,080	\$1,461,909
7	8,386	\$1,350,171
8	7,692	\$1,238,432
9	6,998	\$1,126,693
10	6,304	\$1,014,955
Total		\$14,162,828

ATF estimates that this proposed rule could save married couples who wish to jointly register \$14.2 million over 10 years in trust-creation savings they would otherwise incur.

Table 6. Ten-year savings undiscounted and discounted

Year	Undiscounted	3% discount rate	7% discount rate
1	\$2,020,602	\$1,904,611	\$1,764,872
2	\$1,908,863	\$1,746,880	\$1,558,201
3	\$1,797,125	\$1,596,722	\$1,371,018
4	\$1,685,386	\$1,453,829	\$1,201,657
5	\$1,573,648	\$1,317,905	\$1,048,588
6	\$1,461,909	\$1,188,666	\$910,403
7	\$1,350,171	\$1,065,837	\$785,812
8	\$1,238,432	\$949,155	\$673,625
9	\$1,126,693	\$838,366	\$572,754

10	\$1,014,955	\$755,222	\$515,952
Total	\$14,162,828	\$12,061,971	\$9,886,930
Annualized		\$1,414,031	\$1,407,676

In total, this proposed rule would provide a 10-year undiscounted cost savings of \$14.2 million or an annualized net cost savings of \$1.4 million at 3 percent and \$1.4 million at 7 percent.

3. Costs

Spouses who are currently individually registered, or have created a trust, for NFA firearms but wanted to jointly register their existing NFA firearms, would now have the option to switch their firearms from trusts to joint registrations (using Form 4) if this rule is finalized as proposed. Or there may be a subset of sole NFA owners who would choose to switch their sole ownership to a joint ownership and would thus transfer their NFA firearm (using Form 4) to include their spouse.

All persons transferring an NFA firearm are already required to submit a Form 4 to both transfer and register the firearm. Married couples filing jointly would constitute an ‘entity’ in terms of the categories on the form. As a result, they would file one Form 4 and then each spouse would complete and attach a Form 23 with their individual information for the purposes of a background check, just as occurs with other entities. Spouses would be considered responsible persons for the married couple entity. These requirements already exist for all transfers and are thus sunk costs. Married couples who choose to transfer a firearm as joint registrants would be no different and would incur no additional costs beyond those already required to complete these forms and supporting documentation.

Other than for machine guns and destructive devices, since January 1, 2026, applicants making, transferring, and registering their NFA firearms no longer pay the \$200 NFA making or transferring tax. As a result, other than married couples who want

to jointly own machine guns or destructive devices, switching to joint registrations would include only a \$0 making or transferring tax, which ATF believes would encourage an increase in such transfers if this proposed rule is finalized. However, either way, the transfer tax is also already an existing tax for transfers established by statute and incorporated in the regulations for all transfers that do not fall into one of the tax-exempt statuses established by statute, which would not apply here. Any such tax is therefore also a sunk cost and a married couple who chooses to transfer a firearm as joint registrants would occur no additional tax fees beyond those already required with any transfer.

As a result, this rule would generate no costs for registering jointly beyond those already required for all transfers.

5. Regulatory alternatives

Alternative 1. Maintaining the status quo. This would require spouses to continue creating trusts to jointly register NFA firearms. There are \$0 costs and \$0 incremental benefits to maintaining the status quo. However, under these circumstances, for example, if a surviving spouse was not registered under a trust covering the firearm, and the firearm consequently was not transferred as part of an estate during probate, the surviving spouse would thereafter be unable to legally transfer the NFA firearm — because the surviving spouse would not be the registered owner — and the spouse also would not legally be able to retain the firearm for the same reason. This kind of situation would continue under the status quo alternative. This alternative was rejected because the proposed rule provides high net benefits with only minimal application costs per couple, while also alleviating the hassles and complexities of creating and maintaining trusts for dual-registration purposes and situations like the one described above.

Alternative 2. Rulemaking (proposed alternative). This proposed alternative would rescind the need for spouses to register as a trust to have joint ownership of an NFA firearm. This rule would provide deregulatory savings to married couples wishing

to purchase such firearms and facilitate the purchase without having to file and register as a trust. This alternative was accepted due to the savings this rule would provide for the public and the lack of negative impact on public safety. Spouses who are jointly registered through a trust, or who would do so in the future without this rule, would receive the same joint registration benefits pursuant to this rule without the cost and hassle of creating a trust and going through the trust approval process at ATF. Other married couples that wanted to register jointly but chose to register the firearm to one spouse instead of going through the trust process, or such couples who would do so in future without this rule, would instead be able to jointly register. In addition, the proposed rule has an annualized benefit of \$1.4 million at 3 percent and 7 percent. This alternative was selected because the benefits, both monetized and qualitative, exceed costs.

Alternative 3. Guidance instead of rulemaking. This alternative was rejected because the regulations currently say the opposite of what is being proposed and any guidance would then conflict with the regulations. This would create confusion and the proposed joint registration would not have the same force and effect as the regulation, thereby resulting in unreliable registrations for spouses under the guidance, if it should be litigated or other similar situations. While guidance would theoretically allow for the same benefits as the proposed rulemaking, these issues would nullify them.

B. Executive Order 14192

Executive Order 14192 (Unleashing Prosperity through Deregulation) requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed or revised when the agency publicly proposes for notice-and-comment or otherwise promulgates a new regulation that qualifies as an Executive Order 14192 regulatory action (defined in OMB Memorandum M-25-20 as a final significant regulatory action under section 3(f) of Executive Order 12866 that imposes total costs

greater than zero). In furtherance of this requirement, section 3(c) of Executive Order 14192 requires that any new incremental costs associated with such new regulations must, to the extent permitted by law, also be offset by eliminating existing costs associated with at least ten prior regulations. However, this proposed rule would not be an Executive Order 14192 regulatory action. This rule as proposed would not be a significant regulatory action as defined by Executive Order 12866 and it would not impose total costs greater than zero. This proposed rule would remove the previously existing regulatory requirements that caused spouses who wished to register jointly to create trusts and save the public costs and burdens of complying with them. 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 (“IRFA”) of the impacts on small businesses and other entities that would occur due to this proposed rule, if finalized as proposed. Based on the information from this analysis, ATF found —

- Direct costs and savings: there are no direct costs or savings to small businesses or entities. Direct costs and savings from this proposed rule would apply only to individuals.
- Indirect costs: an unknown number of small businesses deal in NFA trusts, including firearms dealers and law firms that provide other types of goods or services, as well as businesses for which gun trusts are their only service. This proposed rule would indirectly cause an unknown reduction in revenue for these small businesses because it would cause some individuals (married couples) to no longer need an NFA gun trust (other persons might still need NFA gun trusts, such as siblings who wish to jointly own an NFA firearm). ATF has no data source from which to determine how many NFA gun

trusts involve married couples versus other parties, or what portion of such businesses' revenue stems from creating gun trusts, so cannot ascertain the impact to these businesses or how many might be impacted. However, it is possible that a small portion of these affected businesses whose only line of business is NFA gun trusts could go out of business altogether due to this proposed rule if married couples constitute the bulk of their clients.

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 RFA.

ATF determined that the rule affects a variety of large and small businesses (see item 3 below). Based on the requirements above, ATF prepared the following IRFA assessing the proposed rule's impact on small entities.

1. Reasons why the agency is considering acting

This proposed rule would reduce burdens and costs to individuals because it would allow spouses to jointly register firearms, and would alleviate legal hurdles after a registered owner spouse dies and reduce the need for spouses to create legal trusts instead

(which cost money and time). ATF also does not anticipate this rule creating significant economic cost for small entities, as this rule directly affects individuals not businesses.

2. Objectives of, and legal basis for, the proposed rule

The objective of this proposed rulemaking is to reduce the regulatory burden of NFA firearms ownership on the public. Federal law does not prohibit persons from jointly owning an NFA firearm if both persons have undergone the requisite background checks, complied with the statutory and regulatory requirements, and are not prohibited persons. Therefore, ATF would permit spouses to jointly register NFA firearms as proposed in this rule. ATF also believes that it is reasonable to limit joint registration to spouses. Allowing non-marital joint registration could result in pretextual joint registrations that attempt to circumvent the NFA's transfer provisions and the Gun Control Act's interstate transfer restrictions, *e.g.*, 18 U.S.C. 922(a)(3), both of which require approval by the Attorney General. Such attempts are unlikely within a marriage, since both parties typically live in the same household and legitimately share property.

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

It is possible that there may be indirect costs to another industry – businesses that create trusts, some of which could be small businesses. These include firearms dealers and law firms that provide other types of goods or services, as well as businesses for which gun trusts are their only service. Because not all law firms and dealers provide trust services, let alone NFA gun trust services, and some that do offer such services do not advertise their services or have an internet presence, there are an unknown number of businesses that create trusts specifically for NFA firearms.

ATF found five businesses that advertise on the internet as providing services specifically to create NFA gun trusts.¹⁰ Using the online operational information provided

¹⁰See footnote 7, *supra*.

by these five businesses, ATF determined that three of them advertise services only for NFA gun trusts; they have no other business goods or services.¹¹ To the extent that these and other small businesses provide only NFA gun trust services, they may be adversely impacted by this rule, and possibly go out of business altogether if their client base consists heavily of married couples. Other businesses, such as the other two that ATF identified that specifically advertise NFA gun trust services,¹² also offer other goods and services — such as retail firearms sales, other kinds of trusts, or other law services. This proposed rulemaking would have an unknown indirect effect on their revenue, but because married couples make up only part of the population that seek to create gun trusts,¹³ and these small businesses have other revenue sources in addition to NFA gun trusts, ATF expects the impact to them would be smaller. ATF has no information on the size of these businesses and is treating them, for purposes of this analysis, as if they are small entities.

Two of the businesses that offer NFA trust services advertise that their only services are to facilitate NFA firearms trust applications.

4. 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

The proposed rule imposes no additional reporting, record-keeping, or other compliance requirements or costs. This rule would rescind costs to and requirements on the public.

5. Relevant federal rules which might duplicate, overlap, or conflict with the

¹¹See footnote 7, National Gun Trusts, Gun Trusts Guru, and Texas Gun Trust, *supra*.

¹²See footnote 7, Silencer Central and Silencer Shop, *supra*.

¹³For example, friends, relatives such as siblings or parent and child, investors in a specific firearm, etc., also may seek to create NFA gun trusts, and this rule would not affect them or their interest in creating a trust.

proposed rule

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

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

ATF considered the alternative of maintaining the status quo with respect to joint ownership of NFA weapons. Maintaining the status quo would alleviate the indirect costs to companies that facilitate NFA trust applications. However, ATF determined that the direct, economic benefits to the public would significantly outweigh the indirect costs to a few businesses incurred from the proposed rule.

G. Small Business Regulatory Enforcement Fairness Act of 1996

This proposed rule may have a significant, indirect economic impact on five entities that provide NFA-specific trust services. Assuming these five businesses represent the entire industry providing such services and would all be impacted, if they are small entities, then a substantial number of small entities under the Small Business Regulatory Enforcement Fairness Act of 1996, 15 U.S.C. 657 and 5 U.S.C. 601 note, might be indirectly impacted by this proposed rule because it may indirectly reduce their revenue-generating activities. Because this proposed rulemaking does not impose additional compliance activities (it reduces compliance activities), ATF does not anticipate imposing any enforcement activities against any small entity affected by this proposed rulemaking.

H. 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 determined that no actions are necessary under

the provisions of the Unfunded Mandates Reform Act of 1995.

I. Paperwork Reduction Act

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 create the need to revise four existing information collections covered under the PRA. The involved information collections are OMB 1140-0011: Application to Make and Register NFA Firearm, which includes ATF Form 5320.1 (“Form 1”); OMB 1140-0014: Application to Transfer and Register NFA Firearm (Tax-Paid), which includes ATF Form 5320.4 (“Form 4”); OMB 1140-0015: Application to Transfer and Register NFA Firearm (Tax-Exempt), which includes ATF Form 5320.5 (“Form 5”); and OMB 1140-0107: NFA Responsible Person Questionnaire, which includes ATF Form 5320.23 (“Form 23”). This rule would require the forms for all four of these information collections to be slightly modified to allow joint application by spouses, as described in section II of this preamble.

This proposed rule might also generate a one-time increase in the number of respondents submitting Forms 4 and 23 during the first year, if the rule is finalized as proposed, because persons with registered firearms who want to jointly register them with their spouse might submit transfer applications that year on Forms 4 to register them jointly, and the spouses would need to submit Forms 23 with Forms 4. How many might do so is too speculative to estimate.

Form 5 would also likely experience a small increase in the number of respondents in later years, due to possible transfers due to court orders during divorce, but that amount is too speculative to estimate.

Impacted information collection request (“ICR”) 1:

Title: Application to Make and Register NFA Firearm

OMB control number: 1140-0011

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

Summary of the information collection: Any person other than a qualified manufacturer who wishes to make and register an NFA firearm must submit a written application to ATF on a form prescribed by ATF, 26 U.S.C. 5822. They must also identify the firearm they are making and themselves as the maker. Finally, individuals must include their fingerprints and a photograph with the application. In § 479.62, ATF prescribed ATF Form 5320.1 (“Form 1”), Application to Make and Register NFA Firearm, for these required purposes.

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

Description of the respondents affected by this ICR: Individuals or households

Number of respondents: 148,975 annually

Frequency of response: Once, as needed

Response time estimate: 12 minutes (overall reduction from 30 minutes, due to conversion to eForm and other technological changes)

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

Impacted ICR 2:

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

OMB control number: 1140-0014

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

Summary of the information collection: Persons with an NFA firearm must apply to ATF for approval to transfer and register the firearm as required by the NFA. 26 USC 5812. ATF Form 5320.4 (“Form 4”), the prescribed means for submitting this application, facilitates and records the firearms transfer and also serves as proof of registration once approved.

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

Description of the respondents affected by this ICR: Individuals or households

Number of respondents: 546,424 annually

Frequency of response: Once

Response time estimate: 12 minutes per (overall reduction from 30 minutes, due to conversion to eForm and other technological changes)

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

Impacted ICR 3:

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

OMB control number: 1140-0015

Form number: ATF Form 5320.5 (“Form 5”)

Summary of the information collection: Persons with an NFA firearm must apply to ATF for approval to transfer and register the firearm as required by the NFA. 26 USC 5812. ATF Form 5320.5 (“Form 5”), the prescribed means for submitting this application if the transfer is tax-exempt, facilitates and records the firearms transfer and also serves as proof of registration once approved. Applicants also use the form to claim an exemption from paying the otherwise-required transfer tax and provide the information necessary to support their claim.

Need for information and proposed use: ATF’s NFA Division uses the information on this form to determine whether the applicant may legally transfer and register the firearm under federal, state, tribal, and local law, and to determine whether the transfer qualifies for tax-exempt status. The form also identifies the transferor, transferee, and firearm(s). 26 U.S.C. 5812 provides that ATF cannot approve an application if receiving or possessing the firearm would place the person receiving the firearm in violation of law. The form asks individual transferees to respond, under penalties of perjury, to questions to determine whether they are prohibited by federal law from possessing firearms. For a trust or legal entity, which cannot answer these questions on Form 5 because it is not an individual, each responsible person for that trust or legal entity instead provides this information when they submit Form 5320.23, NFA Responsible Person Questionnaire (covered by OMB control number 1140-0107). ATF also uses Form 5 to effect a transfer resulting from operation of law, for example, a firearm in an estate being transferred to a beneficiary, or a firearm being transferred as a result of bankruptcy. Persons may also use

Form 5 to facilitate temporarily conveying a firearm for repair, and its subsequent return.

Description of the respondents affected by this ICR: federal government, state, local, or tribal governments, individuals under certain circumstances

Number of respondents: 17,322 annually

Frequency of response: once

Response time estimate: 12 minutes (overall reduction from 30 minutes, due to conversion to eForm and other technological changes)

Burden of response: 3,464 hours total for all respondents

Impacted ICR 4:

Title: NFA Responsible Person Questionnaire

OMB control number: 1140-0107

Form number: ATF Form 5320.23 (“Form 23”)

Summary of the information collection: When a trust or other legal entity (including corporations, etc.) must submit Form 1 as the maker, or is identified as the transferee on Form 4 or ATF Form 5320.5 (“Form 5”), Application to Transfer and Register NFA Firearm (Tax-Exempt), it is not able to submit individually identifying information for purposes of a background check. When one of these forms is filled out by an entity other than an individual, the entity provides the information on Forms 1, 4, or 5. In such cases, each responsible person for that entity must provide the same information that is requested for an individual on Form 4, or 5, but does so on a separate form. This is to ensure that each responsible person for the entity is legally permitted to make, transfer, or receive an NFA firearm. As a result, ATF Form 5320.23 (“Form 23”) is required for any responsible person (as defined in 27 CFR 479.11) who is part of such trust or other legal entity.

Need for information and proposed use: ATF’s NFA Division uses the information on this form to determine whether the applicant may legally make, possess, or receive the

firearm under federal, state, tribal, and local law. Sections 5812 and 5822 provide that ATF cannot approve an application if making or possessing the firearm would place the person in violation of law. The form asks the responsible person to respond, under penalties of perjury, to questions to determine whether they are prohibited by federal law from possessing firearms.

Description of the respondents affected by this ICR: Entity responsible persons

Number of respondents: 749,242 annually

Frequency of response: once

Response time estimate: 12 minutes (overall reduction from 30 minutes, due to conversion to eForm and other technological changes)

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

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-AB00 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-AB00. 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.”

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-AB00).

List of subjects in 27 CFR part 479

Administrative practice and procedure, Arms and munitions, Exports, Imports, Military personnel, Penalties, Reporting and recordkeeping 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 § 479.62 by:

a. In paragraph (a), removing the words “ATF Form 1 (5320.1), Application to Make and Register a Firearm” and adding in their place the words “ATF Form 5320.1 (“Form 1”), Application to Make and Register NFA Firearm”; and

b. Revising the introductory text of paragraph (b) and paragraphs (b)(1), (b)(2), and (b)(6), adding a paragraph heading to paragraphs (b)(3)-(5), and adding a new

paragraph (b)(7), to read as follows:

§ 479.62 Application to make

* * * * *

(b) *Preparing ATF Form 5320.1 (“Form 1”).* The applicant must provide all the information called for on Form 1, including:

(1) *Application type, i.e., tax-paid or tax-exempt.* If making the firearm is subject to the \$200 tax, the applicant must submit payment in that amount with the application in accordance with the instructions on the form;

(2) *Applicant’s identity.* If an individual, the applicant must provide the applicant's name, address, and birthdate, and also comply with the identification requirements prescribed in § 479.63(a). If other than an individual, the applicant entity (including a married couple filing jointly) must enter the entity’s name (or “spouses filing jointly,” if a married couple), address, and employer identification number, if any, as well as the full name and address of each responsible person or spouse filing jointly. Each responsible person or spouse filing jointly must also comply with the identification requirements prescribed in § 479.63(b);

(3) *Firearm description.* * * *

(4) *License number.* * * *

(5) *Tax stamp.* * * *

(6) *Nonimmigrant alien documents.* If any applicant (including, if other than an individual, a spouse filing jointly, or any responsible person) is an alien admitted under a nonimmigrant visa, applicable documents demonstrating that the nonimmigrant alien falls within an exception to 18 U.S.C. 922(g)(5)(B) under 18 U.S.C. 922(y)(2), or has obtained a waiver of that provision under 18 U.S.C. 922(y)(3).

(7) *Joint registration documents.* If the applicants are spouses filing jointly (a married couple), they must submit with the application documents demonstrating a legal

marriage, including a marriage certificate, license, or proof of a marriage otherwise recognized under state law. In the event a marriage certificate, license, or equivalent is not available, applicants can submit other evidence of marriage (such as affidavits, joint tax returns).

* * * * *

3. Amend § 479.63 by:

a. Revising the section heading, the introductory text of paragraph (a), and the introductory text of paragraph (b);

b. In paragraph (b)(1), adding “(or by “spouses filing jointly” and address, if a married couple)” between the words “place of business” and the comma, and adding the words “or a married couple filing jointly” between the words “in the case of a trust” and the comma in two places;

c. In paragraph (b)(2)(i), removing the word “Documentation” and adding in its place the word “Documents”, and adding the words “marriage certificates, licenses, or other proof of marriage recognized under state law,” before the words “partnership agreements”;

d. In paragraph (b)(2)(ii), adding the words “or spouse filing jointly” after the words “responsible person”, adding the words “or spouse’s” after the words “responsible person’s”, and adding “(if applicable)” after the word “position”; and

e. In paragraphs (b)(2)(iii) and (iv), by adding the words “or spouse filing jointly” after the words “responsible person” wherever they appear.

The revisions read as follows:

§ 479.63 Applicant identity.

(a) Each individual applicant must:

* * * * *

(b) If the applicant is not an individual, and is not a licensed manufacturer,

importer, or dealer qualified under this part, but is a partnership, company (including a limited liability company (LLC)), association, trust, corporation, or married couple filing jointly, the applicant must:

* * * * *

4. Amend § 479.84, by:

a. In paragraph (b)(9), adding the words “or spouse filing jointly” after the words “responsible person”; and

b. Revising paragraphs (a), (b) introductory text, (b)(2), and (b)(5) and adding paragraph (b)(10) to read as follows:

§ 479.84 Application to transfer.

(a) *General.* Except as otherwise provided in this subpart, no person may transfer a firearm in the United States unless the transferor submits an application, ATF Form 5320.4 (“Form 4”), Application to Transfer and Register NFA Firearm (Tax-Paid), to the Director in duplicate, executed under the penalties of perjury, to transfer the firearm and register it to the transferee, and the Director has approved the application. If the transferee is not a licensed manufacturer, importer, or dealer qualified under this part, but is a partnership, company (including a limited liability company (LLC)), association, trust, corporation, or a married couple filing jointly, the transferee must furnish all information required on Form 4 for each of the transferee’s responsible persons or spouses filing jointly.

(b) *ATF Form 5320.4 (“Form 4”).* The transferor and transferee must provide all the information called for on Form 4, including:

* * *

(2) The transferor’s identity by name and address and, if the transferor is not an individual, the title or legal status (such as spouse or owner) of the person executing the application in relation to the transferor;

* * * * *

(5) The transferee's identity by name and address and, if the transferee is not qualified as a licensed manufacturer, importer, or dealer under this part, additional identity information in the manner prescribed in § 479.85;

* * * * *

(10) If the applicants are spouses filing jointly (a married couple), they must submit applicable documents demonstrating a legal marriage with the application, including a marriage certificate, license, or proof of a marriage otherwise recognized under state law. In the event a marriage certificate is not available, applicants can submit other evidence of marriage (such as affidavits, joint tax returns).

* * * * *

6. Amend § 479.85 by:

a. Revising the section heading, paragraph (a) introductory text, and paragraph (b) introductory text;

b. In paragraph (b)(1), adding "(or last name(s) and primary address of the married couple filing jointly)" between the words "place of business" and the comma, and adding the words "or a married couple filing jointly" between the words "in the case of a trust" and the comma;

c. In paragraph (b)(2)(i), removing the word "Documentation" and adding in its place the word "Documents", and adding the words "marriage certificates, licenses, or other proof of marriage recognized under state law," before the words "partnership agreements";

d. In paragraph (b)(2)(ii), adding the words "or spouse filing jointly" after the words "responsible person", adding the words "or spouse's" after the words "responsible person's", and adding "(if applicable)" after the word "position"; and

e. In paragraphs (b)(2)(iii) and (iv), adding the words "or spouse filing jointly"

after the words “responsible person” wherever they appear.

The revisions read as follows:

§ 479.85 Transferee identity.

(a) Each individual transferee must:

* * * * *

(b) If the transferee is not an individual, and is not a licensed manufacturer, importer, or dealer qualified under this part, but is a partnership, company (including a limited liability company (LLC)), association, trust, corporation, or a married couple filing jointly, the transferee must:

* * * * *

7. Amend § 479.101 by:

- a. Revising the section heading; and
- b. Adding paragraph (g).

The revision and addition read as follows:

§ 479.101 Registering firearms.

* * * * *

(g) A firearm may be registered jointly to spouses. The marriage must be recognized under state law, and each spouse must meet the requirements of this part, including retaining proof of registration.

Robert Cekada,
Director.

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