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DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR parts 447 and 478

[Docket No. ATF-2026-0100; ATF No. 2025R-16P]

RIN 1140-AA68

Converting Temporary to Permanent Imports for Defense Articles

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 amend Department of Justice ("Department") regulations regarding the permanent import provisions of the Arms Export Control Act ("AECA"). The proposed rule would allow importers to apply for ATF authorization to convert items imported temporarily — under a Department of State ("DOS") authorization or under the entry clearance requirements for temporary imports in the Export Administration Regulations ("EAR") maintained by the Department of Commerce ("DOC") — to permanent imports in compliance with other applicable federal firearms laws, without having to export and then reimport the items.

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 number RIN 1140-AA68, by either of the following methods —

- *Federal e-rulemaking portal: https://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* ATF Rulemaking Comments; Mail Stop 6N-518, Office of Regulatory Affairs; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave, NE; Washington, DC 20226; *ATTN: ATF 1140-AA68*.

Instructions: All submissions must include the agency name and number RIN 1140-AA68 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, and the National Firearms Act ("NFA"), as amended.[1] This includes the authority to promulgate regulations necessary to enforce the provisions of the GCA and NFA. *See* 18 U.S.C. 926(a); 26 U.S.C. 7801(a)(2)(A)(ii), 7805(a). The Attorney General has delegated the responsibility for administering and enforcing the GCA and NFA to the Director of ATF ("Director"), subject to the direction of the Attorney General and the Deputy Attorney General. *See* 28 CFR 0.130(a)(1)–(2).[2] Accordingly, the Department and ATF have promulgated regulations implementing both the GCA and the NFA in 27 CFR parts 478, 479. In addition to enforcing and administering the GCA and the NFA, ATF is responsible for enforcing and administering the permanent import provisions of the Arms Export Control Act ("AECA"), 22 U.S.C. 2778. Each of these laws restricts importing certain firearms, ammunition, barrels, or defense articles.

The GCA generally prohibits importing[3] firearms (including frames or receivers

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

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

[3] The GCA, NFA, and AECA use the older term "importation," but in accord with the Plain Writing Act, ATF is updating its regulations to use the term "importing" instead. The two terms should be read as interchangeable.

of firearms, firearm silencers, and destructive devices), certain firearm barrels, and ammunition, 18 U.S.C. 922(l), 925(d)(3), except under certain circumstances, *see* 18 U.S.C. 925(a)(1), (a)(4), (d), (e). The GCA does not define importing, but its implementing regulations define it as "[t]he bringing of a firearm or ammunition into the United States; except that the bringing of a firearm or ammunition from outside the United States into a foreign-trade zone for storage pending shipment to a foreign country or subsequent importation into this country, pursuant to this part, shall not be deemed importation." 27 CFR 478.11 (definition of Importation).

The NFA, which regulates machine guns, firearm silencers, destructive devices, and a narrower class of other firearms than does the GCA, *see* 26 U.S.C. 5845(a), further restricts the reasons for which the items under its purview may be imported, *see* 26 U.S.C. 5844. Like the GCA, the NFA does not define importing, but its implementing regulations define it as "[t]he bringing of a firearm within the limits of the United States or any territory under its control or jurisdiction, from a place outside thereof (whether such place be a foreign country or territory subject to the jurisdiction of the United States), with intent to unlade." 27 CFR 479.11 (definition of Importation). The definition also exempts "bringing a firearm from a foreign country or a territory subject to the jurisdiction of the United States into a foreign-trade zone for storage pending shipment to a foreign country or subsequent importation into this country, under Title 26 of the United States Code." *Id*.

Neither the GCA nor the NFA distinguishes between temporary imports — items with a final destination outside of the United States — and permanent imports — items with a final destination inside the United States. As such, any imports brought into the United States for any purpose and for any length of time, pursuant to Department of State ("DOS"), Department of Commerce ("DOC"), or ATF authority, would otherwise have to meet all applicable importing requirements of the GCA and NFA, as well as any

applicable customs laws and regulations. ATF previously discussed the GCA and NFA requirements in ATF Ruling 2004-2, Temporary Importation of Firearms Subject to the NFA. ATF regulations implementing the GCA require that persons importing firearms into the United States obtain an approved ATF Form 5330.3A, Application/Permit to Import Firearms, Ammunition, and Defense Articles ("Form 6, part I"), prior to bringing the firearms into the United States. 27 CFR 478.111–114. In order to release imported items from the custody of U.S. Customs and Border Protection ("CBP"), the importer must prepare ATF Form 5330.3C, Release/Receipt of Imported Firearms, Ammunition, and Defense Articles ("Form 6A"). 27 CFR 478.112(c)(1). As set forth in 27 CFR 478.112(d)(2), within 15 days of a firearm's release from CBP, the importer must mark imported firearms with the identifying markings required by 27 CFR 478.92.

Similarly, regulations implementing the NFA require importers to obtain an approved Form 6, part I, prior to importing NFA firearms. 27 CFR 479.111(a). In addition, the regulations require importers to register the firearms they import by filing an ATF Form 5320.2, Notice of Manufactured or Imported NFA Firearms ("Form 2") under penalty of perjury. 27 CFR 479.112(a). On the other hand, when exporting an NFA firearm from the United States, the exporter must file an ATF Form 5320.9, Application/Permit to Permanently Export NFA Firearms (title of which will be changing to "Notice of Permanently Exported NFA Firearms") ("Form 9") to obtain export authorization. 27 CFR 479.114–121.[4]

The AECA gives the President the authority to control exporting and importing defense articles and defense services in furtherance of world peace and the security and

[4] ATF is issuing a separate rule proposing to amend its regulations in 27 CFR part 479 to require that exporters of NFA firearms submit a Form 9 as a notice to ATF after lawfully exporting such firearms, rather than as an application that must be submitted and approved prior to exporting.

foreign policy of the United States. *See* 22 U.S.C. 2778(a)(1).[5] Pursuant to 27 CFR 447.11, the term "defense article" includes any item ATF designated on the U.S. Munitions Import List ("USMIL"), *see* 27 CFR 447.21, as well as forgings, castings, and machined bodies of articles on the USMIL, *see* 27 CFR 447.22. Almost all items regulated by the GCA or NFA, with the exception of sporting shotguns, are included on the USMIL and are therefore also subject to AECA controls with respect to permanent imports. Certain items regulated by the GCA or NFA are designated as defense articles by DOS and subject to its AECA controls on exports and temporary imports, while other USMIL defense articles are subject to DOC export controls under the Export Control Reform Act of 2018 ("ECRA") (codified, as amended, at 50 U.S.C. 4801–4852).

By executive order, the President delegated to the Attorney General authority under the AECA to control permanent imports of defense articles and services. *See* E.O. 13637, sec. 1(n)(ii), 78 FR 16129 (Mar. 13, 2013). By regulation, the Attorney General has designated ATF as the agency responsible for administering and enforcing the AECA provisions on permanently importing defense articles and defense services. *See generally* 27 CFR part 447.

The AECA, at 22 U.S.C. 2778(b)(2), states that, unless provided otherwise in the regulations, defense articles cannot be permanently imported without an importer's license issued in accordance with the AECA and its regulations. The implementing regulations for the permanent import provisions of the AECA currently define "importation" as "[b]ringing into the United States from a foreign country any of the

[5] Pursuant to section 2778(a)(1) (often referred to as section 38(a)(1) of the AECA), items designated as defense articles and defense services constitute the "United States Munitions List" for purposes of the AECA. The AECA United States Munitions List consists of items designated by ATF as defense articles and included on the United States Munitions Import List (USMIL) at 27 CFR 447.21 for purposes of permanent imports and items designated by DOS and included on the U.S. Munitions List (USML) of the International Traffic in Arms Regulations ("ITAR") at 22 CFR 121.1 for purposes of exports and temporary imports. Collectively, the USMIL at 27 CFR 447.21 and the USML at 22 CFR 121.1 constitute the United States Munitions List for purposes of the AECA. In addition, all defense articles controlled for export or import as part of the United States Munitions List under the AECA are controlled under the ITAR by DOS for purposes of brokering (see 22 CFR 129.1).

articles on the [U.S. Munitions] Import List, but shall not include intransit, temporary import or temporary export transactions subject to Department of State controls under Title 22, Code of Federal Regulations." 27 CFR 447.11 (definition of Import or Importation). Before an importer may permanently import an item on the USMIL (except for minor components of firearms, certain items imported from Canada, and items related to nuclear weapons strategic delivery systems), the importer must obtain a permit from ATF using ATF Form 6, part I. *See* 27 CFR 447.41–42.

To temporarily import and subsequently export unclassified defense articles, DOS regulations implementing the AECA generally require a license for temporary import, DSP-61, unless otherwise exempted. *See* 22 CFR 123.3. For items listed on the USMIL that are subject to DOC's export jurisdiction, the Export Administration Regulations ("EAR"), 15 CFR parts 730–774, specify entry clearance requirements for items temporarily imported into the United States for subsequent export under certain specified DOC authorizations. *See* 15 CFR 758.10. Where the defense article is a firearm subject to the GCA or NFA, it must generally comply with the requirements of those laws, even where the import is not permanent. However, ATF Ruling 2004-2 provides an alternate procedure that allows temporarily importing firearms into the United States for inspecting, testing, calibrating, repairing, or incorporating into another defense article without a Form 6, part I, provided that the item would otherwise be permitted under the GCA and NFA and is imported (i) in compliance with the ITAR license for temporary import requirements, or (2) pursuant to exemption at 22 CFR 123.4.[6] The alternate procedure under ATF Ruling 2004-2 requires the importer to export the articles within four years after the articles were imported into the United States and does not exempt the

[6] ATF Ruling 2004-2 provides an alternate method or procedure to comply with the regulations and was issued pursuant to the ATF Director's authority under 27 CFR 478.22 and 479.26. *See* https://www.atf.gov/firearms/docs/2004-2-temporary-importation-firearms-subject-nfa/download [https://perma.cc/R3C8-2GFH]. Because it was issued before controls for temporary imports and exports were divided between DOS and DOC, the ruling mentions only DOS temporary authorizations.

importer from filing a Form 2 if the firearm is regulated by the NFA.

II. Proposed Rule

A. Discussion

Recently, industry members have raised questions regarding the alternative procedure set forth in ATF Ruling 2004-2. Specifically, ATF has received questions regarding whether items initially imported temporarily pursuant to DOS authorization, without a Form 6, part I, but that could have been imported as permanent imports in the first instance, may later be converted to permanently imported items. Neither the regulations nor ATF Ruling 2004-2 address this situation. Thus, the only options for items imported under this alternative procedure are for them to be destroyed or exported and then re-imported. In cases where a change in circumstances has rendered exporting the items economically infeasible, such as when articles are damaged beyond economical repair (i.e., the expense to repair the item exceeds its replacement cost), importers must either export and then permanently re-import the articles (which may be prohibitively expensive) or destroy them (resulting in a total loss) to avoid violating the four-year export window for temporarily imported items. This is true even when parts of the damaged articles may be salvageable and have reuse or resale value in the United States. Industry members have stated that the lack of a process to easily and lawfully convert temporarily imported items to permanently imported ones results in economic harm to businesses, seemingly without any substantial benefit to public safety or the economy.

B. Proposed changes

ATF proposes amending the definition of "Import or importation" in 27 CFR 447.11 to indicate that importing (i.e., permanently importing) occurs not only when an article is brought into the United States as a permanent import, but also when an article, lawfully in the United States pursuant to a DOS authorization or pursuant to meeting DOC's entry clearance requirements for temporary imports under 15 CFR 758.10, is

converted to remain in the United States permanently before the DOS authorization expires or while still in compliance with 15 CFR 758.10 entry clearance requirements. This proposed change to the definition would permit ATF to process a Form 6, part I, for items currently in the United States as temporary imports and, if otherwise authorized by law, permit the importer to convert these articles to permanent imports. This would establish a clear process by which importers could avoid unnecessary costs while ensuring that such imports remain subject to ATF review and are in compliance with federal law. Temporary imports of ITAR defense articles subject to DOS authorization or defense articles subject to DOC EAR clearance requirements would also remain subject to ITAR or EAR jurisdiction until DOS or DOC, respectively, recognizes a change in end user or end use.

ATF also proposes amending 27 CFR 447.42 by adding a new paragraph (c), which would provide a process through which an importer can apply to convert a temporarily imported item to a permanently imported one by submitting a Form 6, part I, to ATF for approval. Specifically, this rule would require importers to indicate on Form 6, part I, that they intend to convert the temporarily imported item to a permanently imported one and to submit with it a copy of the DSP-61 issued by DOS, entry documents showing that they claimed an ITAR exemption, or a copy of the temporary import entry clearance documents provided to CBP pursuant to DOC's entry clearance requirements. This would eliminate a potentially wasteful regulatory barrier without negatively impacting public safety or otherwise permitting importers to circumvent statutory importing restrictions.

Because neither the GCA nor the NFA exempts temporarily imported items pursuant to DOS authorization or DOC clearance requirements from their definition, such temporary imports must comply with GCA and NFA restrictions and their implementing

regulations at parts 478 and 479, just as permanent imports must.[7] As a result, this rule does not propose any changes to those regulatory provisions. By proposing to add the requirement to submit a Form 6, part I, application for ATF approval when converting, this rule would ensure compliance with the AECA as well. Under the existing regulation at 27 CFR 447.44, ATF has the authority to deny applications for AECA import permits — which would include the conversion applications proposed in this rule — when importing as requested would be "inconsistent with the purpose or in violation of" the AECA or its implementing regulations in 27 CFR part 447. Additionally, ATF would deny applications if the conversion does not comply with the import provisions of the GCA and NFA.

Moreover, ATF proposes to amend 27 CFR 478.112 by adding a new paragraph (e) to clarify the marking requirements for firearms converted to permanently imported items under this process. Currently, § 478.112 requires that importers comply with marking requirements within 15 days after CBP releases the firearms from its custody. However, this time period does not work in the case of temporary-to-permanent conversions because the items are not in CBP custody once they have been imported as temporary items and released. So, in the case of temporary imports, items may have been exempt from the GCA or NFA marking requirements and might not be marked at the time the items are released from CBP custody — and thus might not be marked at the time the importer wants to convert them to permanent imports. The amendment to § 478.112(e) would provide that, in such cases, the importer must ensure converted items are marked as required by the GCA and NFA within 15 days after ATF approves a Form 6, part I, to convert them from temporarily imported items to permanently imported ones. In addition, the new paragraph would include a requirement that the importer also submit

[7] *See* footnote 6, *supra,* and accompanying discussion about ATF Ruling 2004-2.

a Form 6A to ATF within that same timeframe, to reflect that these items are being converted to permanent imports, and to record their serial numbers, as required for items imported on a permanent basis in the first instance.

ATF is also proposing minor plain writing and other technical amendments to §§ 447.11, 447.42 (particularly in paragraphs (a) and (b), which have no substantive changes), 478.11, and 478.112 (particularly in paragraphs (a)-(d), which have no substantive changes) to make the definitions and instructions easier to read, including using the term "importing" instead of "importation," reducing passive voice, substituting "U.S. Customs and Border Protection" and "CBP" thereafter for "Customs," and updating headings and form numbers and names.

ATF also notes that other non-conflicting changes to §§ 478.11 and 479.11 are being proposed in a separate notice of proposed rulemaking to amend the definition of "importation" as it pertains to foreign trade zones and custom bonded warehouses.[8]

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 amends 27 CFR parts 447 and 478 to allow more flexibility for importers so that they may convert temporarily imported items to permanent imports under the AECA.

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[8] As noted above in section II.A of this preamble, any firearms imports remain subject to applicable customs laws and regulations, which uses a separate definition of "importation" (*see* 19 CFR 101.1) from ATF's definition of "importation."

The Office of Management and Budget ("OMB") has determined that this proposed rule would be a "significant regulatory action" under section 3(f) of Executive Order 12866, although it would not be economically significant under section 3(f)(1). OMB has therefore reviewed this proposed rule. ATF provides the following analysis to comply with Executive Orders 12866 and 13563.

1. Need statement

Industry members have raised questions regarding whether items initially imported temporarily pursuant to DOS (and now, DOC) authorization, without a Form 6, part I, but that could have been imported as permanent imports in the first instance, may later be converted to permanently imported items. The only options for items imported under this alternative procedure are for them to be destroyed or exported and then re-imported. In cases where a change in circumstances has rendered exporting the items economically infeasible, such as when articles are damaged beyond economical repair (i.e., the expense to repair the item exceeds its replacement cost), importers must either export and then permanently re-import the articles (which may be prohibitively expensive) or destroy them (resulting in a total loss) to avoid violating the four-year export window for temporarily imported items. This is true even when parts of the damaged articles may be salvageable and have reuse or resale value in the United States. Industry members have stated that the lack of a process to easily and lawfully convert temporarily imported items to permanently imported ones results in economic harm to businesses, seemingly without any substantial benefit to public safety or the economy. The proposed change would broaden the definition of imports under part 447 to include articles already within the United States pursuant to a DOS temporary authorization or DOC's entry clearance requirements under 15 CFR 758.10 for temporary imports and then converted to a permanent import. As such, importers would not have to export and re-import or destroy items and would instead have a mechanism to convert temporary

imports to permanent imports while still affording ATF the ability to ensure compliance with federal firearms laws.

2. Benefits and cost savings

This rulemaking provides quantitative and qualitative benefits to the firearms industry by providing additional safe ways to comply with applicable law. However, ATF does not have sufficient information to calculate monetary savings. Therefore, ATF requests more information from the public regarding the economic effects that this rulemaking may have on the public and the regulated industries. Specifically, ATF seeks input on the following:

- What paperwork or other burdens would be reduced by not needing to export firearms or destructive devices prior to re-importing as a permanent import, or destroying them? Would those burden savings be partially offset by different paperwork or other burdens for converting from temporary to permanent status?
- What savings or other benefits would importers and others in the industry accrue from no longer having to export and re-import, or destroy, temporary imports?

3. Regulatory alternatives

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

ATF considered leaving the regulations as they are and taking no action to permit importers to convert items they temporarily imported in compliance with DOS or DOC requirements into permanently imported items. Retaining the status quo would continue to allow DOS, DOC, and ATF to monitor temporarily imported items on the AECA USML that are also restricted under the USMIL, GCA, and NFA to ensure that they do not improperly remain in the country or circumvent requirements. However, as noted above, the result for importers who are complying with the requirements is that they must export any such items that are eligible for permanent import and then re-import them as permanent imports. ATF has decided not to select this alternative, as industry has

indicated to ATF that the status quo creates significant costs and burdens for them and deters business activity.

Alternative 2. Rulemaking (proposed alternative).

This proposed change to the definition would permit ATF to process a Form 6, part I, for items currently in the United States as temporary imports and, if otherwise authorized by law, permit the importer to convert these articles to permanent imports. This would establish a clear process by which importers could avoid unnecessary costs while ensuring that such imports remain subject to ATF review and comply with federal law. Importers would have the option to convert a temporary import to a permanent import before time period limitations associated with the temporary import expire, provided they file the appropriate forms and otherwise comply with importing requirements. This would eliminate a potentially wasteful regulatory barrier without negatively impacting public safety or otherwise permitting importers to circumvent statutory importing restrictions.

Alternative 3. Issuing Guidance.

ATF also considered issuing guidance, in the form of a ruling, or amending Ruling 2004-2 (discussed in section I of this preamble) that would contain the proposed provisions. However, ATF determined that guidance would be insufficient to accomplish this change because the requirements that would need to be modified are in regulations and guidance would not have similar force and effect upon which importers could rely. Guidance would also present limitations in the context of agency regulations that also heavily govern importing and exporting defense articles and services. As a result, ATF did not select this alternative as it would not be effective.

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 would be a significant regulatory action as defined by section 3(f) of Executive Order 12866, it would not impose total costs greater than zero.

In addition, ATF expects this rule, if finalized as proposed, to qualify as an Executive Order 14192 deregulatory action (defined OMB Memorandum M-25-20 as a final action that imposes total costs less than zero) because it would allow licensed importers the ability to permanently import items already temporarily authorized to be in the United States without having to export and re-import them or having to destroy them. This rule would save importers time and paperwork burdens, in addition to costs.

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 will 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 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 rule subject to notice-and-comment rulemaking requirements unless the agency head certifies, including a statement of the factual basis, that the 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 because it would provide an alternative avenue through which businesses can comply with applicable law. This proposed rule would not impose any additional costs or barriers to entry for small businesses. Instead, it would provide more flexibility and reduce burdens and costs for small businesses. All businesses would be able to directly convert temporarily imported items to permanently imported ones under the AECA without having to first export and re-import them as permanently imported items or destroy them. This would save

businesses extra paperwork burdens and costs. This proposed rule is particularly beneficial for small businesses.

G. Unfunded Mandates Reform Act of 1995

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

H. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 ("PRA"), 44 U.S.C. 3501–3521, agencies are required to submit to OMB, for review and approval, any information collection requirements a rule creates or any impacts it has on existing information collections. An information collection includes any reporting, record-keeping, monitoring, posting, labeling, or other similar actions an agency requires of the public. *See* 5 CFR 1320.3(c). This proposed rule would impact an existing information collection covered under the PRA. The information collection is OMB control number 1140-0005, ATF Form 5330.3A, Application/Permit to Import Firearms, Ammunition, and Defense Articles ("Form 6, part I"). This proposed rule would likely increase the number of respondents who complete an ATF Form 6, part I, because importers would be able to use the form to indicate a temporary to permanent import. But, otherwise, this proposed rule would not change the collection itself. ATF requests comments from the public regarding the potential frequency with which an importer might apply to convert a temporary import to permanent using the process laid out in the proposed rule.

IV. Public Participation

A. Comments sought

ATF requests comments on the proposed rule from all interested persons. ATF

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

All comments must reference this document's RIN 1140-AA68 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://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-AA68. 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-AA68).

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 447

Administrative practice and procedure, Arms and munitions, Chemicals, Customs duties and inspection, Imports, Penalties, Reporting and recordkeeping requirements, Scientific equipment, Seizures and forfeitures.

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 parts 447 and 478 as follows:

PART 447—IMPORTATION OF ARMS, AMMUNITION AND IMPLEMENTS OF WAR

1. The authority citation for part 447 continues to read as follows:

Authority: 22 U.S.C. 2778; E.O. 13637, 78 FR 16129 (Mar. 8, 2013).

2. Amend the title of part 447 to read "Importing Arms, Ammunition, and Defense Articles";

3. Amend § 447.11 by revising the definition of "Import or importation", including its heading, to read as follows:

§ 447.11 Meaning of terms.

* * * * *

Importing (or importation). Bringing into the United States from a foreign country any of the articles on the Import List. For purposes of this definition, importing does not include intransit, temporary import, or temporary export transactions subject to Department of State controls under the International Traffic in Arms Regulations (ITAR) at 22 CFR parts 120-130 or to Department of Commerce controls under the Export Administration Regulations (EAR) at 15 CFR parts 730-774, while within the term of a valid ITAR authorization or a valid EAR entry clearance. However, if an importer converts such articles to remain in the United States permanently in compliance with the procedures at § 447.42, they fall under this definition.

* * * * *

4. Amend § 447.42 by:

a. Revising the section heading and paragraphs (a) and (b); and

b. Adding a new paragraph (c).

Revisions and addition read as follows:

§ 447.42 Applying for permit.

(a) (1) Persons required to obtain a permit as provided in § 447.41 must file a Form 5330.3A, Application/Permit to Import Firearms, Ammunition, and Defense Articles ("Form 6, part I"). The application must be signed and dated and must contain the information requested on the form, including:

(i) Importer's name, address, telephone number, license and registration number, if any (including expiration date);

(ii) Country from which importing the defense article;

(iii) Foreign seller and foreign shipper's name and address;

(iv) Description of the defense article being imported, including:

(A) Manufacturer's name and address (including for a "privately made firearm," if a firearm privately made in the United States);

(B) Type (e.g., rifle, shotgun, pistol, revolver, aircraft, vessel, and in the case of ammunition only, ball, wadcutter, shot, etc.);

(C) Caliber, gauge, or size;

(D) Model;

(E) Length of barrel, if any (in inches);

(F) Overall length, if a firearm (in inches);

(G) Serial number, if known;

(H) Whether the defense article is new or used;

(I) Quantity;

(J) Firearm, firearm barrel, ammunition, or other defense article's unit cost;

(K) Category of U.S. Munitions Import List under which the article is regulated;

(v) Specific purpose for importing, including final recipient information if different from the importer; and

(vi) Certification of origin.

(2) (i) If the appropriate ATF officer approves the application, it serves as a permit to import the described defense article. The licensed/registered importer (if applicable) may continue to import such defense articles under the approved application (permit) during the permit's specified period. The appropriate ATF officer will furnish the approved application (permit) to the applicant and retain two copies for administrative

use.

(ii) If the Director disapproves the application, ATF will notify the licensed/registered importer (if applicable) of the reason.

(b) If importing plastic explosives into the United States, *see* § 555.183 of this title for additional requirements.

(c) When a licensed importer wishes to permanently import items that are already in the United States pursuant to a temporary import license (DSP-61) issued by the Department of State (or an exemption under 22 CFR 123.4) or pursuant to entry clearance requirements for temporary imports maintained by the Department of Commerce under 15 CFR 758.10, the importer must submit a Form 6, part I to apply for approval from ATF pursuant to the Arms Export Control Act.

(1) When importing under paragraph (c), importers must complete a Form 6, part I as if the item were being imported directly from the foreign source from which it was temporarily imported, except that importers must attach to the Form 6, part I a copy of the DSP-61 issued by the Department of State, entry documents showing that they claimed an exemption under 22 CFR 123.4, or a copy of the temporary import entry clearance documents the importer provided to U.S. Customs and Border Protection pursuant to 15 CFR 758.10. Importers must also indicate on Form 6, part I that they intend to convert the temporary import to a permanent import.

(2) The Director will approve such applications if:

(i) The licensed importer submits the information as required by paragraph (c)(1);

(ii) The items being converted may be imported consistent with the provisions of this part, the Gun Control Act (18 U.S.C. chapter 44), and the National Firearms Act (26 U.S.C. chapter 53);

(iii) Permanently importing the items would not violate any other federal law or regulation; and

(iv) At the time the application was submitted, the firearms were lawfully present in the United States pursuant to a valid temporary import license (DSP-61) issued by the Department of State (or an exemption under 22 CFR 123.4) or in compliance with entry clearance requirements under 15 CFR 758.10.

(3) For applications approved under this paragraph, the Director will indicate they are valid unless and until revoked.

PART 478—COMMERCE IN FIREARMS AND AMMUNITION

5. 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).

6. Amend § 478.112 by:

a. Revising the section heading and paragraph (a);

b. Amending paragraph (b);

c. Revising paragraphs (c) and (d); and

d. Adding a new paragraph (e).

The revisions, amendments, and addition read as follows:

§ 478.112 Importing by a licensed importer.

(a) No licensed importer (as defined in § 478.11) may import or bring into the United States any firearm, firearm barrel, or ammunition unless the Director has authorized the importer to import the firearm, firearm barrel, or ammunition.

(b)(1) The importer must submit an application for a permit, ATF Form 5330.3A, Application/Permit to Import Firearms, Ammunition, and Defense Articles ("Form 6, part I"), in triplicate, to the Director to import or bring a firearm, firearm barrel, or ammunition into the United States or a possession thereof under this section. The importer must sign and date the application and must include the information requested on the form, including:

(i) Importer's name, address, telephone number, and license number (including

expiration date);

(ii) Country from which importing;

(iii) Foreign seller and foreign shipper's name and address;

(iv) Firearm, firearm barrel, or ammunition's description, including:

(A) Manufacturer's name and address;

(B) Type (e.g., rifle, shotgun, pistol, revolver and, in the case of ammunition only, ball, wadcutter, shot, etc.);

(C) Caliber, gauge, or size;

(D) Model;

(E) Barrel length, if a firearm or firearm barrel (in inches);

(F) Overall length, if a firearm (in inches);

(G) Serial number, if known;

* * *

(I) Quantity;

(J) Firearm, firearm barrel, or ammunition's unit cost;

(v) Specific purpose for importing, including final recipient information if different from the importer;

(vi) Verification that, if a firearm, it will be identified as required by this part; and

* * *

(B) If a firearm or ammunition for competition or training pursuant to 19 U.S.C. chapter 401, a statement describing such intended use; or

* * *

(D) If a firearm other than a surplus military firearm, of a type that does not fall within the definition of a firearm under 26 U.S.C. 5845(a), and is for sporting purposes, an explanation of why the firearm is generally recognized as particularly suitable for or readily adaptable to sporting purposes; or

* * * * *

(2)(i) If the Director approves the application, it serves as a permit to import the firearm, firearm barrel, or ammunition, and the licensed importer may continue to import such firearms, firearm barrels, or ammunition under the approved application (permit) during the permit's specified period. The Director will furnish the approved application (permit) to the applicant and retain two copies for administrative use.

(ii) If the Director disapproves the application, ATF will notify the importer-of the reason.

(c) A firearm, firearm barrel, or ammunition imported or brought into the United States or a possession thereof under the provisions of this section by a licensed importer may be released from U.S. Customs and Border Protection (CBP) custody to the importer when the importer presents a permit from the Director to release the imported firearm, firearm barrel, or ammunition. The importer will also submit to CBP a copy of the export license authorizing the importer to export the firearm, firearm barrel, or ammunition from the exporting country. If the exporting country does not issue an export license, the importer must submit a certification, under penalty of perjury, to that effect.

(1) The importer must prepare ATF Form 5330.3C, Release/Receipt of Imported Firearms, Ammunition, and Defense Articles ("Form 6A"), in duplicate, and furnish the original Form 6A to the CBP officer releasing the firearm, firearm barrel, or ammunition. The CBP officer will, after certification, send the Form 6A to the address specified on the form.

(2) Form 6A must contain the information requested on the form, including the:

(i) Importer's name, address, and license number;

(ii) Manufacturer's name;

(iii) Country in which manufactured;

(iv) Type;

(v) Model;

(vi) Caliber, gauge, or size;

(vii) Serial number, in the case of firearms (if known); and

(viii) Number of firearms, firearm barrels, or rounds of ammunition released.

(d) Within 15 days after the date CBP releases the item from its custody, the licensed importer must:

(1) Submit to ATF a copy of Form 6A (address on form) that reports any error or discrepancy appearing on the Form 6A certified by CBP and adds serial numbers if not previously provided on Form 6A;

(2) Pursuant to §478.92, place all required identification data on each imported firearm that did not bear such identification data when it was released from CBP custody; and

(3) Post all required information about the import in the records the importer is required to maintain under subpart H of this part.

(e) For firearms imported under a Department of State authorization or the Department of Commerce entry clearance requirements under 15 CFR 758.10 for temporary import that were not marked in accordance with paragraph (d) of this section (*e.g.*, pursuant to a marking exception) and were later converted to a permanent import pursuant to 27 CFR 447.42(c), importers must add identifying markings as prescribed in § 478.92 or § 479.102 of this part, as applicable, within 15 days after ATF approves the conversion.

(1) For firearms to which identifying markings were added after the item was converted to a permanent import, importers must also submit a Form 6A to ATF within the same 15-day period. Form 6A must identify the converted items, include serial numbers for converted firearms in accordance with paragraph (d) of this section, and note that they are converted items. Importers do not need to submit a copy of Form 6A to

CBP, because these items were released from CBP custody when temporarily imported.

(2) When ATF approves the conversion, it does not relieve importers or owners from statutory or regulatory provisions, including record-keeping or notice obligations, administered or enforced by the agency that approved the items' temporary import.

Robert Cekada,
Director.
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