

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-AA78).

### List of Subjects in 27 CFR Part 478

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

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

## PART 478—COMMERCE IN FIREARMS AND AMMUNITION

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

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

■ 2. Add § 478.105 to subpart F to read as follows:

### § 478.105 Straw purchases prohibited.

(a) *Prohibited conduct.*

(1) A person may not obtain a firearm from a person licensed under this part by being a straw purchaser of a firearm.

(2) A licensed importer, manufacturer, dealer, or collector may not sell or deliver a firearm knowing or having reasonable cause to believe that the person to whom the licensee transfers the weapon is a straw purchaser.

(3) A "straw purchaser" within the meaning of this section includes:

(i) Any person engaged in a straw purchase by making a material false statement, as described in paragraph (b) of this section; and

(ii) Any person engaged in a straw purchase by purchasing for a prohibited person described in paragraph (e) of this section.

(b) *Straw purchases by making a material false statement.* A straw purchase occurs when a person provides material false or fictitious information to a licensed importer, manufacturer, dealer, or collector that the person is the actual purchaser of the firearm when, in fact, the person is acquiring the firearm on behalf of another person.

(c) *Exclusions.* A straw purchase by material false statement, as described in paragraph (b), does not include any of the following activities:

(1) Purchasing a firearm as a bona fide gift for a third party. A transaction does not involve a bona fide gift if the purchaser accepts money, services, or any other consideration of value in exchange for acquiring the firearm.

(2) Purchasing a firearm by a parent or guardian for his or her minor child;

(3) Acquiring or receiving a firearm by a spouse when the other spouse has paid for the firearm, provided that both spouses live at the same address;

(4) Redeeming a firearm from pawn or consignment by the lawful owner;

(5) Retrieving a repaired firearm by an individual for a third party;

(6) Collecting a firearm as the winner of a raffle or other award;

(7) Collecting a firearm that was a bona fide gift from another; or

(8) Transferring a firearm in accordance with a lawful inheritance or bequest.

(d) *Minor child.* For purposes of the exception in paragraph (c)(2) of this section, a "minor" is a person under the age of 21. Paragraph (c)(2) of this section shall not be construed to authorize a juvenile, as defined in 18 U.S.C.

922(x)(5), to possess a handgun when prohibited by law.

(e) *Straw purchases by purchasing for a prohibited person.*

(1) A straw purchase occurs when a person knowingly purchases, or conspires to purchase, any firearm on behalf of, or at the request or demand of any other person, knowing or having reasonable cause to believe that such other person:

(i) Is prohibited from receiving a firearm under 18 U.S.C. 922(d); or

(ii) Intends to use, carry, possess, or sell, or otherwise dispose of a firearm in furtherance of a felony, a federal crime of terrorism, or a drug trafficking crime; or

(iii) Intends to sell or otherwise dispose of the firearm to another person described in paragraphs (i) or (ii).

(2) The exceptions listed in paragraph (c) of this section to straw purchasing by a material false statement do not apply to a straw purchase by a prohibited person.

**Robert Cekada,**

*Director.*

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## DEPARTMENT OF JUSTICE

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

#### 27 CFR Parts 478 and 479

[Docket No. ATF–2026–0335; ATF No. 2025R–11P]

RIN 1140-AA98

### Removing Factoring Criteria for Firearms With Attached "Stabilizing Braces"

**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") is proposing to amend Department of Justice ("Department") regulations on firearms with attached stabilizing braces. Courts have found that ATF's revisions in the 2023 final rule on the same topic violated the Administrative Procedure Act. Several courts have enjoined, stayed, or vacated the final rule, which has rarely been in effect. ATF is therefore proposing to remove from the regulatory definitions of "rifle" the two paragraphs added by the 2023 final rule that defined the term "designed or redesigned, made or

remade, and intended to be fired from the shoulder.”

**DATES:** Comments must be submitted in writing, and must be submitted on or before (or, if mailed, must be postmarked on or before) August 4, 2026. 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-AA98, 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-AA98.*

*Instructions:* All submissions must include the agency name and number (RIN 1140-AA98) for this notice of proposed rulemaking (“NPRM” or “proposed rule”). ATF may post all properly completed comments it receives from either of the methods described above, without change, to the federal e-rulemaking portal, <https://www.regulations.gov>. This includes any personally identifying information (“PII”) or business proprietary information (“PROPIN”) submitted in the body of the comment or as part of a related attachment they want posted. Commenters who submit through the federal e-rulemaking portal and do not want any of their PII posted on the internet should omit it from the body of their comment and any uploaded attachments that they want posted. If online commenters wish to submit PII with their comment, they should place it in a separate attachment and mark it at the top with the marking “CUI//PRVCY.” Commenters who submit through mail should likewise omit their PII or PROPIN from the body of the comment and provide any such information on the cover sheet only, marking it at the top as “CUI//PRVCY” for PII, or as “CUI//PROPIN” for PROPIN. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of this document. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at <https://www.regulations.gov>. Commenters must submit comments by using one of the methods described above, not by

emailing the address set forth in the following paragraph.

**FOR FURTHER INFORMATION CONTACT:** Office of Regulatory Affairs, by email at [ORA@atf.gov](mailto:ORA@atf.gov), by mail at Office of Regulatory Affairs; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave. NE; Washington, DC 20226, or by telephone at 202-648-7070 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Attorney General is responsible for enforcing the Gun Control Act (“GCA”), as amended, and the National Firearms Act (“NFA”), as amended.<sup>1</sup> 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). Congress and the Attorney General have delegated the responsibility for administering and enforcing the GCA and NFA to the Director of ATF (“Director”), subject to the direction of the Attorney General and the Deputy Attorney General. See 28 U.S.C. 599A(b)(1), (c)(1); 28 CFR 0.130(a)(1)–(2); Treas. Order No. 221(2)(a), (d), 37 FR 11696–97 (June 10, 1972).<sup>2</sup> Accordingly, the Department and ATF have promulgated regulations implementing both the GCA and the NFA in 27 CFR parts 478, 479. ATF’s Firearms and Ammunition Technology Division (“FATD”), Office of Enforcement Programs and Services (“EPS”), classifies firearms pursuant to the GCA and NFA. FATD supports the firearms industry and the general public by, among other things, responding to technical inquiries and by testing and evaluating firearms voluntarily submitted to ATF for classification under federal law.

Firearms are treated differently under the GCA and the NFA. Congress passed the NFA to regulate certain weapons

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

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

that were viewed as especially adaptable to criminal misuse. As a result, NFA firearms must be registered with ATF. 26 U.S.C. 5811, 5821, 5841, 5845. Additionally, NFA firearms were generally subject to special making and transfer taxes. However, the One Big Beautiful Bill Act became law on July 4, 2025, and it amended the NFA to require that the making and transfer taxes for all NFA firearms, other than machine guns and destructive devices, be reduced to \$0 effective January 1, 2026. A weapon classified as a “firearm” under only the GCA is not subject to transfer taxes or additional registration, even though it is still subject to record-keeping requirements, serialization, interstate controls, and potential taxation under 26 U.S.C. 4181. Because of these differences, it matters a great deal whether a firearm falls under the NFA.

One kind of firearm covered by the NFA is “a rifle having a barrel or barrels of less than 16 inches in length,” or “a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length.” 26 U.S.C. 5845(a)(3), (a)(4). Therefore, determining whether a firearm falls under the NFA sometimes turns on whether a firearm is classified as a “rifle.”

The GCA defines “rifle” as “a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire only a single projectile through a rifled bore for each single pull of the trigger.” 18 U.S.C. 921(a)(7). Similarly, the NFA defines “rifle” as “a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed cartridge.” 26 U.S.C. 5845(c). For a long time, ATF’s regulations incorporated these different statutory definitions. See 27 CFR 478.11; 27 CFR 479.11.

On November 8, 2012, a federal firearms licensee submitted the first firearm “stabilizing brace” to ATF, asking if adding its prototype device to a heavy pistol, such as an AR-type pistol, would change the pistol’s classification to a rifle under federal firearms laws. The submitter described the brace device as designed to assist people with disabilities or limited strength or mobility in firing heavy

pistols safely and comfortably. FATD ultimately concluded that attaching the brace would not alter the classification of a pistol or other firearm and thus would not subject them to the provisions of the NFA. In the years following this initial classification, FATD received a number of inquiries regarding other firearms equipped with braces of varying designs and materials, some of which FATD concluded were “rifles.”

On June 10, 2021, ATF issued an NPRM seeking to clarify and define “rifle” to include pistols with an attached “stabilizing brace” if the weapon “has objective design features and characteristics that facilitate shoulder fire,” as indicated on ATF Worksheet 4999.<sup>3</sup> ATF received over 237,000 comments on the NPRM, many of which criticized the proposed ATF Worksheet 4999 as being too confusing and unnecessarily complex.

On January 13, 2023, the Attorney General signed ATF Final Rule 2021R-08F, “Factoring Criteria for Firearms with Attached ‘Stabilizing Braces’” (“2023 final rule”). The 2023 final rule did not adopt the proposed Worksheet 4999, but it outlined the factors ATF would consider when evaluating firearms equipped with a “stabilizing brace” (or other rearward attachment) to determine whether these weapons would be considered a “rifle” or “short-barreled rifle” under the GCA, or a “rifle” or “firearm” subject to regulation under the NFA. The 2023 final rule was published in the **Federal Register**.<sup>4</sup> Those possessing firearms with a stabilizing brace that were considered short-barreled rifles under the 2023 final rule, and thus subject to the registration requirements of the NFA, had until May 31, 2023, to register the firearm tax free.

Specifically, the 2023 final rule amended definition of “rifle” in 27 CFR 478.11 and 479.11 to provide that the term “designed, redesigned, made or remade, and intended to be fired from the shoulder” includes a weapon that is equipped with an accessory, component, or other rearward attachment (e.g., a “stabilizing brace”) that provides surface area allowing the weapon to be fired from the shoulder, provided other factors, as listed in the definition, indicate the weapon is designed and intended to be fired from the shoulder. These other factors are: (1) whether the weapon has a weight or length consistent with the weight or length of similarly designed rifles; (2)

whether the weapon has a length of pull, measured from the center of the trigger to the center of the shoulder stock or other rearward accessory, component or attachment that is consistent with similarly designed rifles; (3) whether the weapon is equipped with sights or a scope with eye relief that require the weapon to be fired from the shoulder in order to be used as designed; (4) whether the surface area that allows the weapon to be fired from the shoulder is created by a buffer tube, receiver extension, or any other accessory, component, or other rearward attachment that is necessary for the cycle of operations; (5) the manufacturer’s direct and indirect marketing and promotional materials indicating the intended use of the weapon; and (6) information demonstrating the likely use of the weapon in the general community. Those affected by the 2023 final rule who did not want to register their firearms were given the following options: (1) remove the short barrel and attach a 16-inch or longer rifled barrel to the firearm; (2) permanently remove and dispose of, or alter, the “stabilizing brace” such that it cannot be reattached; (3) turn the firearm into the local ATF office; or (4) destroy the firearm.<sup>5</sup>

Within weeks of the 2023 final rule’s effective date, several lawsuits had been filed, all of which alleged violations of the Administrative Procedure Act (“APA”). In several of these lawsuits, United States District Courts in Texas granted motions to preliminarily enjoin the 2023 final rule.<sup>6</sup> The Eighth Circuit and the United States District Court for the Middle District of Florida also enjoined ATF from enforcing the final rule, and the Northern District of Texas ultimately vacated the final rule in its entirety in June 2024. In short, the 2023 final rule was preliminarily enjoined in multiple jurisdictions prior to the vacatur on the merits in June 2024.

*The Fifth Circuit.* In the Northern District of Texas, William T. Mock, Maxim Defense Industries, LLC, and the Firearms Policy Coalition, Inc., moved to preliminarily enjoin the 2023 final rule. On March 30, 2023, the district court denied the motion for preliminary injunction.<sup>7</sup> The plaintiffs appealed the order to the Fifth Circuit, and on May 23, 2023, a motions panel of the Fifth

Circuit issued an injunction pending appeal of the 2023 final rule as to the plaintiffs.<sup>8</sup> Other district courts in Texas soon followed suit and granted preliminary injunctions to additional plaintiffs pending the *Mock* appeal.<sup>9</sup> By mid-June 2023, ATF was preliminarily enjoined from enforcing the 2023 final rule as to two manufacturers and their customers, four nationwide advocacy groups and their members, one state’s employees and agencies, and eight individuals.<sup>10</sup> On August 1, 2023, the Fifth Circuit reversed the district court’s denial of a preliminary injunction in *Mock*, held that the plaintiffs were likely to prevail on the merits, and remanded the case to the district court.<sup>11</sup> The district court subsequently entered a preliminary injunction as to the plaintiffs in that case. Then, on November 8, 2023, a separate district court in the Northern District of Texas universally stayed the 2023 final rule under 5 U.S.C. 705 in its entirety nationwide.<sup>12</sup> Several months later, on June 13, 2024, the district court in *Mock* granted the plaintiffs’ motion for summary judgment, denied the Government’s motion for summary judgment, and universally vacated the final rule. On August 26, 2024, the Fifth Circuit dismissed all pending appeals regarding preliminary injunctions in Texas district courts as moot after the June 13, 2024, decision in *Mock*.<sup>13</sup>

*The Eleventh Circuit.* On January 26, 2024, the Middle District of Florida granted a preliminary injunction that has effectively prevented the Government from enforcing the 2023 final rule against the named plaintiffs and past and future customers of the plaintiffs residing in Florida.<sup>14</sup> The district court found there would be irreparable harm to plaintiffs challenging the 2023 final rule and that

<sup>8</sup> Order, *Mock v. Garland*, No. 23–10319 (5th Cir. May 23, 2023), Dkt. 52.

<sup>9</sup> See, e.g., *Second Amend. Found. v. ATF*, No. 3:21–CV–0116–B, 2023 WL 4504587, at \*1 (N.D. Tex. May 31, 2023).

<sup>10</sup> See *id.*; Order, *Britto v. ATF*, No. 2:23–CV–019–Z (N.D. Tex. May 31, 2023), Dkt. 59; Order, *Texas v. ATF*, No. 6:23–CV–00013 (S.D. Tex. May 31, 2023), Dkt. 51; Order, *Watterson v. ATF*, No. 4:23–cv–80 (E.D. Tex. June 7, 2023), Dkt. 37.

<sup>11</sup> *Mock v. Garland*, 75 F.4th 563 (5th Cir. 2023).

<sup>12</sup> *Britto v. ATF*, No. 2:23–CV–019–Z, 2023 WL 7418291, at \*5 (N.D. Tex. Nov. 8, 2023), appeal dismissed as moot *sub nom. Watterson v. ATF*, No. 23–11157, 2024 WL 3935446 (5th Cir. Aug. 26, 2024). The Government later appealed the injunction to the Fifth Circuit, but the parties stipulated to dismiss the appeal, which the court granted. *Jt. Stip., Mock v. Bondi*, No. 24–10743 (5th Cir. July 17, 2025), Dkt. 80.

<sup>13</sup> *Watterson v. ATF*, 2024 WL 3935446.

<sup>14</sup> *Colon v. ATF*, No. 8:23–CV–223–MSS–UAM, 2024 WL 309975, at \*22 (M.D. Fla. Jan. 26, 2024).

<sup>5</sup> *Id.*

<sup>6</sup> *Mock v. Garland*, No. 4:23–CV–00095–O, 2024 WL 2982056, at \*1 (N.D. Tex. June 13, 2024), appeal dismissed as moot *sub nom., Watterson v. Bureau of Alcohol, Tobacco, Firearms, & Explosives*, No. 23–11157, 2024 WL 3935446 (5th Cir. Aug. 26, 2024).

<sup>7</sup> *Mock v. Garland*, 666 F. Supp. 3d 633 (N.D. Tex. 2023).

<sup>3</sup> See 86 FR 30826.

<sup>4</sup> See Factoring Criteria for Firearms With Attached “Stabilizing Braces,” 88 FR 6478 (Jan. 31, 2023).

the final rule likely violated the APA's notice and comment requirement.<sup>15</sup>

*The Eighth Circuit.* On August 9, 2024, the Eighth Circuit, considering an appeal of a denial of a preliminary injunction, found that plaintiffs challenging the 2023 final rule were likely to succeed on the merits and remanded the case to the district court with instruction to reconsider the motion, consistent with the court's opinion.<sup>16</sup> Subsequently, the plaintiffs filed a notice of voluntary dismissal.<sup>17</sup>

In sum, in less than four months after the effective date of the 2023 final rule, ATF had been enjoined from enforcing it against several groups of plaintiffs, and on November 8, 2023, it was universally vacated. Because of the ongoing litigation and the various injunctions, for all intents and purposes, ATF has never actively enforced the 2023 final rule. In other words, no further classifications were issued as to industry members or the public and no one was investigated based solely on possessing a braced firearm.

Additionally, the goal of the 2023 final rule was to alleviate confusion by clarifying ATF's position and analysis on firearms with attached stabilizing braces and help the public understand FATD's underlying analysis in classifying firearms equipped with stabilizing braces; however, the result was confusion as individual makers were unsure how to apply highly technical criteria to their firearms. In light of the ambiguity created by the regulations, it would have been challenging for individuals who make or possess braced weapons to determine whether their firearms qualified as a "rifle" based on the existence of a stabilizing brace or would fall within the purview of the NFA or GCA. As an example, the factors in the final rule may have been overinclusive or underinclusive and thus difficult to apply in particular cases. Given the difficulties in applying the 2023 final rule, owners of weapons that would be considered "rifles" under the final rule might not have been on notice before it was vacated and enjoined.

Moreover, two courts addressed the merits of the final rule, holding that parts of the rule were arbitrary and capricious.<sup>18</sup> The Eighth Circuit took

issue with the rule because it lacked a standard for measuring whether a brace provided enough "surface area" to allow a weapon to be fired from the shoulder. In particular, it found that ATF failed to "provide some range of flexibility in explaining the total surface area that allows for shouldering a weapon."<sup>19</sup> The Eighth Circuit also took issue with two of the final rule's factors to determine whether a weapon is designed and intended to be fired from the shoulder. Specifically, the court held that the final rule did not address how ATF would evaluate marketing materials and community use of the weapon, nor what was relevantly "representative" of community use.<sup>20</sup> In summary, the Eighth Circuit noted that an "agency may promulgate a 'holistic, multi-factor, weight-of-the-evidence test,' but only if that test 'define[s] and explain[s] the criteria the agency is applying.'" <sup>21</sup> "The Final Rule misses that mark."<sup>22</sup> The district court in *Mock, supra*, went a step further and found all of the six factors "impermissibly vague," and that the six-factor test "provides no meaningful clarity about what constitutes an impermissible stabilizing brace."<sup>23</sup> Thus, whatever clarity the agency hoped to provide, it was not successful in the view of reviewing courts.

ATF is not issuing a new rule at this time. Each firearms submission to FATD is unique in some way, and ATF has concluded that a pre-determined factored approach that may or may not be relevant to the classification at issue is not the best method to begin such classification of a firearm. Each submission will have unique characteristics that make the firearm designed to be fired with one hand versus designed to be fired from the shoulder.

## II. Proposed Rule

Due to the confusion generated by the 2023 final rule, the courts' conclusions that it was arbitrary and capricious, concerns about sufficient notice, and the benefits of case-by-case classifications based on the unique designs of each firearm, ATF proposes to rescind the changes made by the 2023 final rule and rely on the statutory language without further elaboration. Additionally, the proposed rule is necessary to conform ATF's regulatory provisions in parts 478 and 479 to the court decision vacating

the rule. Following the rule's vacatur, ATF has been prevented from enforcing the rule nationwide, so revising the relevant definitions will provide clarity and confirm for regulated parties that the 2023 regulation change is no longer in effect. ATF has determined that it is a waste of resources to continue defending and trying to enforce the 2023 final rule.

Accordingly, this proposed rule would remove the revised portions of the regulatory definitions of "rifle" that further defined the term "designed or redesigned, made or remade, and intended to be fired from the shoulder." The regulatory definitions of "rifle" in 27 CFR 478.11 and 479.11 would be as they were prior to the 2023 final rule. The pre-2023 definition of "rifle" tracked the GCA's and NFA's statutory definitions and did not further define "designed or redesigned, made or remade, and intended to be fired from the shoulder."

Upon finalization of this rule, the resulting definition of "rifle" in § 478.11 would read, "A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and designed or redesigned and made or remade to use the energy of the explosive to fire only a single projectile through a rifled bore for each single pull of the trigger." Likewise, upon finalization of this rule, the resulting definition of "rifle" in § 479.11 would read, "A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed cartridge."

ATF seeks comments on all aspects of this proposed rule and its costs and benefits.

## 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.

<sup>15</sup> *Id.* at \*10–21.

<sup>16</sup> *Firearms Regul. Accountability Coal. v. Garland*, 112 F.4th 507, 526 (8th Cir. 2024).

<sup>17</sup> Order, *Firearms Regul. Accountability Coal. v. Garland*, No. 1:23-cv-024 (D.N.D. Nov. 20, 2024), Dkt. 144.

<sup>18</sup> See *Mock v. Garland*, 2024 WL 2982056, at \*5 (N.D. Tex. June 13, 2024); *Firearms Regul. Accountability Coal., Inc. v. Garland*, 112 F.4th 507, 519 (8th Cir. 2024).

<sup>19</sup> 112 F. 4th at 521.

<sup>20</sup> *Id.* at 524.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* (internal citation omitted).

<sup>23</sup> *Mock v. Garland*, 2024 WL 2982056, at \*5 (N.D. Tex. June 13, 2024) (internal quotation marks omitted).

The Office of Management and Budget (“OMB”) has determined that this proposed rule would be a “significant regulatory action” as defined in section 3(f)(1) of Executive Order 12866 because it would have an impact on the economy of more than \$100 million in one year. The effect of this proposed rule would be to rescind the changes made by the 2023 final rule and for the regulatory definitions of “rifle” in 27 CFR 478.11 and 479.11 to rely on the statutory language without further elaboration. This proposed rule is

necessary to conform ATF’s regulatory provisions in parts 478 and 479 to the court decision vacating the rule. Revising the relevant definitions would provide clarity and confirm for regulated parties that the 2023 regulation change is no longer in effect. Pursuant to this change, individuals would be able to purchase firearms with an attached “stabilizing brace” and forgo registration, fingerprinting, and photograph costs and burdens, if the firearm is not intended to be fired from the shoulder and does not otherwise fall

within the statutory definition of “firearm” under the NFA. These savings would result in an impact to the economy of more than \$100 million.

ATF has laid out the impacts of this proposed rulemaking in OMB’s A–4 accounting statement here, in Table 1. Table 1 also illustrates the range of future estimates in a low, primary, and high range as ATF’s Circular A–4 sensitivity analysis. ATF then provides its normal regulatory cost-benefit analysis.

TABLE 1—OMB CIRCULAR A–4 ACCOUNTING STATEMENT (\$ MILLIONS) AND SENSITIVITY ANALYSIS

Category	Primary estimate	Minimum estimate	Maximum estimate	Units		
				Dollar year	Disc (%)	Period covered (years)
<b>Benefits</b>						
Annualized monetized benefits (\$ millions/year) .....	n/a	n/a	n/a	2025	7	10
	n/a	n/a	n/a	2025	3	10
Annualized quantified .....	n/a	n/a	n/a	2025	7	10
	n/a	n/a	n/a	2025	3	10
Annualized non-monetized benefits .....	Disbenefit ( <i>i.e.</i> , adverse impact) from a reduction to public safety. Disbenefit from potential uncertainty for purchasers and manufacturers about what constitutes a rifle.					
<b>Costs</b>						
Annualized monetized costs (\$ millions/year) .....	–\$144.38	–\$61.88	n/a	2025	7	10
	–144.38	–61.88	n/a	2025	3	10
Annualized quantified .....	n/a	n/a	n/a	2025	7	10
	n/a	n/a	n/a	2025	3	10
Annualized non-monetized costs .....	n/a					
<b>Transfers</b>						
Federal annualized monetized (\$ millions/year) .....	n/a	n/a	n/a	2025	7	10
	n/a	n/a	n/a	2025	3	10
	From: federal government			To: individuals		
Other annualized monetized transfers (\$ millions/year) .....	n/a	n/a	n/a	2025	7	10
	n/a	n/a	n/a	2025	3	10
<b>Effects</b>						
State, local, or tribal governments .....	The rule will not impose an intergovernmental mandate, have significant or unique effects on small governments, or have federalism or tribal implications.					
Small businesses .....	For direct costs, this rule is deregulatory and would generate only savings, and only for individuals, not businesses, including small businesses. However, there may be indirect positive impacts. Small entities may experience an increase in revenue due to weapons with brace configuration no longer undergoing NFA requirements such as enhanced background checks.					
Wages .....	n/a					
Growth .....	n/a					
<b>Alternatives</b>						

*No-change alternative:* \$0 cost and \$0 benefits. This was rejected as more stringent without any monetizable benefit. It would have provided potential qualitative safety benefits and potential increasing certainty for purchasers and manufacturers about what constitutes a rifle.

*Proposed alternative:* \$0 cost; \$144.38 million benefit. This alternative was selected because the benefits exceed the costs.

TABLE 1—OMB CIRCULAR A-4 ACCOUNTING STATEMENT (\$ MILLIONS) AND SENSITIVITY ANALYSIS—Continued

Category	Primary estimate	Minimum estimate	Maximum estimate	Units		
				Dollar year	Disc (%)	Period covered (years)
<i>Publishing guidance documents alternative:</i> this alternative was rejected because this alternative would not have the force and effect of law and would leave a contradictory regulatory provision in existence.						
<b>Net benefits</b>						
Annualized monetized net benefits (\$ millions/year) .....	144.38	61.88	n/a	2025	7	10
	144.38	61.88	n/a	2025	3	10

1. Need Statement

On January 13, 2023, the Attorney General signed the 2023 final rule, amending ATF’s regulations to clarify when a rifle is designed, made, and intended to be fired from the shoulder. The 2023 final rule was published in the **Federal Register** and took effect on January 31, 2023. See 88 FR 6478. Within weeks of the 2023 final rule’s effective date, several lawsuits were filed, all alleging violations of the APA, among a variety of other grounds. ATF is now proposing to conform its regulations with the decisions in the above-described litigation.

2. Population

Should this rule become final, individuals would be able to resume purchasing firearms with an attached “stabilizing brace” as the public had done prior to the 2023 final rule, as long as the firearm is not intended to be fired from the shoulder and does not fall within the statutory definition of “firearm” under the NFA. In the 2023 final rule that defined these as NFA firearms and thus required persons to register them, ATF estimated that a range of 3 million to 7 million firearms with attached stabilizing braces were manufactured between the years 2012 and 2021.<sup>24</sup> Since ATF does not know how many of these firearms would now be manufactured and sold once they are no longer regulated as NFA weapons, ATF is using 7 million firearms as the primary estimate because manufacturers would likely ramp up manufacturing and sales of these firearms in the public sphere. Furthermore, the 7 million figure would likely be most accurate within the foregoing range, as ATF anticipates the popularity and awareness of these firearms would be greater than when they were first manufactured and sold because they

would no longer be NFA firearms. Since the primary estimate is 7 million over the course of 10 years, ATF estimates this would have an annual effect on 700,000 firearms.<sup>25</sup>

3. Costs

The deregulatory cost savings for this rulemaking arise from persons who purchase a firearm with attached stabilizing brace no longer incurring the time and cost needed to apply to transfer and register such items as NFA firearms. Applying to transfer and register an NFA firearm requires a person to complete and submit an ATF Form 5320.4, Application to Transfer and Register NFA Firearm (Tax-Paid) (“Form 4”), and its supporting documents.

Currently, ATF estimates it takes an average of 3.78 hours to complete the Form 4 application, which includes time to obtain fingerprints and photographs to submit with the Form 4.<sup>26</sup> In addition, ATF estimates the average cost for a photograph at \$17.<sup>27</sup> ATF assumes for the purposes of this analysis that it would also take approximately 10 miles of driving to obtain photographs. For individuals to obtain fingerprints, ATF estimates an average cost of \$22, based on information it has gathered.<sup>28</sup> ATF assumes for purposes of this analysis that it would take approximately 10

miles of driving to obtain fingerprints.<sup>29</sup> To estimate the deregulatory savings from driving, ATF used the General Services Administration’s (“GSA”) per diem mileage rate, which was 70 cents per mile at the time this proposed rule was drafted.<sup>30</sup> If the rule is finalized as proposed, the public would no longer incur these cost and time burdens, which would become savings.

Additionally, deregulatory savings include fees licensees charge for out-of-state transfers of NFA firearms. The 2023 final rule resulted in some out-of-state purchasers also registering and transferring firearms with stabilizing braces as NFA firearms. Only licensees may transfer firearms out-of-state, and licensees charge a fee for the out-of-state transfer service, so persons who use such services incur those fees. NFA firearms may be transferred only by a firearms licensee that pays the Special (Occupational) Tax (“SOT”) to be licensed for NFA firearms. Persons purchasing firearms with stabilizing braces from out-of-state must purchase from NFA licensees because the 2023 final rule classified such firearms as NFA firearms. Under this proposed rule, many of these firearms with attached stabilizing braces would no longer be NFA firearms and thus not be subject to the NFA transfer fees. Instead, they would be subject to the out-of-state transfer fees licensees charge for GCA transfers. GCA out-of-state transfer fees are typically between \$25 to \$50 per transaction, a quarter of the cost of NFA transfer fees. However, ATF is unable to calculate an aggregate savings due to a lack of statistical data, including the number of individuals who purchased these firearms as NFA firearms and how

<sup>24</sup> ATF Final Rule 2021R-08F, “Factoring Criteria for Firearms with Attached ‘Stabilizing Braces,’” Regulatory Impact Analysis (“RIA”), page 16, <https://www.regulations.gov/document/ATF-2021-0002-0002> [<https://perma.cc/2J5Q-LZ4M>].

<sup>25</sup> 875,000 annual firearms = 7,000,000 manufactured over 8 years/8 years of production.

<sup>26</sup> ATF, Form 4—Application for Tax Paid Transfer and Registration of Firearm (ATF Form 5320.4), <https://www.atf.gov/media/23251/download> [<https://perma.cc/RYS2-62UP>].

<sup>27</sup> See, e.g., Walmart, Passport and Visa Photos, <https://photo.walgreens.com/store/passport-photos> [<https://perma.cc/CCC4-STLW>] and CVS, Photo, Passport Photos, ID & Visa, <https://www.cvs.com/photo/passport-photos?algSearch=passport%20photo&fromSrc=serp> [<https://perma.cc/PYS3-HPHZ>].

<sup>28</sup> See, e.g., Ramsey County, Fingerprinting, <https://www.ramseycountymn.gov/your-government/leadership/sheriffs-office/sheriffs-office-divisions/administration/fingerprinting> [<https://perma.cc/SX9G-JU3Y>] and Fingerprint Technologies, <https://www.fingerprints4all.com/servicesprices> [<https://perma.cc/43UT-8RJB>].

<sup>29</sup> For the purposes of this analysis, steps to take photograph and take fingerprints may be performed separately rather than in one trip.

<sup>30</sup> GSA, Private Owned Vehicle (POV) mileage reimbursement rates, <https://www.gsa.gov/travel/plan-a-trip/transportation-airfare-rates-pov-etc/privately-owned-vehicle-pov-mileage-reimbursement> [<https://perma.cc/U6UC-RZGH>].

many purchased from outside of their states of residence.

ATF also notes that, at the time of the 2023 final rule, and continuing until December 31, 2025, persons who registered an NFA firearm also had to pay a \$200 tax for each one. Although persons did incur this cost, ATF cannot include this cost in projected savings arising from this proposed rule because, in July 2025, Congress passed a law reducing the tax rate to \$0 for certain NFA firearms effective January 1, 2026, including firearms with stabilizing braces. As a result, this proposed rule

would not result in saved taxes by the time any final rule might be issued.

To calculate the savings from this proposed rule, ATF first had to determine the value of time for those impacted by the rule. Individuals purchasing these firearms would likely be purchasing them in their leisure time; therefore, ATF estimated a leisure wage rate using methodology established by the Department of Health and Human Services (“HHS”), updated to account for the latest available data.<sup>31</sup> The HHS methodology is to first obtain the average U.S. median non-leisure

weekly wage from the Bureau of Labor Statistics (“BLS”), and divide it by 40 hours to derive the median hourly non-leisure wage. Step two is to obtain the average U.S. real household income before taxes and after taxes from the Census Bureau, and divide one by the other to determine the net household income rate. Step three applies the net-income rate to the median non-leisure hourly rate derived in step one, to calculate the hourly leisure wage. Table 2 shows the steps and data ATF used under this methodology to determine an updated leisure wage.

TABLE 2—CALCULATING LEISURE WAGE

Inputs for leisure wage rate	Numerical inputs	Source
1a. Median non-leisure weekly wage .....	\$1,214 .....	News Release, BLS, <i>Usual Weekly Earnings for Wage and Salary Workers</i> , third quarter 2025, [ <a href="https://perma.cc/PK8F-SSMK">https://perma.cc/PK8F-SSMK</a> ].
1b. Median non-leisure hourly wage .....	\$30.35 .....	\$1,214 median weekly wage/40 hours a week = \$30.35.
2a. Real household income pre-tax .....	\$83,730 .....	U.S. Census Bureau, <i>Median Household Income, 2025</i> , [ <a href="https://perma.cc/RU47-LLBX">https://perma.cc/RU47-LLBX</a> ].
2b. Real household income post-tax .....	\$72,330 .....	U.S. Census Bureau, <i>Median Household Income, 2025</i> , post-tax spreadsheet [ <a href="https://perma.cc/M33M-EWY7">https://perma.cc/M33M-EWY7</a> ].
2c. Net household income rate .....	86 percent .....	\$72,330 post-tax income/\$83,730 pre-tax income = .86 net household income rate.
3a. Hourly leisure wage .....	\$26.10 .....	\$30.35 hourly non-leisure wage * .86 net household income rate = \$26.10 hourly leisure wage.
3b. Rounded hourly leisure wage .....	\$26.00.	

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

hourly savings. Based on these cost inputs, Table 3 below outlines the Form 4 application costs and hourly burdens

forgone and estimates the overall savings per Form 4 application.

TABLE 3—SAVINGS FROM FORGOING NFA TAXES AND REGISTRATION

Cost type	Cost input	Hourly burden	Hourly wage	Time value (burden * wage)	Mileage (70 cents/mile)	Subtotal
Form 1 NFA application .....	.....	3.78	\$26	\$98	.....	\$98.00
Fingerprinting .....	\$22.00	.....	.....	.....	\$7	36.00
Photograph .....	17.00	.....	.....	.....	7	31.00
Per-application savings .....	.....	.....	.....	.....	.....	165.00

Based on Table 3 above, ATF estimates that this rulemaking would generate cost savings of \$165 (rounded) per Form 1 application. At an estimated 875,000 firearms manufactured in any given year, this would provide an annual and annualized savings of \$144.38 million per year. The 10-year undiscounted cost savings would be \$1.4 billion.

4. Benefits

ATF does not anticipate any monetizable disbenefits (*i.e.*, costs) arising from this proposed rule. However, ATF notes that the rule could have a qualitative disbenefit to public safety (*i.e.*, adverse impacts). The Department of Justice issued the 2023

final rule in part because some individuals and entities affix purported “stabilizing braces” designed to facilitate shooting from the shoulder to firearms in order to circumvent NFA requirements. Congress chose to regulate short-barreled rifles and other NFA items more stringently, finding them to be especially dangerous to the community if not regulated, since they are used for violence and criminal activity. *See United States v. Gonzalez*, No. 2:10-cr-00967, 2011 WL 5288727, at \*5 (D. Utah Nov. 2, 2011) (“Congress specifically found that ‘short-barreled rifles’ are primarily weapons of war and have no appropriate sporting use or use for personal protection.” (*quoting* S.

Rep. No. 90–1501, at 28 (1968))). Should a person choose to circumvent the NFA by effectively making unregistered “short-barreled rifles” by attaching an accessory such as a “stabilizing brace,” these dangerous, easily concealed weapons would pose an increased public safety problem. Removing from the regulations the criteria for assessing whether a given stabilizing brace/ accessory-firearm configuration qualifies as an NFA firearm increases that public risk. It also increases the uncertainty for purchasers and manufacturers as to whether a given firearm configuration would fall under the NFA or not. However, ATF has no data from which to quantify these

<sup>31</sup> Valuing Time in U.S. Dep’t of Health and Human Services Regulatory Impact Analysis:

Conceptual Framework and Best Practices (June

2017), <https://aspe.hhs.gov/sites/default/files/private/pdf/257746/VOT.pdf>.

potential disbenefits, which would depend on how many manufacturers or individuals attempt to circumvent the requirements. At the same time, such disbenefits would be offset to some degree by classifications that ATF provides to industry that request advice on their products, thereby reducing confusion and potential costs from producing and selling firearms that would turn out to fall under NFA requirements. ATF provided this service before the 2023 final rule and continues to do so with enhanced review procedures and controls to ensure consistency in classifications.

#### 5. Alternatives

##### Alternative 1. Maintaining the Status Quo (No Action Alternative)

During the previous administration, ATF published the 2023 final rule on firearms with attached stabilizing braces.<sup>32</sup> In that rule, the effect of clarifying the meaning of “designed and intended to be fired from the shoulder” resulted in a majority of large pistols with certain attached stabilizing braces being classified as short-barreled rifles, which resulted in them falling within the purview of the NFA. Based on the 2023 final rule, persons purchasing firearms with an attached stabilizing brace would have had to register the firearm as an NFA weapon and pay a \$200 tax. Maintaining the status quo would continue these costs, *i.e.*, the costs associated with registering the firearm except for the \$200 tax after January 1, 2026. Maintaining the status quo potentially has qualitative public safety benefits and potential certainty about rifles. ATF rejected this alternative due to the burden on the public to comply with the NFA requirements.

##### Alternative 2. Proposed Alternative (Rulemaking)

The alternative proposed in this rulemaking would effectively rescind the above requirements for persons to apply for approval and register as NFA firearms large pistols with attached stabilizing braces in order to purchase and lawfully own such firearms. By removing these requirements, this alternative would provide deregulatory savings to individuals wishing to purchase such firearms and facilitate the purchase without having to go through the NFA application and approval process. This alternative is being proposed due to the savings it would generate for the public.

##### Alternative 3. Publishing Guidance

Under this alternative, ATF would publish guidance instead of a rulemaking. When ATF published the 2023 final rule, we provided guidance regarding specific types of firearm configurations with an attached stabilizing brace that could be considered as falling under the NFA to assist the public regarding the effect of the rule. Additional guidance would not remove the amendments from the 2023 final rule or reduce confusion generated from that rule, in which individuals were unsure how to apply highly technical criteria to their firearms attached with firearms accessories, nor would it address certain judicial decisions that found some of the factors to be arbitrary. Therefore, this alternative was rejected.

##### B. Executive Order 14192

Executive Order 14192 (Unleashing Prosperity Through Deregulation) requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed or revised when the agency publicly proposes for notice-and-comment or otherwise promulgates a new regulation that qualifies as an Executive Order 14192 regulatory action (defined in OMB Memorandum M–25–20 as a final significant regulatory action under section 3(f) of Executive Order 12866 that imposes total costs greater than zero). In furtherance of this requirement, section 3(c) of Executive Order 14192 requires that any new incremental costs associated with such new regulations must, to the extent permitted by law, also be offset by eliminating existing costs associated with at least ten prior regulations. However, this proposed rule would not be an Executive Order 14192 regulatory action.

This rule as proposed would be a significant regulatory action as defined by Executive Order 12866 because it would have an impact on the economy of over \$100 million each year throughout its 10-year analysis period. However, because the economic impact would consist of more than \$100 million in annual deregulatory savings, it would not impose costs greater than zero. This proposed rule would remove the previously added regulatory and registration requirements and save the public from the costs and burdens of complying with them. ATF therefore expects this rule, if finalized as proposed, to qualify as an Executive Order 14192 deregulatory action (defined by OMB Memorandum M–25–20 as a final action that imposes total costs less than zero).

##### C. Executive Order 14294

Executive Order 14294 (Fighting Overcriminalization in Federal Regulations) requires agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the mens rea standard applicable to each element of those offenses. This proposed rule would not create a criminal regulatory offense and is thus exempt from Executive Order 14294 requirements.

##### D. Executive Order 13132

This proposed rule 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 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, 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 as it removes previously added requirements, thereby also removing any costs or burdens of complying with them. This proposed rule affects individuals but does not affect small entities in a way that would require a regulatory flexibility analysis. At most,

<sup>32</sup> See Factoring Criteria for Firearms With Attached “Stabilizing Braces,” 88 FR 6478 (Jan. 31, 2023).

the proposed rule, if promulgated as proposed, could have an indirect positive impact for small entities that manufacture stabilizing braces, in that more firearm owners might purchase these braces—because this rule could likely remove the risk that the resulting firearms would be subject to the registration requirements of the NFA. However, this would not constitute a negative impact, additional cost or burden, or a barrier to entry for small entities. In addition, ATF has no way to measure this speculative benefit. Therefore, ATF is not including an Initial Regulatory Flexibility Analysis for this rule.

#### *H. Unfunded Mandates Reform Act of 1995*

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

#### *I. 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, recordkeeping, monitoring, posting, labeling, or other similar actions an agency requires of the public. See 5 CFR 1320.3(c). This proposed rule does not create any information collection requirements, but it impacts one existing information collection covered under the PRA. It would impact OMB control number 1140–0014: Application to Transfer and Register NFA Firearm (Tax-Paid), which includes ATF Form 5320.4 (“Form 4”). As discussed above, this proposed rule would reduce the number of persons who would have to complete and submit Form 4 because persons would no longer have to register all firearms with attached stabilizing braces as NFA firearms. The title and description of the information collection involved in this rule, as currently approved by OMB, follows. A description of those who provide the information and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the

data needed, and completing and reviewing the collection.

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

*OMB control number:* 1140–0014.

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

*Need for information and proposed use:* ATF’s NFA Division uses the information on this form to determine whether the applicant may legally make and register the firearm under federal, state, tribal, and local law. The form also identifies the transferor, transferee, and firearm(s). 26 U.S.C. 5812 provides that ATF cannot approve an application if receiving or possessing the firearm would place the person receiving the firearm in violation of law. The form asks an individual transferee to respond, under penalties of perjury, to questions to determine whether they are prohibited by federal law from possessing firearms.

*Description of the respondents affected by this proposed rule:* Individuals or households.

*Number of current respondents:* 546,424 annually. This number would decrease pursuant to this proposed rule.

*Frequency of response:* once.

*Response time estimate:* 12 minutes per form (overall reduction from 30 minutes, due to conversion to eForm, changes proposed in this rule, and other related changes).

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

## **IV. Public Participation**

### *A. Comments Sought*

ATF requests comments on the proposed rule from all interested persons. ATF specifically requests comments on the clarity of this proposed rule and how it may be made easier to understand. In addition, ATF requests comments on the costs or benefits of the proposed rule and on the appropriate methodology and data for calculating those costs and benefits.

All comments must reference this document’s RIN 1140–AA98 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–AA98. For comments submitted by mail, information contained on the cover sheet will not appear when posted on the internet, but any PII that appears within the body of a comment will not be redacted by ATF and may appear on the internet. Similarly, commenters who submit through the federal e-rulemaking portal and who do not want any of their

PII posted on the internet should omit such PII from the body of their comment and in any uploaded attachments. However, PII entered into the online fields designated for name, email, and other contact information will not be posted or viewable online.

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

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

### C. Submitting Comments

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

- *Federal e-rulemaking portal:* ATF recommends that you submit your comments to ATF via the federal e-rulemaking portal at <https://www.regulations.gov> and follow the instructions. Comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that is provided after you have successfully uploaded your comment.

- *Mail:* Send written comments to the address listed in the **ADDRESSES** section of this document. Written comments must appear in minimum 12-point font size, include the commenter’s first and last name and full mailing address, and may be of any length. See also section IV.B of this preamble, “Confidentiality.”

### 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-AA98).

### List of Subjects

#### 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.

#### 27 CFR Part 479

Administrative practice and procedure, Arms and munitions, Exports, Imports, Military personnel, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Taxes, Transportation.

Accordingly, for the reasons discussed in the preamble, ATF proposes to amend 27 CFR parts 478 and 479 as follows:

### PART 478—COMMERCE IN FIREARMS AND AMMUNITION

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

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

#### § 478.11 Meaning of terms.

- 2. Amend § 478.11 definition of “rifle” by removing paragraphs (1) and (2).

### PART 479—MACHINE GUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER FIREARMS

- 3. The authority citation for 27 CFR part 479 continues to read as follows:

**Authority:** 26 U.S.C. 5812; 26 U.S.C. 5822; 26 U.S.C. 7801; 26 U.S.C. 7805.

### § 479.11 Meaning of terms.

- 4. Amend § 479.11 definition of “rifle” by removing paragraphs (1) and (2).

**Robert Cekada,**

*Director.*

[FR Doc. 2026–08930 Filed 5–5–26; 8:45 am]

**BILLING CODE 4410-FY-P**

## DEPARTMENT OF JUSTICE

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

#### 27 CFR Parts 478, 479, 555

[Docket No. ATF–2026–0010; ATF No. 2025R–33P]

RIN 1140-AA64

### Selecting Biological Sex on ATF Forms

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”) proposes amending Department of Justice (“Department”) regulations to make clear that when individuals complete ATF forms for firearms or explosives, they should select their biological sex under the question on “sex.”

**DATES:** Comments must be submitted in writing, and must be submitted on or before (or, if mailed, must be postmarked on or before) August 4, 2026. 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-AA64, 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-AA64.

*Instructions:* All submissions must include the agency name and number (RIN 1140-AA64) for this notice of proposed rulemaking (“NPRM” or “proposed rule”). ATF may post all properly completed comments it receives from either of the methods