This document is scheduled to be published in the Federal Register on 2026-05-08 and available online at https://www.federalregister.gov/d/2026-09159, and on https://govinfo.gov

e 4410-FY-P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR part 478

[Docket No. ATF-2026-0265 ATF 2025R-47P]

RIN 1140-AA88

Defining "Willfully" for Firearms Violations

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 to define the term "willfully" in Department of Justice ("Department") regulations that implement 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 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Commenters should be aware that the federal e-rulemaking portal comment system will not accept comments after midnight Eastern Time on the last day of the comment period.

ADDRESSES: You may submit comments, identified by RIN 1140-AA88, 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-AA88*.

Instructions: All submissions must include the agency name and number (RIN 1140-AA88) 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 Gun Control Act of 1968 ("GCA"), as amended. This responsibility includes the authority to promulgate regulations

necessary to enforce the provisions of the GCA.[1] *See* 18 U.S.C. 926(a). Congress and the Attorney General have delegated the responsibility for administering and enforcing the GCA to the Director of ATF ("Director"), subject to the direction of the Attorney General and the Deputy Attorney General. *See* 28 U.S.C. 599A(b)(1), (c)(1); 28 CFR 0.130(a)(1)–(2); Treas. Order No. 221(2)(a), (d), 37 FR 11696–97 (June 10, 1972).[2] Accordingly, the Department and ATF have promulgated regulations to implement the GCA in 27 CFR part 478.

Under 18 U.S.C. 923(e), ATF may revoke any license it has issued if the licensee has willfully violated any provision of the GCA or any rule or regulation prescribed by the Attorney General to implement the GCA's provisions. ATF has implemented section 923(e) in 27 CFR 478.73(a), which provides, "Whenever the Director has reason to believe that a licensee has willfully violated any provision of the [GCA] or this part [478], a notice of revocation of the license, ATF Form 4500, may be issued." Neither the GCA nor the regulations define "willfully." Without a statutory or regulatory definition, courts have created their own definitions, which has resulted in different definitions from court to court, as well as different definitions applied in criminal and civil proceedings.

II. Proposed rule

A. Discussion

Although the Government has previously argued that unintentional violations may be "willful" under the GCA's civil revocation proceedings, ATF has decided that its previous position does not represent the best reading of the statute. ATF has re-examined the text and structure of the GCA. Both strongly suggest that Congress intended the same definition of

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

[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 National Firearms Act, GCA, and Title XI of the Organized Crime Control Act. ATF's jurisdiction also includes those portions of sec. 38 of the Arms Export Control Act pertaining to the permanent import of defense articles and defense services and the Contraband Cigarette Trafficking Act.

"willfully" to apply to the same prohibited conduct in the same Act whether the consequences are criminal or civil.

Civil proceedings for revoking a firearms license are governed by 18 U.S.C. 923. In particular, Congress has provided that the Attorney General may revoke a license if the license holder "has willfully violated any provision of this chapter." 18 U.S.C. 923(e). Criminal penalties for violating the GCA are governed by 18 U.S.C. 924. That statute provides that whoever "willfully violates any . . . provision of this chapter [other than certain enumerated exceptions] shall be fined under this title, imprisoned not more than five years, or both." 18 U.S.C. 924(a)(1)(D).

The Supreme Court has already interpreted 18 U.S.C. 924(a)(1)(D)'s "willfully violates any other provision of this chapter" phrase to require that the defendant deliberately violate a known legal duty. *Bryan v. United States*, 524 U.S. 184 (1998). In *Bryan*, the Supreme Court distinguished the culpability required under "willful" and "knowing" violations of the GCA. It held that "willful" violations of the GCA require a higher, more culpable mens rea than "knowing" violations. Specifically, "to establish a 'willful' violation of a statute, the Government must prove that the defendant acted with knowledge that his conduct was unlawful." *Id.* at 191–92. By contrast, the culpability required of "knowing" violations is "mere[] . . . proof of knowledge of the facts that constitute the offense." *Id.* at 193.

Section 923(e)'s virtually identical phrase—"willfully violated any provision of this chapter"—should be given the same meaning. "The normal rule of statutory construction assumes that identical words used in different parts of the same act are intended to have the same meaning." *Sorenson v. Sec'y of Treasury*, 475 U.S. 851, 860 (1986). Especially so here, where both section 923(e) and 924(a)(1)(D) refer to the same body of law—"any . . .

provision" of the GCA—and have the same "willfully" mens rea requirement without any additional qualifying language.[3]

Giving "willfully" the same meaning in section 923(e) as in section 924(a)(1)(D) is "doubly appropriate here," because that word was "inserted into [both sections] at the same time." *Powerex Corp. v. Reliant Energy Servs.*, 551 U.S. 224, 232 (2007). Congress has enacted and amended these provisions of the GCA in lockstep with each other. In June 1968, Congress enacted the original GCA, providing in section 924 that "[w]hoever violates any provision of this chapter . . . shall be fined not more than $5,000 or imprisoned not more than five years, or both." Pub. L. No. 90–351, 82 Stat. 233 (Jun. 19, 1968). A few short months later, Congress allowed for license revocation under section 923(e) where the license holder "has violated any provision of this chapter." Pub. L. No. 90–618, 82 Stat. 1222 (Oct. 22, 1968). And in May 1986, Congress passed the Firearms Owners' Protection Act ("FOPA"), which amended both sections 923(e) and 924(a)(1)(D) to what is substantially their form today by adding the "willfully" requirement. Pub. L. No. 99–308, 100 Stat. 453, 456 (May 19, 1986).

It makes little difference that section 923 refers to a civil penalty—revocation of a license—while section 924 concerns criminal penalties. It is true that the holding in *Bryan* was based, in part, on the fact that section 924 used the term "willfully" in "the criminal context." *Bryan*, 524 U.S. at 191–92. But it is well settled that a statute with "both criminal and noncriminal applications" should still be interpreted consistently across both. *See Leocal v. Ashcroft*, 543 U.S. 1, 11–12 n.8 (2004); *accord Clark v. Martinez*, 543 U.S. 371, 380–81 (2005). The same should apply to identical statutory phrases, enacted at the same time and in the same Act.

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[3] To be sure, the criminal provision narrows the body of law subject to criminal punishment. But that is not the same thing as adding additional qualifications to "willfully" violating "any . . . provision" of the GCA. 18 U.S.C. 924(a)(1)(D).

Examining the structure of the GCA confirms this reading. Section 923(f)(4) provides that "[i]f criminal proceedings are instituted against a licensee alleging any violation of this chapter or of rules or regulations prescribed under this chapter, and the licensee is acquitted of such charges, or such proceedings are terminated, other than upon motion of the Government before trial upon such charges, the Attorney General shall be absolutely barred from denying or revoking any license granted under this chapter where such denial or revocation is based in whole or in part on the facts which form the basis of such criminal charges." Issue preclusion from a criminal acquittal to a license proceeding would only make sense if the GCA's criminal definition of "willfully" and its civil definition of "willfully" carried the same meaning. It would not make sense if the GCA's criminal definition of "willfully" narrowly included only intentional violations of a known legal duty while its civil definition broadly included unintentional conduct that showed a plain indifference.

Statutory purpose confirms that section 923(e)'s "willfulness" requirement refers to a deliberate violation of a known legal duty. *See Wooden v. United States*, 595 U.S. 360, 378 (2022). In the GCA, Congress initially created an anomalous situation: no mens rea was explicitly adopted for license revocations but the Secretary of the Treasury was required to issue federal firearms licenses unless the applicant had previously willfully violated the GCA. *See Rich v. United States*, 383 F. Supp. 797, 800 (S.D. Ohio 1974). Congress resolved the ambiguity in 1986 when it passed FOPA. Congress added "willfully" "to correct existing firearms statutes and enforcement policies" and protect "the rights of citizens to keep and bear arms under the second amendment to the United States Constitution." Pub. L. 99–308; 100 Stat. 449. Increasing the culpability required to establish violations of the GCA, thus, aimed to curb abusive enforcement practices and ensure licenses were not revoked for inadvertent errors or technical mistakes. ATF believes that it is unlikely that Congress intended "willfully" to defeat FOPA's impetus.[4]

[4] *See* S. Rep. No. 98-583 at 14 (1984).

Even before the 1986 amendments, at least one district court agreed that the criminal definition of "willfulness" applied to license revocation proceedings. In *Rich v. United States*, the Southern District of Ohio explained that applying the criminal definition of "willfully" would "further the protective concern Congress intended" to not "impose undue or unnecessary restrictions upon firearms transactions." *See Rich*, 383 F. Supp. at 800–01. And if that were true under the original GCA, the argument would hold *a fortiori* given Congress's concerns in enacting FOPA.

Yet the circuit courts have incorrectly cast this interpretation aside. At least nine circuits have held that criminal penalties resulting from "willfully" violating the GCA require a more culpable mind than license revocations resulting from "willfully" violating the GCA. According to those courts, the same conduct, under the same Act, with the same mens rea requirements, could require less culpability when revoking a license than imposing criminal penalties. Without anything in the GCA's text suggesting that "willfully" means one thing in one section and another thing in another section, the courts defined "willfully" differently based on nothing other than the civil or criminal nature of the consequences. Six of the nine circuits specifically have concluded that the required culpability for license revocation is "deliberate, knowing, or reckless."[5] All nine of the circuits have held that "willfulness" for license revocation occurs "where the licensee knew of his legal obligation and purposefully disregarded or was plainly indifferent to the requirements."[6]

These circuit courts' notion that the civil or criminal consequences flowing from a statute's violation can change the culpability required of the same mens rea, in the same Act,

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[5] *Gen. Store, Inc. v. Van Loan*, 560 F.3d 920, 924 (9th Cir. 2009) (quoting *Armalite Inc. v. Lambert*, 544 F.3d 644, 647 (6th Cir. 2008)) (citing *RSM, Inc. v. Herbert*, 466 F.3d 316, 321 (4th Cir. 2006); *Willingham Sports, Inc. v. ATF*, 415 F.3d 1274, 1277 (11th Cir. 2005); *Stein's Inc. v. Blumenthal*, 649 F.2d 463, 467 (7th Cir. 1980); *Lewin v. Blumenthal,* 590 F.2d 268, 269 (8th Cir. 1979)).

[6] *Simpson v. Att'y Gen.*, 913 F.3d 110, 114 (3d Cir. 2019) (citing *Borchardt Rifle Corp. v. Cook*, 684 F.3d 1037, 1042 (10th Cir. 2012)); *Fairmont Cash Mgmt., L.L.C. v. James*, 858 F.3d 356, 362 (5th Cir. 2017); *Armalite*, 544 F.3d at 647; *RSM,* 466 F.3d at 317; *Article II Gun Shop, Inc. v. Gonzales*, 441 F.3d 492, 497 (7th Cir. 2006); *Willingham Sports*, 415 F.3d at 1277; *Perri v. ATF*, 637 F.2d 1332, 1336 (9th Cir. 1981); *Lewin*, 590 F.2d at 269.

that applies to violations of the same body of law rests on one case, *Safeco Insurance Company of America v. Burr*, 551 U.S. 47, 57 (2007).

Safeco, though, is not entirely apt. In *Safeco*, the Court considered the "willfulness" standard under the Fair Credit Reporting Act ("FCRA") and focused on context-dependent levels of culpability meant by "willfulness." The Court concluded that to give effect to all the other mens rea requirements in the FCRA, mere reckless disregard of the FCRA's requirements was sufficiently "willful." Never in *Safeco*, however, did the Court evaluate the level of culpability required of the same mens rea, in the same Act, applied to the same underlying conduct based solely on the civil or criminal nature of the consequences. In fact, the Court determined the culpability required to be "willful," 15 U.S.C. 1681n(a), relative to the level of culpability required of negligence, *id*. 1681o(a), knowledge, *id*. 1681n(a)(1)(B), and "knowingly and willfully," *id*. 1681q, 1681r. The Court noted that "willful," in that statute, must have a lower level of culpability than "knowing" because the statute imposes additional statutory damages if a "willful" violation was also done "knowingly." That context shows that "knowing violations are sensibly understood as a more serious subcategory of willful ones." *Safeco*, 551 U.S. at 59.

Put another way, for "knowing" to have any meaning, it must be possible under the statute to willfully, but not knowingly, violate the statute. Same thing for negligence. If "willfully" included the culpability amounting to "negligence" then all of 15 U.S.C. 1681o(a) would be surplusage because all negligent conduct would be subsumed under willfully. *Safeco* also distinguished criminal punishment. For criminal punishment, one must act "knowingly and willfully"—paired modifiers that heighten the culpability required relative to "willfully" used in the same Act on its own. The culmination of those distinctions was *Safeco*'s commonsense holding: For every mens rea in the act to have meaning, "willfulness" must allow for culpability that is less than "knowing" and "knowingly and willfully," but more than "negligent."

The GCA's text is materially different from the FCRA's. Unlike the FCRA, the GCA uses "willfully," without qualification, to describe the culpability required for violating the same body of law that amounts to both a criminal and civil violation. In the FCRA, "willfully" is reserved only for civil violations, while another mens rea, like "knowingly and willfully," is required for criminal violations or consequences of greater severity. The GCA's text has none of the attributes of the FCRA's text that compelled the Supreme Court in *Safeco* to interpret "willfully" to require less culpability than knowledge but more than negligence. The GCA does not pair "knowingly and willfully." "Willfully" is consistently used throughout the GCA for both criminal punishments and license revocations, and the word is meant to require more culpability than "knowingly." Nowhere does the GCA's text distinguish between what is willful for criminal punishment, but not for license revocation. Moreover, the Supreme Court has already interpreted "willfully" in the context of criminal punishment under the GCA to require a heightened culpability of one "act[ing] with knowledge that his conduct was unlawful." *Bryan*, 524 U.S. at 191–192.

Identical words used in the same Act, especially when referring to the same underlying conduct ("violate[] any . . . provision" of the GCA), must bear the same meaning.[7] "Willfully" cannot sometimes include "knowingly," but sometimes not. "Willfully" must have a consistent meaning when it is used in the same Act in reference to the same body of law. And that meaning must be consistent with how the Supreme Court defined the term in *Bryan*.

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[7] *See* Valerie C. Brannon, Cong. Research Serv., R45153, Statutory Interpretation: Theories, Tools, and Trends 55 (2023) *citing Robers v. United States*, 572 U.S. 639, 643 (2014) (quoting *Merrill Lynch, Pierce, Fenner & Smith Inc. v. Dabit*, 547 U.S. 71, 86 (2006)) (internal quotation marks omitted*); see also, e.g.*, *Cochise Consultancy, Inc. v. United States ex rel. Hunt*, 587 U.S. 262, 268 (2019) ("In all but the most unusual situations, a single use of a statutory phrase must have a fixed meaning."); *see also* William N. Eskridge, Jr. Phillip P. Fricky, Elizabeth Garrett, & James J. Brudney, Cases and Materials on Legislation and Regulation: Statutes and the Creation of Public Policy 1198 (5th ed. 2014) ("presumption of statutory consistency"); Antonin Scalia & Bryan A. Garner, Reading Law: The Interpretation of Legal Texts 170 (2012) ("presumption of consistent usage").

Apart from questions of statutory interpretation, amending the regulatory definition of "willfully" is also appropriate in light of ATF's former enforcement policy. During the prior administration, ATF attempted to implement a "zero tolerance" policy for gun dealers.[8] This zero-tolerance policy directed ATF to initiate revocation proceedings for five categories of conduct: "1) transferring a firearm to a prohibited person, 2) failing to run a background check, 3) falsifying records, such as a firearms transaction form, 4) failing to respond to an ATF tracing request, or 5) refusing to permit ATF to conduct an inspection in violation of the law."[9]

Although these violations could only warrant revocation if done "willfully," the prior administration's policy diluted the willfulness requirement—lowering the bar, in practice, from intentional/reckless wrongdoing to negligence. During licensing inspections, ATF Industry Operations Investigators ("IOIs") provided federal firearms licensees ("FFLs") with a review of the GCA's provisions and implementing regulations verbally. This practice has often been the subject of scrutiny because ATF has argued that the review of the acknowledgment with an IOI placed licensees on notice of the GCA's legal requirements—requirements that are numerous and, in some cases, difficult and technical. Because FFLs were then supposedly on notice of the GCA's pertinent legal requirements, ATF would move to revoke licenses when these requirements were violated, even if the violations were unintentional and the kind of violations that could occur through inadvertence. Specifically, FFLs were justifiably concerned that, under the prior administration's policies, ATF would initiate revocations for unintentional violations or repeat violations based on a standard of plain indifference to a known legal requirement. In practice, that culpability amounted to simple negligence. That result is precisely what Congress tried to stop when it passed FOPA.

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[8] *See* Fact Sheet: Biden-Harris Administration Announces Comprehensive Strategy to Prevent and Respond to Gun Crime and Ensure Public Safety (Jun. 23, 2021), https://bidenwhitehouse.archives.gov/briefing-room/statements-releases/2021/06/23/fact-sheet-biden-harris-administration-announces-comprehensive-strategy-to-prevent-and-respond-to-gun-crime-and-ensure-public-safety/ [https://perma.cc/5KPZ-X6AK].
[9] *Id.*

ATF has since rescinded the zero-tolerance policy but, given this history, ATF has determined that revised regulatory language is appropriate to respond to concerns about the dilution of the GCA's mental state requirement and necessary to prevent the reimposition of abusive enforcement practices in the future. Thus, consistent with *Bryan*, ATF proposes to define "willfully" in 27 CFR 478.73 in a manner that aligns with the higher standard of deliberate or intentional action knowingly violating the statute. ATF proposes to require that a person must intentionally and purposely engage in conduct that the law forbids and must act with actual knowledge that the person's conduct is unlawful. While persons need not know the specific law they violate, they must know the conduct is unlawful.

In revising the regulatory language, ATF will also define "willfully" as it applies to repeated violations, willful blindness, and supervisor-employee liability. The delineation of these concepts will capture much of what a proper definition of "plain indifference" would have captured but reduce the risk of abusive enforcement practices by clarifying that a repetitive error is not inherently willful, particularly when it results from the kind of error that may be committed through inadvertence.

B. Proposed revisions

ATF proposes to add the definition of willfully to § 478.73, rather than to the general definitions section in § 478.11, because the term "willfully" arises in only § 478.73 and has particular meaning in this context. It is easier for readers to understand the regulatory requirements if the particular definition is in the same location as the term used only in that section. Therefore, ATF proposes adding the definition in a new paragraph (c) under § 478.73. Paragraph (c) would define "willfully" while paragraphs (c)(1)–(3) would provide more information on how the term applies in specific scenarios, to clarify when an FFL's conduct rises to the level of willful behavior. These scenarios are: cases of repeated

violations (failing to prevent a violation from recurring), willful blindness, and actions by a person with supervisory authority.

Paragraph (c)(1) would clarify the relationship between willfulness and repeated violations. It provides that "[e]vidence of repeated violations with knowledge of the law's requirements may be sufficient to establish willfulness." Thus, a licensee who credibly claimed not to know a provision of the GCA might have a legitimate defense for a first violation. But upon a second violation, such a defense would not be credible, and evidence of a prior violation could be used as evidence that a person's conduct was willful.

Paragraph (c)(1) also recognizes, however, that not all repeat violations are willful. Given the complicated nature of the GCA and its forms and implementing regulations, some paperwork and regulatory violations may be repeated but unintentional. For example, a person may check the wrong box on a form or miss a line with information that is supposed to be filled out. Simple paperwork mistakes, done without willful intent, should not be the basis of license revocations. That is why paragraph (c)(1) provides that "in every case, the totality of the circumstances must be considered to determine willfulness, including the nature of the repeated violations and whether they resulted from inadvertent error."

Paragraph (c)(2) would provide that deliberately avoiding knowledge of the law or regulation is not an excuse. A person shall be deemed to act willfully if he or she takes deliberate actions to avoid learning about the law or regulation. This codifies traditional standards on willful blindness. Licensees cannot evade responsibility for willful violations by deliberately refusing to learn the law or regulation governing the activity.

Finally, paragraph (c)(3) would establish when a person with supervisory authority or a responsible person may be deemed to have willfully violated the GCA based on willful violations of his or her employees or subordinates. Supervisory authorities or responsible persons, who are not a principal in or accessory to violating the GCA, act willfully if they have actual knowledge that their employee violated the law or regulation and they ratify the

employee's action by 1) failing to cure the violation; 2) concealing the violation; or 3) failing to take appropriate remedial or disciplinary action against the employee who committed the violation. This paragraph would limit the application of respondeat superior to actions ratified by the licensee, i.e., those in which a licensee has knowledge that conduct is unlawful and fails to take action to remedy the violation, conceals the violation (thus creating a personal stake in the misconduct), or fails to take reasonable steps to prevent its recurrence. Respondeat superior is a common law doctrine "whereby a master is liable for his servant's torts committed in the course and scope of his employment." *Horras v. Leavitt,* 495 F.3d 894, 904 (8th Cir. 2007) (quoting *Burger Chef Sys., Inc. v. Govro*, 407 F.2d 921, 925 (8th Cir. 1969)). Courts have held that under the doctrine of respondeat superior, a type of vicarious liability, the unlawful acts of their employees can be imputed to FFLs, especially when such conduct is willful.[10]

Even if federal law permits licensees to be vicariously liable for the actions of their employees, this proposed rule seeks comment on whether such strict liability is appropriate as a matter of policy. Strict liability for employee misconduct may result in a licensee losing its license due to a single bad subordinate actor without considering remedial actions the employer may have taken. Large businesses with many employees would particularly suffer because a single rogue employee could imperil the entire business, regardless of the due care shown by managers and owners. In practice, ATF has not applied a full vicarious liability standard when revoking federal firearms licenses. The proposed rule accords with current practice and rejects full vicarious liability for employee misconduct as a matter of policy.

The proposed standard articulated in this rule would draw a proper balance between ensuring that FFLs take responsibility for the employees under their supervision while not unfairly holding them strictly liable for actions of which they were unaware. A licensee or

[10] *See Fairmont Cash Mgmt.*, 858 F.3d at 363 (rejecting the position that the doctrine of respondeat superior does not apply to the FFL when its employee partakes in willfully illegal conduct).

responsible person's behavior would only be willful under the proposed standard if the licensee or responsible person had actual knowledge of the employee's unlawful misconduct and ratified the action in certain ways. The concept of a principal "ratifying" an agent's actions is well known in the law of agency. *See* Restatement (Third) of Agency sec. 4.01–4.08. ATF believes that the particular conduct enumerated (e.g., failing to cure the violation or failing to take remedial or disciplinary action against an employee) is the kind of conduct that demonstrates that the principal assents to the conduct as if it had been authorized, s*ee* Restatement (Third) of Agency sec. 4.01(1), (2). That would make a violation intentional and, consequently, willful.

Paragraph (c)(3) would also reflect that the principal's assent may be shown by omission (e.g., failing to cure a violation). Misconduct by an employee should trigger an employer's affirmative duty to rectify and prevent that misconduct to the extent practicable. Failing to take reasonable steps to mitigate or prevent a recurrence of the misconduct leads to a reasonable inference that the employer ratifies the misconduct. Paragraph (c)(3) would provide that an employer's conduct rises to the level of willful when it ratifies an action by "[failing] to take appropriate remedial or disciplinary action against the employee who committed the violation." Appropriate employer action would depend on the circumstances. ATF is not suggesting that adverse employee action must be taken in all cases. For example, an appropriate remedial action for an inadvertent regulatory violation by an otherwise careful employee may be to educate the employee on the relevant regulation. On the other hand, stronger disciplinary actions are warranted where an employee culpably violates the GCA, and failing to take such disciplinary actions may lead to an inference that the employer accepts the misconduct.

Additionally, the employer provision applies only when the licensee "was not a principal in or an accessory to committing a violation." In other words, this provision is aimed only at providing a reasonable framework for respondeat superior liability. This

provision would not be applicable where licensees themselves are a principal in or an accessory to a violation. In that case, there is no vicarious liability; the licensees commit violations in their own right and would be judged by ordinary principles of willfulness defined in paragraphs (c), (c)(1), and (c)(2).

Insofar as any aspects of this rulemaking may represent an exercise of discretionary authority by ATF (e.g., the provision governing employee misconduct), the GCA at 18 U.S.C. 926(a) delegates such discretion to ATF. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 394 (2024). However, ATF welcomes comments on all aspects of the interpretive analysis and how to best implement the statutory text.

In addition, ATF is taking this opportunity to restructure § 478.73(a) by breaking apart the extremely long paragraph containing multiple bases for ATF to send notice into four subparagraphs and streamlining the repetitive portions of the provisions, and making minor plain writing edits to paragraphs (a) and (b) so they are easier to read. ATF is not proposing any changes to the substantive content of paragraphs (a) and (b).

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 rule proposes to codify in ATF regulations a definition of "willfully" to clarify when a person's conduct would rise to willfully violating the GCA or its implementing regulations, in turn potentially leading to a notice that ATF intends to suspend or revoke a

federal firearms license or impose a civil fine on an FFL. The proposed definition would implement the standard defined by the Supreme Court in *Bryan*, 524 U.S. at 191–92.

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

1. Need statement

Codifying the definition of "willfully" in ATF regulations would offer greater clarity to the public and regulated licensees, and ensure that any suspensions, revocations, or fines are in line with the higher culpability required for "willful" violations of the GCA as defined by the Supreme Court in *Bryan*. It would also reduce the risk that unwarranted or unintentional violations would result in such sanctions.

2. Benefits

ATF estimates the impacts of the proposed rule to be primarily characterized by reduced burden on its regulated industry, specifically entailing qualitative benefits to current and future FFLs. Revising the definition of "willfully" would offer greater clarity and predictability to regulated licensees, which would constitute qualitative benefits to a potential majority of the 100,000 FFLs.

In addition, properly defining "willfully" would result in quantifiable cost savings to FFLs who commit minor, technical, or unintentional violations. Those FFLs, under an alternative definition, could have been served notices of ATF's intent to suspend or revoke their license or impose a civil fine for inadvertent violations of the GCA. Those FFLs would either face administrative consequences or enter hearings to challenge ATF's intended action.

ATF's interpretation of "willfully," however, still subjects FFLs to revocation proceedings due to willful or repeated violations of federal firearms laws that advance public

safety.[11] In such situations, FFLs are entitled to due process throughout the inspection and revocation process. To revoke a license, ATF must find that the FFL willfully committed at least one violation of the GCA or its regulations. FFLs have the right to appeal a final license revocation to federal court.[12]

Between 2021 and 2024, ATF operated under the enhanced regulatory enforcement policy ("EREP"), which was based on the broader definition of "willfully" discussed in section II.A of this preamble. As a result, data on the number of notices or proxy letters and the number of hearings provides a baseline from which to estimate the number of persons in the future who might be impacted if this proposed rule does not go into effect. In turn, that number represents the number of FFLs who would potentially benefit from cost savings from this proposed rule.

ATF determined the portion of ATF administrative hearings and revocations/other dispositions that were attributable to the enforcement policy. Based on data over the four-year average between 2021 and 2024, out of a total of 397 inspections that resulted in notices, 183 went to hearing while 214 did not. FFLs requested hearings and incurred associated costs for 46 percent of the notices. ATF therefore applied this same percentage to the number of notices sent to FFLs for one of the qualified violations (refer to footnote 11), to estimate the number of FFLs that would no longer incur the costs of hearings if this rule were issued as proposed.

To estimate the number of notices, ATF combined data on both revocations and other non-revocation dispositions (such as suspensions, fines, or no action) over time, which resulted in the following data:

Table 1: Data on revocations and other dispositions

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[11] Qualifying willful violations include: transferring a firearm to a prohibited person, failing to conduct a required background check, falsifying records, failing to respond to a trace request, and refusing to allow ATF to conduct an inspection. ATF might also revoke an FFL for willful violations of the GCA that are not included in the ATF list above.

[12] Additional information about the revocation process is available at www.atf.gov/firearms/revocation-firearms-licenses [https://perma.cc/566X-9RTB].

	2018	2019	2020	2021	2022	2023	2024
Revocations	49	43	40	27	90	170	195
Other dispositions			15	3	62	168	182
Notices/proxy letters	**49**	**43**	**55**	**30**	**152**	**338**	**377**
Percent change between years		-12%	28%	-45%	407%	122%	12%

The EREP policy, which relied on a broad reading of the definition of "willfully," resulted in an increase of 407 percent in ATF's estimated number of notices between 2021 and 2022 when EREP was implemented, followed by additional increases of 122 and 12 percent, respectively, over the two years that followed. Applying the statistic that 46 percent of cases result in a hearing to the number of notices for each year, ATF estimated the number of hearings over the past seven years, in Table 2.

Table 2: Data on notices/proxy letters and hearings

	2018	2019	2020	2021	2022	2023	2024
Notices/proxy letters	49	43	55	30	152	338	377
Estimated number of notices resulting in hearings	**23**	**20**	**25**	**14**	**70**	**155**	**173**

Using this data to produce a baseline average of hearings per year before and after the EREP based on the broader definition of "willfully" yielded a baseline average of 20 hearings per year, compared to an EREP average of 133 hearings per year. The difference nets an increase of 113 hearings per year under the policy, assuming it would have remained steady over time—from which ATF projects that, if this rule does not go into effect, 113 more FFLs per year could, in the future, incur the costs for appeal hearings because the broader definition applied by courts in civil cases could continue being used even without the EREP.

Assuming a hearing takes six hours on average, and that legal representation would total approximately $350 per hour,[13] each hearing would result in an estimated legal cost of $2,100 per FFL. This benefit in the form of potential cost savings, when applied to the annual average of 113 hearings, results in an annual potential savings to FFLs of $237,300 from this proposed rule, which would result in cost savings of $2.373 million over ten years.

While this would be the estimated quantitative impact of reversing an internal enforcement policy, codifying a more stringent standard that would likely reduce regulatory enforcement actions over time would be similar, or perhaps slightly greater, and on an enduring basis.

3. Costs

In addition to the qualitative and quantitative benefits discussed above, ATF estimates the impacts of the proposed rule to also include potential qualitative costs in the form of greater risks to public safety.

The data above includes annual revocations under the baseline of 195 in 2024, 170 in 2023, and 90 in 2022, which results in a three-year average of 152 revoked federal firearms licenses per year. ATF expects to reduce this estimate considerably based on shifting enforcement priorities and this proposed rule, which would raise the threshold for what qualifies as a violation that could result in a suspension, revocation, or civil fine.

Many violations are likely minor and not due to purposeful evasion. Nonetheless, there remains the possibility that incidents of neglect, uncorrected subordinate employee error, or other avoidable violations could go uncorrected without the threat of consequences or incentive for mitigating or corrective action. As a result, an unknown proportion of these 152 violators per year might continue to violate the existing regulations, thereby increasing the risk of harm to public safety. While slim, there are chances that such violations might

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[13] *See, e.g.*, Clio, *Average Lawyer and Non-Lawyer Hourly Rates by State* , https://www.clio.com/resources/legal-trends/compare-lawyer-rates/ [https://perma.cc/8NZV-8TAB].

result in unfavorable social outcomes, such as a prohibited person obtaining a firearm without a background check, an FFL refusing to comply with a trace request in pursuit of a violent criminal, or other similar consequential violations.

4. Regulatory alternatives

ATF considered three alternatives: continuing the status quo without changing the existing regulatory definition; issuing guidance to internal ATF enforcement divisions and personnel who enforce the provisions; or revising the existing regulation.

Alternative 1: Continuing the status quo (no action alternative)

ATF considered this alternative of continuing the status quo, which is to take no action; however, the existing interpretation, which is less stringent than when applied in a criminal context, has created an unpredictable and inconsistent compliance environment for licensees that could result in unintentional or unwarranted consequences for minor violations of GCA regulations. While the volume of adverse actions is relatively low and likely to be reduced further under the existing baseline, greater clarity benefits all current and future FFLs and the greater leniency for unintentional violators reduces burden on the public. ATF therefore did not elect this alternative.

Alternative 2: Issuing Guidance

ATF considered issuing guidance to internal ATF Field Industry Operations Investigators, directing them to apply the more stringent definition and enforcement standard of "willfully" proposed in this rule. But ATF determined that the guidance alternative was insufficient as a full replacement for a rulemaking, due to the differing court interpretations in the absence of an established ATF implementing definition. Courts would not rely on guidance for such an established definition, even if it were external, and internal guidance would carry no weight toward a more consistent definition. As a result, ATF opted to codify the definition in the regulation instead.

Alternative 3: Rulemaking (proposed alternative)

ATF determined that, as noted above, the rulemaking option is necessary to revise the existing definition of "willfully" because it would offer greater clarity to the public and regulated licensees. As discussed above, ATF believes that the current standard that prevails in the courts of appeals is not the appropriate definition of "willfulness" under the GCA for license revocation proceedings. At least preliminarily, ATF believes that the proposed definition is the best interpretation of what the GCA meant by "willful." Thus, as a practical matter, by adopting a more stringent standard for regulatory enforcement, the proposed rule would ensure minor, technical, or unintentional violations would not result in suspension, revocation, of civil fine notices for FFLs. Providing this definition of willfulness would enable consistent application across courts and administrative proceedings.

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. Although it is a significant regulatory action as defined by Executive Order 12866, it would not impose total costs greater than zero. This proposed rule would provide qualitative benefits by offering greater clarity to the public and regulated licensees, and would provide a clear definition for courts to apply when assessing cases under ATF's implementing regulations. By adopting a more stringent standard for regulatory enforcement, the proposed

rule would also ensure minor, technical, or unintentional violations would not result in suspension, revocation, or civil fine notices for FFLs. It is possible there could be some risk to public safety from FFLs that do not take the necessary steps to rehabilitate neglectful practices that may result in unfavorable social outcomes, such as a prohibited person obtaining a firearm without a background check, or not complying timely with a trace request in pursuit of a violent criminal. Those risks, however, are speculative. Therefore, as discussed above, 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) because it relaxes the standard upon which regulatory enforcement action may be taken against FFLs.

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 is deregulatory and would not impose any additional costs.

F. 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.

G. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 ("PRA"), 44 U.S.C. 3501–3521, agencies are required to submit to OMB, for review and approval, any information collection requirements a rule creates or any impacts it has on existing information collections. An information collection includes any reporting, record-keeping, monitoring, posting, labeling,

or other similar actions an agency requires of the public. *See* 5 CFR 1320.3(c). This proposed rule would not create any new information collection requirements or impact any existing ones covered by the PRA.

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-AA88 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-AA88. For comments submitted by mail, information contained on the cover sheet will not appear when posted on the internet but any PII that appears within the body of a comment will not be redacted by ATF and may appear on the internet. Similarly, commenters who submit through the federal e-rulemaking portal and who do not want any of their PII posted on the internet should omit such PII from the body of their comment and any uploaded attachments. However, PII entered into the online fields designated for name, email, and other contact information will not be posted or viewable online.

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

"CUI//PROPIN" at the top of the page.

ATF will not make proprietary or confidential business information submitted in compliance with these instructions available when disclosing the comments that it receives, but will disclose that the commenter provided proprietary or confidential business information that ATF is holding in a separate file to which the public does not have access. If ATF receives a request to examine or copy this information, it will treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). In addition, ATF will disclose such proprietary or confidential business information to the extent required by other legal process.

C. Submitting comments

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

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

D. Request for hearing

Any interested person who desires an opportunity to comment orally at a public hearing should submit his or her request, in writing, to the Director within the 90-day

comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing is necessary.

Disclosure

Copies of this proposed rule and the comments received in response to it are available through the federal e-rulemaking portal, at *https://www.regulations.gov* (search for RIN 1140-AA88).

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 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 478

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

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

PART 478—COMMERCE IN FIREARMS AND AMMUNITION

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

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

2. Revise § 478.73 to read as follows:

§ 478.73 Notice of revocation, suspension, or imposition of civil fine.

(a) *Basis for action.* The Director may issue an ATF Form 4500 to notify a licensee whenever the Director has reason to believe that:

(1) The licensee has willfully violated any provision of the Act or this part and ATF intends to revoke the license;

(2) The licensee does not have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees and ATF intends to revoke the license (except in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee);

(3) The licensee has knowingly transferred a firearm to an unlicensed person and knowingly failed to comply with the requirements of 18 U.S.C. 922(t)(1) with respect to the transfer and, at the time that the transferee most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that transfer to the transferee or their receipt of a firearm would violate 18 U.S.C. 922(d), 922(g), or 922(n) (as applicable), or state, local, or tribal law, and ATF intends to revoke or suspend the license or impose a civil fine, pursuant to 18 U.S.C. 922(t)(5) and 18 U.S.C. 924(p); or

(4) The licensee has violated 18 U.S.C. 922(z)(1) by selling, delivering, or transferring any handgun to any person other than a licensee, unless the transferee was provided with a secure gun storage or safety device for that handgun, and ATF intends to revoke or suspend the license or impose a civil fine, pursuant to 18 U.S.C. 922(t)(5) and 18 U.S.C. 924(p).

(b) *Issuing the notice.* The notice must set forth the matters of fact constituting the violations specified, dates, places, and the sections of law and regulations violated. The Director must afford the licensee 15 days from the date the licensee receives the notice to request a hearing before ATF suspends or revokes the license, or imposes a civil fine. If the licensee does not file a timely request for a hearing, the Director will issue a final notice suspending or revoking the license or imposing a civil fine on ATF Form 5300.13, as provided in § 478.74.

(c) *Definition of willfully*. For purposes of this section, "willfully" means that the person intends to engage in conduct that the law forbids and acts with actual knowledge that the person's conduct is unlawful.

(1) *Failing to prevent a violation from recurring*. Evidence of repeated violations with knowledge of the law's requirements may be sufficient to establish willfulness. However, in every case, the totality of the circumstances must be considered to determine willfulness, including the nature of the repeated violations and whether they resulted from inadvertent error.

(2) *Willful blindness*. Persons are deemed to act willfully if they take deliberate actions to avoid learning that they are violating a law or regulation. Willful blindness will also satisfy the actual knowledge requirement in paragraphs (1) and (3) of this definition.

(3) *Person with supervisory authority.* A licensee or responsible person (who was not a principal in or an accessory to committing a violation) is deemed to act willfully based on conduct by the person's employee if, and only if, the licensee or responsible person has actual knowledge that the employee has violated a law or regulation and ratifies the violation by doing any of the following—

(i) Failing to take action to cure the violation, if the violation is susceptible of being cured;

(ii) Concealing the violation; or

(iii) Failing to take appropriate remedial or disciplinary action against the employee who committed the violation.

Robert Cekada,
Director.
[FR Doc. 2026-09159 Filed: 5/7/2026 8:45 am; Publication Date: 5/8/2026]