

imaging (e.g., .pdf, .tiff, .jpeg), with search functions disabled to permit NTC to convert these records into static image files not searchable by name; and

(4) Not submit electronic records in a non-commercial, proprietary file format.

(i) *Record-keeping in a single medium.* Nothing in this regulation should be construed to require federal firearms licensees to create, maintain, and store required records electronically, except that—

(1) If a licensee chooses to create, maintain, and store required records electronically, the licensee must generate and keep all such records in that medium, unless otherwise provided in paragraph (2).

(2) The requirement in paragraph (1) does not apply to paper records resulting from temporary system unavailability that are required by subsection (f).

(j) *Older records in paper or scanned form.*

(1) Licensees who have paper records completed prior to [EFFECTIVE DATE OF FINAL RULE], may elect to digitally scan these older records, including supplemental forms or documents that are part of a transaction. However, any such scans created after this date must comply with this section's requirements. Only after meeting and verifying these conditions may the licensee destroy the original paper records.

(2) A completed record is one in which the firearm transfer has occurred or a transaction in which the transfer was denied or cancelled, the licensee made a final entry and closed the transaction, or the transferee abandoned the transaction—and no firearm was transferred or delivered.

(3) Licensees who scanned older paper records before [EFFECTIVE DATE OF FINAL RULE] in accordance with previous ATF rulings may retain those records as scanned. Such licensees may elect to continue generating paper records for future transactions or may elect to generate electronic records going forward.

(i) If you elect to proceed with electronic record-keeping, records generated after the date above must comply with the requirements in this section for other electronic records.

(ii) If you elect to generate paper records after the date above, you may scan such records, but records scanned after the date above must comply with the requirements in this section for other electronic records. Only after meeting and verifying these conditions may you destroy the original paper records.

(k) *In accord with law and regulation.*

This section does not extend to any records for which federal law or regulation expressly disallows electronic record-keeping.

Robert Cekada,

Director.

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DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR Part 478

[Docket No. ATF-2026-0266; ATF 2025R-26P]

RIN 1140-AB05

Revising Non-Over-the-Counter Firearms Transaction Requirements

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

ACTION: Notice of proposed rulemaking.

SUMMARY: Federal law permits federal firearms licensees (“FFLs”) to transfer firearms to a person residing in the same state but who does not appear in person. These are “non-over-the-counter” (“NOTC”) sales. The Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”) proposes amending Department of Justice (“Department”) regulations on NOTC sales. These proposed changes would remove restrictions limiting this option to background check-exempt transfers. The proposed rule would permit FFLs to conduct NOTC transfers while complying with background check requirements and adds remote identity proofing and electronic notices to chief law enforcement officers. These changes would provide greater flexibility for individuals lawfully purchasing firearms.

DATES: Comments must be submitted in writing, and must be submitted on or before (or, if mailed, must be postmarked on or before) August 6, 2026. Commenters should be aware that the <https://www.regulations.gov> 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 docket number ATF 1140-AB05, 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-AB05.

Instructions: All submissions must include the agency name and number (RIN 1140-AB05) for this notice of proposed rulemaking (“NPRM” or “proposed rule”). ATF may post all properly completed comments it receives from either of the methods described above, without change, to the federal e-rulemaking portal, <https://www.regulations.gov>. This includes any personally identifying information (“PII”) or business proprietary information (“PROPIN”) submitted in the body of the comment or as part of a related attachment they want posted. Commenters who submit through the federal e-rulemaking portal and do not want any of their PII posted on the internet should omit it from the body of their comment and any uploaded attachments that they want posted. If online commenters wish to submit PII with their comment, they should place it in a separate attachment and mark it at the top with the marking “CUI//PRVCY.” Commenters who submit through mail should likewise omit their PII or PROPIN from the body of the comment and provide any such information on the cover sheet only, marking it at the top as “CUI//PRVCY” for PII, or as “CUI//PROPIN” for PROPIN. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of this document. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at <https://www.regulations.gov>. Commenters must submit comments by using one of the methods described above, not by emailing the address set forth in the following paragraph.

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

SUPPLEMENTARY INFORMATION:

I. Background

The Attorney General is responsible for enforcing the Gun Control Act of 1968 (“GCA”), as amended. This

responsibility includes the authority to promulgate regulations necessary to enforce the provisions of the GCA.¹ See 18 U.S.C. 926(a). Congress and the Attorney General have delegated the responsibility for administering and enforcing the GCA to the Director of ATF (“Director”) subject to the direction of the Attorney General and the Deputy Attorney General. See 28 U.S.C. 599A(b)(1), (c)(1); 28 CFR 0.130(a)(1)–(2); Treas. Order No. 221(2)(a), (d), 37 FR 11696–97 (June 10, 1972).²

Accordingly, the Department and ATF have promulgated regulations to implement the GCA in 27 CFR part 478.

Since its enactment, the GCA has authorized non-over-the-counter (“NOTC”) sales³ as long as certain conditions are met. The GCA at 18 U.S.C. 922(c)(1) provides that, “[i]n any case not otherwise prohibited by this chapter,” a licensed importer, manufacturer, or dealer may sell a firearm to a person who does not appear in person at the licensee’s business premises (other than another licensed importer, manufacturer, or dealer) only if: (1) the transferee submits to the transferor a sworn statement in the following form:⁴

Subject to penalties provided by law, I swear that, in the case of any firearm other than a shotgun or a rifle, I am twenty-one years or more of age, or that, in the case of a shotgun or a rifle, I am eighteen years or more of age; that I am not prohibited by the provisions of chapter 44 of title 18, United States Code, from receiving a firearm in interstate or foreign commerce; and that my receipt of this firearm will not be in violation of any statute of the state and published ordinance applicable to the locality in which I reside. Further, the true title, name, and address of the principal law enforcement officer of the locality to which the firearm will be delivered are _____.

¹ Some 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 NPRM refers to the Attorney General where relevant.

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

³ NOTC sales are sales in which the licensee sells a firearm to a person who does not appear in person at the licensee’s business premises.

⁴ The statement must contain blank spaces to attach a true copy of any permit or other information required pursuant to such state statute or published ordinance. 18 U.S.C. 922(c)(1).

Signature _____ Date _____

(2) the FFL has mailed a copy of the sworn statement and a description of the firearm to the chief law enforcement officer (“CLEO”) of the transferee’s place of residence by registered or certified mail, or by electronic notification, in a form prescribed by the Attorney General (18 U.S.C. 922(c)(2)); and (3) the FFL delays shipping or delivering the firearm to the transferee for at least seven days after the FFL receives a response affirming that the CLEO has accepted or refused delivery of the sworn statement/firearm description. 18 U.S.C. 922(c)(3). ATF has prescribed, in regulations at 27 CFR 478.96(b), that FFLs use a copy of ATF Form 5300.9, Firearms Transaction Record (“Form 4473”) to notify the CLEO.

The implementing regulation, 27 CFR 478.96, states that the statutory NOTC provisions are applicable if the firearm transaction is “not subject to the provisions of § 478.102(a).” 27 CFR 478.96(b). Section 478.102(a)⁵ requires an FFL to verify the identity of an unlicensed transferee by examining a valid identification document⁶ and to contact the National Instant Criminal Background Check System (“NICS”) for a background check prior to transferring a firearm. The statute at 18 U.S.C. 922(t)(3) and its implementing regulation at 27 CFR 478.102(d) allow exceptions (“NICS-exempt transfers”) to conducting a NICS background check if: (1) the transferee has a qualifying permit or license; (2) the transaction involves only transferring National Firearms Act (“NFA”) firearms as approved by the Director; or (3) the Director has certified

⁵ This section implements 18 U.S.C. 922(t) of the GCA.

⁶ ATF incorporates the statutory definition of an “identification document” in its regulations, which requires the document to be made or issued by or under the authority of the United States or a state government or one of its political subdivisions, a foreign government or one of its political subdivisions, or an international governmental or quasi-governmental organization—if, when the document contains information concerning a particular individual, it is of a type intended or commonly accepted for the purpose of identifying individuals. 27 CFR 478.11, as defined in 18 U.S.C. 1028(d)(2), and incorporated by 18 U.S.C. 922(t)(1)(D). ATF’s regulatory definition currently further specifies that the required information on the individual must include the individual’s name, residence address, birth date, and photograph. 27 CFR 478.11. However, ATF is proposing to remove the requirement that it include residence address in another proposed rule, “Revising Firearms Transaction Record, Form 4473,” which proposes to change the term to “photo identification document,” to streamline the photo identification definition by separating out the residence requirement, and also proposes revisions to the requirements for Form 4473.

that running a NICS background check is impracticable.

II. Proposed Rule

A. Eliminating the NICS-Exempt Transfer Requirement

ATF is proposing to amend its regulations at § 478.96 to include requirements for conducting NOTC transactions involving transfers subject to NICS background checks in addition to the existing provisions that set out requirements for NICS-exempt NOTC transactions. To this end, this rule proposes adding a new paragraph (c) that would cover NOTC transactions for transfers that require NICS background checks.

ATF has carefully reviewed the provisions in the GCA addressing NOTC transfers and the current regulations that govern those procedures as described above. Section 922(c), allowing NOTC transfers, has been in effect since the GCA was enacted in 1968 and, except for a 2024 amendment allowing electronic notifications under section 922(c)(2)(A), remains largely unchanged.⁷ The regulations in 27 CFR 478.96 limit the option for NOTC transactions to only those persons who are not subject to § 478.102(a), meaning that the NOTC process is limited under regulation to only NICS-exempt transfers. However, 18 U.S.C. 922(c) does not contain any provisions limiting such NOTC transfers to only NICS-exempt transfers, nor has it ever contained any such provisions. NOTC transfers must be “not otherwise prohibited by this chapter.” ATF has concluded that the plain language of section 922(c) does not limit NOTC to NICS-exempt transfers. There is no general prohibition on NOTC transfers in the GCA, and they are limited only to the extent that the underlying transfer is “otherwise prohibited.” For example, transferring a firearm to an unlawful user of controlled substances in violation of 18 U.S.C. 922(d)(3) would be “otherwise prohibited” by the GCA and thus unlawful for both in-person, over-the-counter transfers and NOTC transfers. Additionally, a licensee must comply with any legal requirements to transfer a firearm in person. For example, a licensee may transfer a rifle or shotgun to a person who does not reside in the same state as the licensee’s place of business if the transfer occurs in person, and selling, delivering, and receiving the firearm fully comply with

⁷ See Public Law 118–159 (Dec. 23, 2024), 138 Stat. 1773, 2449 (amending section 922(c)(2) to include electronic notifications).

the legal conditions of sale in both such states.

In general, section 922(t) prohibits an FFL from transferring a firearm to an unlicensed person without running a NICS background check and verifying the transferee's identity by examining a valid identification document. While section 922(t) requires the FFL to verify the transferee's identity document, that subsection does not require that an FFL verify the identity document only when a transferee is physically present at the FFL's place of business. Moreover, since the Brady Act and its requirements were enacted in 1993,⁸ there have been massive technological changes that make it possible for entities to verify both an identity document and a particular person's identity remotely. Other federal agencies have recognized these changes. U.S. Citizenship and Immigration Services, for example, allows employers to remotely verify I-9 documents establishing eligibility to work.⁹

Nor are there other provisions in section 922(t) suggesting that the Brady Act prohibited or limited NOTC transactions. A NICS check and identity verification is not required under section 922(t) if: (1) the transferee has a qualifying permit or license; (2) the transaction involves an approved transfer of only NFA firearms; or (3) the Director has certified that running a NICS background check is impracticable. While these three specific transaction types are exempted from the section 922(t) NICS check and verification requirements and are appropriate situations for utilizing section 922(c) NOTC procedures, ATF concludes that those are not the only transfers to which section 922(c) applies. Nothing in the statute prevents transfers that do require identity verification and a NICS background check from being included within the ambit of section 922(c) NOTC procedures.

For these reasons, ATF proposes to amend 27 CFR 478.96 by eliminating the NICS-exempt transfer restriction for NOTC transfers and expanding the provision to permit NOTC transfers subject to NICS background checks to unlicensed persons who are residents of the same state in which the FFL's business premises are located, when the FFL can verify the non-licensee's identification remotely.

⁸ These provisions were part of the Brady Handgun Violence Prevention Act, Public Law 103-159, 107 Stat. 1536 (1993).

⁹ Optional Alternative 1 to the Physical Document Examination Associated with Employment Eligibility Verification (Form I-9), 88 FR 47749 (July 25, 2023).

B. Verifying the Transferee's Identity Through Remote Identity Proofing and Authentication

As part of the new § 478.96 paragraph (c) discussed above, on NOTC transfers subject to NICS background checks, ATF proposes including criteria for FFLs who wish to engage in these sales to remotely verify transferee identity. Advances in technology have made remotely proving and authenticating identity more feasible, trustworthy, and secure. Verifying an applicant's identity remotely would still comply with 18 U.S.C. 922(t)(1)(D)'s requirement to verify identity for NOTC transfers, and would still ensure that identity information transmitted to NICS is valid and associated with the transferee.¹⁰ Being able to remotely prove and authenticate a person's identity would therefore enable an FFL to verify a transferee's identity, as required, when they do not appear in person at the licensee's business premises. The verified identity information and other related information (such as residency or alien status documents), if any, can then be used to conduct a NICS check (see discussion below for details). The Department of Commerce, National Institute of Standards and Technology ("NIST"), provides government and other organizations with technical requirements and recommendations for establishing, maintaining, and authenticating identity for persons who access digital systems over a network in NIST Special Publication 800-63-4, *Digital Identity Guidelines* ("NIST SP 800-63-4").¹¹

¹⁰ Remote identity "proofing" is the process of verifying the real-world identity of an "applicant" and creating a digital identity for enrollment as a "subscriber" in an identity service without a physical meeting between the applicant and the service provider. Temoshok, D., Abruzzi, C., Choong, Y.-Y., Fenton, J.L., Galluzzo, R., LaSalle, C., Lefkowitz, N., Regenscheid, A., & Vachino, M. (2025). *Digital identity guidelines: identity proofing and enrollment*. Nat'l Inst. of Standards & Tech., Gaithersburg, MD, NIST Special Publication (SP) 800-63A-4 at p. 8. <https://doi.org/10.6028/NIST.SP.800-63A-4> [<https://perma.cc/8M5J-EXUR>] ("NIST SP 800-63A-4"). "Authentication" is the process of determining the validity of one or more authenticators used to claim an existing digital identity and establishes that a subject attempting to access a digital service is in control of the technologies used to authenticate. Temoshok, D., Fenton, J.L., Choong, Y.-Y., Lefkowitz, N., Regenscheid, A., Galluzzo, R., & Richer, J.P. (2025). *Digital identity guidelines: authentication and authenticator management*. Nat'l Inst. of Standards & Tech., Gaithersburg, MD, NIST Special Publication (SP) 800-63B-4 at p. 1. <https://doi.org/10.6028/NIST.SP.800-63B-4> [<https://perma.cc/2LXN-Q3GS>] ("NIST SP 800-63B-4").

¹¹ Temoshok, D., Proud-Madruga, D., Choong, Y.-Y., Galluzzo, R., Gupta, S., LaSalle, C., Lefkowitz, N., & Regenscheid, A. (2025). *Digital identity guidelines*. Nat'l Inst. of Standards & Tech., Gaithersburg, MD, NIST Special Publication (SP)

Under the NIST guidelines for remote identity proofing, a person's identity is assured using one of three identity assurance levels ("IALs"), each of which builds on the requirements of lower IALs.¹² An IAL1 identity proofing process verifies that the claimed identity exists in the real world and provides some assurance that the applicant is appropriately associated with this real-world identity. IAL1 is performed using remote or onsite processes, with or without a credential service provider ("CSP") representative ("proofing agent" or "trusted referee").¹³ IAL2 identity proofing increases assurance by requiring additional identity evidence and a more rigorous process for validating the evidence. IAL2 identity proofing is still performed using remote or onsite processes, with or without a proofing agent or trusted referee.¹⁴ IAL3 identity proofing adds the requirement for a trained proofing agent to interact directly with the applicant, as part of an onsite attended identity proofing session, and to collect at least one biometric characteristic.¹⁵

Government agencies conducting identity proofing to manage access to federal digital resources are required to implement the NIST standards.¹⁶ Several federal agencies, including the National Highway Traffic Safety Administration ("NHTSA"), the Small Business Administration, and the Internal Revenue Service ("IRS") have implemented IAL2 remote identity proofing.¹⁷ The IRS, for example, allows individual taxpayers to create an ID.me account to access IRS-held information requiring identity verification.¹⁸ Taxpayers are presented with an option

800-63-4. <https://doi.org/10.6028/NIST.SP.800-63-4> [<https://perma.cc/LEF5-5BQU>].

¹² NIST SP 800-63A-4 at 2.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Executive Office of the President, Executive Memorandum M-19-17, *Enabling Mission Delivery through Improved Identity, Credential, and Access Management* (May 21, 2019).

¹⁷ See 27 CFR 580.3 (NHSTA regulation requiring IAL2 for electronic signatures on odometer disclosure statements); see also Small Business Administration, Lender and Development Company Loan Programs, SOP 50 10, at Appendix 10 (June 1, 2025), <https://www.sba.gov/document/sop-50-10-lender-development-company-loan-programs> [<https://perma.cc/X5PD-5SDJ>]; Internal Revenue Service, Publication 1075, Tax Information Security Guidelines, Section 3.3.8 Public-Facing Systems, at 86 (Nov. 2021), <https://www.irs.gov/pub/irs-pdf/p1075.pdf> [<https://perma.cc/RJF7-5JA7>] (IAL2 required for access to federal tax information).

¹⁸ Accessibility and Compatibility Features for Signing in and Creating an Account, Internal Revenue Service, <https://www.irs.gov/help/accessibility-and-compatibility-features-for-signing-in-and-creating-an-account> [<https://perma.cc/7HVA-M5FM>].

to verify their identity by either a self-service process or a “video chat agent” process with an ID.me trusted referee.¹⁹ In addition to providing a picture of their identity document, taxpayers are required to take a “selfie” to verify they are the person pictured in the document.²⁰ If the self-service process does not work or experiences problems, the taxpayer can elect the “video chat agent” process, where they can provide alternative identity documentation and speak with an ID.me trusted referee.²¹ Taxpayers may also choose to bypass the self-service process and proceed directly to the trusted referee.²²

ATF believes that the IAL2 remote identity proofing level, with an authentication assurance level (“AAL”) of 2, is an acceptable security and assurance standard for an FFL remote identity verification process for NOTC transfers under the GCA. Providers can achieve IAL2 through different types of proofing (e.g., remote unattended, remote attended, etc.) and can verify identity with or without using biometrics.²³

Remote identity proofing at IAL2 begins with the CSP collecting attribute information (e.g., name, physical address, birthdate, email address, phone number) from an applicant (the transferee), as well as identity evidence, such as a driver’s license or passport, that the CSP can validate to confirm the photo identification document is authentic and to confirm that the identity data on the document is valid, current, and related to a live individual.²⁴ NIST categorizes identity evidence by strength. For example, “fair” evidence includes a student ID card or a corporate ID card; “strong” evidence includes a physical driver’s license, a U.S. Uniformed Services Privileges and ID card, or a VA health ID card; “superior” evidence includes a U.S. passport or a personal identity verification (“PIV”) or common access card (“CAC”).²⁵ IAL2 identity proofing requires one piece of “fair” identity evidence and one piece of “strong” identity evidence, two pieces of “strong” evidence, or one piece of “superior” identity evidence.²⁶ Once the CSP validates the identity evidence, they verify (“bind”) it as belonging to the person who appears for the identity proofing using a non-biometric pathway

(e.g., live photographic comparison), a digital evidence pathway (e.g., returning a confirmation code delivered to a validated digital address), or a biometric pathway (e.g., comparing a facial image to a facial portrait on identity evidence via an automated comparison).²⁷

When the organization requesting remote identity verification anticipates return visits by their applicants/participants (collectively hereafter, “applicants”), successfully authenticating provides reasonable risk-based assurances that the person accessing the service again is the same one who accessed the service previously.²⁸ In such cases, the CSP enrolls applicants who are successfully identity-proofed as the CSP’s subscribers, assigns them unique subscriber accounts, and registers one or more authenticators to that account.²⁹ Under the NIST guidelines, the robustness of the authentication process and binding between an authenticator and a specific individual is based on one of three AALs, each of which provides increasing confidence that the person attempting to claim the previously verified identity controls one or more authenticators bound to the person’s account.³⁰ AAL1 provides basic confidence that the claimant controls an authenticator that is bound to the subscriber account. AAL1 requires only single-factor authentication using a wide range of available authentication technologies.³¹ AAL2 provides high confidence that the claimant controls one or more authenticators bound to the subscriber account and requires proof that the claimant possesses and controls two distinct authentication factors.³² Authentication at AAL3 provides very high confidence that the claimant controls one or more authenticators bound to the subscriber account and is based on proof that the claimant possesses a key, using a public-key cryptographic protocol.³³

ATF believes that the AAL2 high confidence authentication level is reasonable for FFL remote identity verification processes at the IAL2 level for NOTC firearm transfers and NICS background checks. Section 922(t)(1)(D) requires that the transferor verify the identity of the transferee by examining a valid identification document as

defined under 18 U.S.C. 1028(d).³⁴ The standards meeting an IAL2 verification level and AAL2 authentication level for NOTC transactions would more reliably verify a person’s identity than the current procedures for over-the-counter sales, which rely solely on a visual inspection of customer-presented documents.

The GCA, at 18 U.S.C. 922(t)(1)(D), requires an FFL to verify the transferee’s identity prior to every transfer that is subject to NICS requirements. As a result, the FFL must complete the remote identity proofing process prior to each NOTC transfer and may not rely on a previous CSP verification result. ATF is proposing that the requirement for an FFL to verify the identity of the transferee prior to each NOTC transfer would be met using the following processes. To initiate the transfer process, the transferee would continue to send the FFL a Form 4473, as already required by § 478.124. Currently, for over-the-counter transactions, the FFL examines the transferee’s identification document,³⁵ compares the person and the photo on the document, and records the document’s information.³⁶ FFLs would continue to perform these functions, but would do so with remote videoconferencing software. Once FFLs have done this and initially determined that the transfers are lawful under state and federal law, FFLs must ensure the purchasers verify their identity through a CSP that meets the NIST IAL2 standards, and, if the transferees are already a subscriber of the CSP, an authentication process that meets the NIST AAL2 standards. After the CSP verifies the transferee’s identity, FFLs use the information they collected by examining and comparing the identification document during the videoconferencing session to initiate a

³⁴ Examining the identification document(s) also allows the FFL to confirm the transferee’s birth date and residence state to ensure they are complying with 18 U.S.C. 922(b)(1) (making it unlawful for an FFL to transfer a firearm or ammunition to a person less than 18 years old or a firearm other than a shotgun or rifle to a person less than 21 years old) and 18 U.S.C. 922(b)(3) (transfers to non-residents).

³⁵ See footnote 6, *supra*. As noted in footnote 6, ATF is proposing to change the term “identification document” to “photo identification document” via another proposed rulemaking.

³⁶ *Id.* As noted in footnote 6, ATF is proposing changes to Form 4473 and how FFLs handle these forms via another proposed rulemaking. One of those proposed changes is that the FFL would be able to attach a copy of the transferee’s photo identification document to Form 4473 instead of recording the information. In that proposed context, if the FFL were to elect to use remote identity verification processes, the transferee could send a copy of the photo identification document with their Form 4473, and the FFL would compare the copy to the ID via videoconferencing, in addition to comparing the person and the photo on the ID.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ NIST SP 800–63A–4 at 44.

²⁴ *Id.* at 45.

²⁵ *Id.* at Appendix A. Identity Evidence Examples by Strength.

²⁶ *Id.*

²⁷ *Id.* at 44.

²⁸ *Id.*

²⁹ NIST SP 800–63B–4 at 1.

³⁰ *Id.*

³¹ *Id.* at 2.

³² *Id.*

³³ *Id.*

NICS background check, as they currently do. Initiating the background check in this way would still meet the 18 U.S.C. 922(c) requirement that the transfer is not “otherwise prohibited” by federal law. These NOTC transfers would continue to be subject to the record-keeping and CLEO notification provisions of section 922(c) and 27 CFR 478.96, described in the background section and section ILB of this preamble. FFLs who wish to engage in NOTC transfers that require identity verification and a NICS check would be responsible for ensuring that any CSP they engage to supply remote identity proofing and authentication meets the proposed NIST standards and processes described in this rule.

This proposed rule does not intend to prescribe or limit the identity evidence a CSP may use to remotely prove and authenticate identity using the NIST IAL2 and AAL2 guidelines.

For the reasons discussed above, ATF proposes to add a new § 478.96(c) to outline the process for NOTC transfers and remote identity verification using the described criteria.

C. Corresponding Amendments to § 478.124

In addition to the amendments proposed above to § 478.96, ATF is proposing corresponding edits to § 478.124(c)(5),³⁷ to incorporate the new provisions proposed in § 478.96(c) on requirements for NOTC transfers subject to NICS background checks.

This proposed rule would add a new paragraph § 478.124(5)(c)(iii) requiring licensees, for NOTC transfers subject to a NICS check, to ensure transferees have included a true copy of their photo identification document with their Form 4473, ensure the form and identification document match, and then follow the procedures in § 478.96(c) as proposed in this rule for remotely verifying identity. In addition, ATF is proposing a minor edit to § 478.124(c)(5)(iv) (which would become (v) once the new (iii) paragraph is added) to add the phrase “that are NICS exempt” to the NOTC requirement in that paragraph for licensees to verify that transferees have included the relevant sworn statement or state permit/license, because those requirements apply to NICS-exempt NOTC transfers, but do not apply to NOTC transfers subject to a NICS check. And finally, ATF proposes to add a cross-reference to NOTC transactions subject to a NICS check to § 478.124(c)(5)(v) (which would become (vi) once the new (iii) is added). This paragraph requires licensees to record on Form 4473 the date they contact NICS for over-the-counter transactions subject to a NICS check, and that requirement would also pertain to NOTC transactions subject to a NICS check.

III. Statutory and Executive Order Reviews

A. Executive Orders 12866 and 13563

Executive Order 12866 (Regulatory Planning and Review) directs agencies

to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits.

Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of agencies quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting public flexibility.

This rule proposes to amend 27 CFR 478 to clarify the scope of 18 U.S.C. 922(c)(1) to allow NOTC firearm sales by FFLs to unlicensed persons who reside in the same state as the FFL. The rule would allow verification that is required by statute to be done by a remote identity proofing process that would provide the verification required by statute.

The Office of Management and Budget (“OMB”) has determined that this proposed rule is a “significant regulatory action” under section 3(f)(1) of Executive Order 12866 because it would have an annual effect on the economy of \$100 million or more.

Because this proposed rulemaking would be a “significant regulatory action” under Executive Order 12866, ATF has set forth the impacts of this proposed rulemaking in OMB’s A–4 accounting statement in Table 1. Table 1 also illustrates the range of future estimates in a low, primary, and high range as ATF’s OMB 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	Percent discount	Period covered (years)
Benefits (deregulatory savings)						
Annualized monetized benefits	\$103.7	n/a	n/a	2025	7	10
	103.7	n/a	n/a	2025	3	10
Annualized quantified benefits	n/a	n/a	n/a	2025	7	10
	n/a	n/a	n/a	2025	3	10
Annualized non-monetized benefits	Allows greater choice for flexible yet secure transaction options for licensed firearms retailers and the general public, thereby deregulating by reducing restrictions and removing barriers.					
Costs						
Annualized monetized costs	n/a	n/a	n/a	2025	7	10
	n/a	n/a	n/a	2025	3	10
Annualized quantified costs	n/a	n/a	n/a	2025	7	10
	n/a	n/a	n/a	2025	3	10

³⁷ This would be § 478.124(c)(5) as it has been proposed for revision in the Revising Firearms Transaction Record, Form 4473, proposed rule cited in footnote 6, *supra*. That rule proposes a new organization for § 478.124(c) in which (c)(5) would

have the heading “Licensee verifications” and would bring together the verification steps licensees must take for over-the-counter transfers and the existing NICS-exempt NOTC transfers. The § 478.124(c)(5) amendments proposed in this rule

would incorporate into that section licensee steps for verifying NOTC transfers that involve NICS background checks as well.

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

Category	Primary estimate	Minimum estimate	Maximum estimate	Units		
				Dollar year	Percent discount	Period covered (years)
Annualized non-monetized costs	Potential transaction fees from future service providers are estimated for illustrative purposes at \$13.72 million per year, but since compliance costs are entirely voluntary, FFLs can choose how, or whether, to cover, pass along, or accommodate the transaction costs.					
Transfers						
Federal annualized monetized transfers	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	n/a	n/a	n/a	2025	7	10
	n/a	n/a	n/a	2025	3	10
Effects						
State, local, and/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 provides only savings to individuals, not businesses, including small businesses. However, there may be potential impacts to small entities that may face greater competition from larger retailers in their state who also choose to offer remote sales.					
Wages	n/a					
Growth	n/a					
Distribution effects	n/a					
Alternatives						
No-change alternative: \$0 cost and \$0 benefits. This was rejected as more stringent without any incremental benefit.						
Proposed alternative: \$0 cost; \$103.7 million benefits plus qualitative benefits. This alternative was selected because the benefits exceed costs.						
Less-stringent alternative: \$n/a cost and \$n/a benefits. This alternative was rejected because any further reduction in regulations might pose too great a cost to public safety by allowing prohibited persons to acquire or otherwise inherit ownership of NFA weapons without a background check.						
Net benefits						
Annualized monetized net benefits	103.7	2025	7	10
	103.7			2025	3	10

1. Need Statement

ATF proposes to amend 27 CFR 478.96 by eliminating the restrictions against NOTC transfers to unlicensed persons who must undergo a background check through the FBI's NICS and who are residents of the same state in which the FFL's business premises are located. The rule proposes to permit such NOTC transfers when the non-licensee's identification can be verified remotely. This proposed change would better account for technological developments since the Brady Act was enacted in 1994—when the requirement to conduct a background check before transferring a firearm began—which now enables FFLs to verify both an identity document and a particular person's identity remotely. Other federal agencies have recognized these changes. In addition, there are no provisions in the GCA at section 922(t) suggesting that the Brady Act intended to prohibit NOTC transactions. Certain transactions

are exempt under section 922(t) from undergoing a NICS background check if: (1) the transferee has a qualifying permit; (2) the transaction involves only transferring NFA firearms as approved by the Director; or (3) the Director has certified that running a NICS background check is impracticable. While these specific transaction types are NICS-exempt under section 922(t) and justify applying the section 922(c) NOTC procedures, ATF believes that section 922(c) also applies to transfers requiring a NICS background check, as long as the FFL can sufficiently verify the transferee's identity for the purposes of NICS background checks and public safety concerns. Nothing in the statute prevents other transfers requiring verification of a transferee's identity and a NICS background check from being included within the ambit of section 922(c) NOTC procedures.

2. Benefits

Based on the proposed changes in this rule, the population that would be affected by the proposed rule would be persons who purchase firearms in transactions subject to NICS background-check requirements, and who wish to purchase their firearms remotely but from licensees with business premises located in the state in which the person resides. ATF would first have to estimate the population of gun buyers per year, and then estimate the proportion of that population who would choose to purchase remotely. Although ATF receives information from licensed firearm manufacturers (Type 07 FFLs) and destructive device manufacturers (Type 10 FFLs) on the number of firearms they manufacture each year, this data does not include information from which to determine the annual number of purchasers. With the limited exception of reports on certain multiple firearm sales, federal

law does not require any FFL to report sales volume, let alone annual sales volume.

Because the GCA does not require FFLs to report information regarding firearm sales, the proxy most often used to estimate annual U.S. firearm sales has been the volume of background checks conducted annually by NICS. Although NICS is not designed or intended to track annual U.S. firearm sales, the data that NICS publishes annually contains the best available data on the number of transactions conducted by FFLs that might involve transferring a firearm to a non-licensed individual or entity. Since not all NICS background checks involve a firearm transfer, it is necessary to distill those types of transactions from the published NICS data, by NICS purpose code, to estimate aggregate FFL firearm sales. A recent ATF report³⁸ uses this methodology to provide an estimated minimum sales volume (“EMSV”) of annual FFL sales, for 2017 through 2020.

EMSV is essentially the total number of NICS checks, adjusted slightly upward to account for instances in which more than one firearm was transferred pursuant to one NICS check, thereby coming a little closer to estimating the minimum number of firearm sales. ATF calculated the EMSV by multiplying the number of NICS checks conducted in the relevant period by the number of distinct NICS purpose codes associated with a given NICS transaction involving a firearm transfer to a new possessor. These NICS purpose codes are: 01—Sale of a Handgun, 02—Sale of a Long Gun, 03—Sale of an Other Weapon, 27—Private Sale of a Handgun, 28—Private Sale of a Long Gun, and 29—Private Sale of an Other Weapon. If a given NICS check has more than one code associated with it, that indicates that at least two firearms were transferred pursuant to that one NICS check. For example, a NICS transaction with purpose codes 01, 02, 28, and 29 attached to it would indicate that the transaction included a minimum of four firearm sales. The NICS data used to calculate EMSV does not include any PII about the firearm purchaser or possessor; it is limited to aggregate numerical and code data. As the term itself indicates, EMSV does not capture all firearm sales, but instead provides an estimate of the lowest number of firearms involved under each NICS check in which a transfer occurred. For example, EMSV does not capture the

actual number of firearms transferred in a multiple firearm sales transaction because the number of firearms transferred in a multiple sale of the same type of firearm are not separately tallied by purpose code. In addition, EMSV does not account for firearms transferred from FFLs to customers utilizing a NICS alternate permit. In states in which a NICS alternate permit exempts a purchaser from a background check, this transaction does not involve a NICS check and is therefore not reflected in the EMSV.

Finally, the EMSV does not include sales between private individuals that are not facilitated by an FFL, but these would also not be within the scope of affected parties under the proposed rule because the proposed rule affects FFL sales only. Consequently, calculations using purpose codes provide a minimum baseline from which to estimate the number of purchased firearms. The firearms EMSV for 2017–2020 was 57,941,145.³⁹

A more recent update published by ATF⁴⁰ has shown that 2020 was a high-water mark (likely due to the COVID–19 pandemic), as retail sales had increased to a high that year and then decreased 26 percent by 2023. Including the 2020 through 2023 averages brings the EMSV total to 91,609,719⁴¹ firearms transferred by FFLs to non-licensees over the seven-year period. Using a straight average over the seven-year time period, ATF calculated average number of firearms sold by FFLs to non-licensees at 13.09 million guns per year ($91,609,719/7 = 13,087,103$).

For the purposes of this rule, ATF assumes that each purchaser will, on average, purchase two firearms per year. This is a conservative estimate that aims to account for multiple firearms sales, which can reach higher or lower numbers in different states as collectors, security and law enforcement purchasers, and enthusiasts balance out occasional and one-time buyers. Assuming purchasers acquire an average of two firearms per year from an FFL, the 13.09 million firearms would indicate 6.55 million unique buyers per year.

This estimated number of total FFL firearm buyers would represent the highest possible number of persons who could be affected by this rule if all the

FFLs from which they buy firearms chose to provide remote-purchase options and all the buyers chose to purchase all their firearms remotely. Although it is therefore unlikely that the affected population would be 100 percent of this group, the actual number of purchasers who might elect this voluntary service cannot be readily determined from existing data. As a result, ATF subject matter experts estimate, based on indications they have received from FFLs and firearms purchasers, that maybe half of the total population that currently purchases firearms from FFLs might choose in the future to purchase at least some of their firearms remotely.

Many factors could affect whether purchasers make use of remote services if FFLs choose to offer them. Convenience is certainly a factor for some firearms purchasers, such as repeat purchasers, persons more experienced in purchasing firearms, or purchasers looking for something rare or unusual that might be sold only by an FFL a good distance away. But convenience might not be the dispositive factor for other purchasers, such as new buyers, those who expect to make only one or very few transactions, or persons who prefer to handle or inspect firearms in person. As a result, ATF does not feel it can estimate a higher percentage of persons who might elect to offer or use such services, at least in the first few years after the rule is effective if finalized as proposed. Accordingly, if 50 percent of all purchasers opt to purchase firearms remotely, that would result in 3.28 million purchasers benefiting in some way from the rule. However, ATF is requesting public comments on this assumption and likely demand for online or remote sales.

The affected population of 3.28 million purchasers would benefit from time saved travelling to and from the FFL. For the sake of this analysis, ATF assumes that an FFL is approximately 30 minutes away from each buyer’s home. As approximately 90 percent of NICS checks are routinely resolved within minutes of being initiated, that proportion travels to the FFL’s business premises one time to accomplish the transfer, so they would save a single trip under this proposed rule, which would save an hour of time for both directions. The remaining 10 percent of purchasers normally makes two trips to the business premises—one to initiate the transfer and the second to acquire the firearm if the licensee receives a delayed proceed response from NICS—so this 10 percent would save two trips. The latter results in two hours saved in travel time

³⁹ *Id.*

⁴⁰ ATF, *National Firearms Commerce and Trafficking Assessment (NFCTA): Protecting America from Trafficked Firearms—Volume Four* (Jan. 2025), <https://www.atf.gov/firearms/docs/report/nfcta-volume-iv-part-i-firearm-commerce-updates-and-new-analysis/download> [<https://perma.cc/27WT-G9J2>].

⁴¹ *Id.* at 15.

³⁸ ATF, *National Firearms Commerce and Trafficking Assessment (NFCTA): Firearms in Commerce—Volume One*, at 66 (May 2022), <https://www.atf.gov/media/15471/download> [<https://perma.cc/67JZ-PLNW>].

per purchaser (30 minutes each way * 2 for a round trip * 2 trips). Therefore, for 90 percent of 3.28 million purchasers, or 2.95 million, transportation costs saved would be one hour, while an estimated 328,000 purchasers would save two hours in travel time. Taken together, the burden hours saved would total 3.606 million hours saved in travel costs ((2.95m * 1) + (328,000 * 2)).

In addition to travel time, ATF estimates purchasers would save approximately 20 minutes at the FFL for processing and waiting time during each visit, resulting in an additional cost savings of 20 minutes for 90 percent of purchasers, and an estimated savings of 40 minutes for the remaining 10 percent. On the other hand, ATF estimates that purchasers would expend about 15 minutes one time to learn the new virtual identity verification system and comply with the built-in checks. ATF bases this estimate on the increasing prevalence of very similar processes and software already utilized

by the federal government, such as by the IRS and *ID.me*, and state government, such as for motor vehicle licensing online accounts.

ATF therefore estimates that 90 percent of transferees (2.95 million persons) would have a net savings of 5 minutes or 0.083 hours, rounded (20 minutes in-store saved—15 minutes learning added) due to this proposed rule, which would total 244,850 hours (0.083 * 2.95 million transferees). In addition, 10 percent of transferees (328,000 persons) would have a net time savings of 25 minutes or 0.42 hours, rounded (40 minutes in store saved—15 minutes learning added), or a total of 137,760 hours.

This proposed rule would therefore save 382,610 hours on time in a licensee’s business premises, combined with the 3.606 million hours in travel time calculated above, resulting in a total of 3,988,610 hours saved per year.

To calculate the monetized value of these saved hours, ATF must apply a wage rate to the saved time. Since purchases are more than likely

conducted in the buyer’s personal capacity rather than as part of their primary business, ATF calculated a leisure wage to account for saved time’s value. ATF then estimated a leisure wage rate based on methodology established by the Department of Health and Human Services (“HHS”), updated to account for the latest available data.⁴² The HHS methodology is to first obtain the average U.S. median non-leisure weekly wage from the Bureau of Labor Statistics (“BLS”), and divide it by 40 hours to derive the median hourly non-leisure wage. Step two is to obtain the average U.S. real household income before taxes and after taxes from the Census Bureau, and divide the post-tax income by the pre-tax income to determine the net household income rate. Step three applies the net income rate to the median non-leisure hourly rate derived in step one, to calculate the hourly leisure wage. Table 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, Bureau of Labor and Statistics, <i>Usual Weekly Earnings for Wage and Salary Workers</i> , third quarter 2025, (Dec. 4, 2025), https://www.bls.gov/news.release/archives/wkyeng_12042025.pdf [https://perma.cc/MD6E-TYDX].
1b. Median non-leisure hourly wage	\$30.35	\$1,214 median weekly wage/40 hours a week = \$30.35.
2a. Real household income pre-tax	\$83,730	U.S. Census Bureau, <i>Income in the United States: 2024</i> , (Sept. 9, 2025), https://www.census.gov/library/publications/2025/demo/p60-286.html [https://perma.cc/RU47-LLBX].
2b. Real household income post-tax	\$72,330	U.S. Census Bureau, <i>Post-Tax Household Income Summary Measures by Selected Characteristics: 2023 and 2024</i> , https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww2.census.gov%2Fprograms-surveys%2Fdemo%2Ftables%2Fp60%2F286%2FtableB1.xlsx&wdOrigin=BROWSELINK [https://perma.cc/M33M-EWY7].
2c. Net household income rate	86 percent	\$72,330 post-tax income/\$83,730 pre-tax income = .86 net household income rate.
3a. Hourly leisure wage	\$26.10	\$30.35 hourly non-leisure wage * .86 net household income rate = \$26.10 hourly leisure wage.
3b. Rounded hourly leisure wage	\$26.00.	

Using the methodology outlined by HHS, the estimated leisure wage is \$26. When multiplied by the 3,988,610 hours saved, the total estimated savings that would accrue from this proposed rule would be \$103,703,860 (\$103.7 million) per year, or a total of \$1.04 billion

(rounded) over ten years, assuming adoption estimates hold steady over that period.

Table 3 reflects the net impacts as a result of the proposed rule, which totals \$1.04 billion in net savings over ten years, discounted to \$884.62 million

and \$728.37 million at 3 percent and 7 percent, respectively. The annualized net benefits, or annualized quantitative savings for the proposed rule equal \$103.7 million each year at both 3 percent and 7 percent.

TABLE 3—TEN-YEAR PROJECTED NET BENEFITS *

Year	Net total savings (undiscounted)	Discount rate 3%	Discount rate 7%
1	\$103,703,860	\$100,683,359	\$96,919,495
2	103,703,860	97,750,834	90,578,968
3	103,703,860	94,903,723	84,653,241
4	103,703,860	92,139,536	79,115,178
5	103,703,860	89,455,861	73,939,419
6	103,703,860	86,850,350	69,102,261

⁴² U.S. Department of Health and Human Services, *Valuing Time in U.S. Department of*

Health and Human Services Regulatory Impact Analyses: Conceptual Framework and Best

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

TABLE 3—TEN-YEAR PROJECTED NET BENEFITS *—Continued

Year	Net total savings (undiscounted)	Discount rate 3%	Discount rate 7%
7	103,703,860	84,320,728	64,581,552
8	103,703,860	81,864,785	60,356,591
9	103,703,860	79,480,374	56,408,029
10	103,703,860	77,165,411	52,717,784
Total	1,037,038,600	884,614,961	728,372,518
Annualized	103,703,860	103,703,860

* The “Net total savings (undiscounted)” column represents totals from the underlying costs. Consistent with guidance provided by OMB in Circular A-4, the “3-percent discount rate” and “7-percent discount rate” columns result from applying an economic formula to the number in each row of the “Undiscounted” column to show how these future costs over time would be valued today; they do not contain totals from other tables.

3. Costs

This rule could result in costs for FFLs that elect to offer customers remote firearm purchasing options.

ATF seeks public comment on the likely pricing structure and rates for a viable vendor offering identity verification services that meet NIST’s IAL2 and AAL2 standards. ATF researched pricing options provided for verification services in existing industries, as possible parallels to costs FFLs might incur. The rates ATF found were on a per-transaction basis, and ranged from a few cents to up to \$7 per verification. Many of those companies that provide simple pricing online (such as Veriff or Sumsb) are not verified by a third party (such as Kantara) as meeting the IAL2 and AAL2 standards, which would be required for any CSP FFLs could use. Firms offering services that are compliant with the proposed rule do not seem to provide online pricing details. As ATF does not know how many CSPs would enter this market and their pricing, nor does it have an accurate model for market demand and anticipated adoption, it therefore assumes a comparable \$7 verification fee per transaction, which would likely be passed onto the consumer as a convenience charge, similar to the existing FFL transfer fee (charged when receiving and transferring a firearm from another FFL or individual seller on behalf of a buyer).

ATF also assumes an initial FFL adoption rate of 10–15 percent, according to the best professional judgement of ATF subject matter experts. This estimate is based on the fact that the remote transactions would still be limited to those within the same state under the proposed rule, and not offer much in the way of a broader pool of customers or geographic range beyond state lines. In addition, the industry’s larger vendors might be more hesitant or conservative in adopting remote sales due to existing safety and

liability-focused procedures they might have in place that favor in-person identity verification and firearm transactions and could take time to change. ATF invites public comment on industry adoption rates and costs.

While ATF understands that there are high- and low-volume dealers among FFLs, it is unclear which dealers might adopt remote sales because there are many factors that affect such decisions. ATF therefore assumed an equal distribution among business sizes within the estimated 15 percent that would adopt remote sales. Based on internal ATF information, as of December 23, 2025, there are 45,605 active dealer FFLs (Type 01 licenses), so assuming that 15 percent would adopt remote sales, this results in an estimated 6,840 FFLs electing to offer remote sales across the country.

Using the transaction volume above, of approximately 13.09 million retail purchases, and assuming an equal distribution among all FFLs so that 15 percent of FFLs would proportionally represent an identical 15 percent of all firearms purchased, the resulting estimated number of applicable retail purchases would total 1.96 million. This volume of remote purchases, at an estimated cost of \$7 per transaction, would potentially cost the industry \$13.72 million.

This estimated cost can only be presented as illustrative or contextual, as the proposed rule would only widen the permissible range of retail options available to FFLs; it would not remove any existing sales options or require FFLs to adopt remote sales. As a result, it would not cause direct costs that could be attributable to the proposed rule. The changes would be entirely voluntary, and as such would be pursued by FFLs only if remote sales offer an anticipated net positive revenue or other business benefit for FFLs. If the costs could be comfortably passed along to the consumer, or could otherwise be outweighed by an anticipated increase

in sales volume, then the FFLs would likely adopt the system. If not, they would be entirely free to decline to do so.

4. Regulatory Alternatives

ATF considered three alternatives: continuing the status quo without changing the existing regulatory definition; applying lower standards; and revising the existing regulation.

Alternative 1: Continuing the status quo of maintaining the existing regulation.

This is also known as the “no-action” alternative. ATF considered this alternative but determined that the statute does not include such limitations, and with the advent of technology that enables remote identity verification that could mitigate security concerns and even improve validation over in-person “by sight” comparison, determined this option would hold FFLs back from expanding legitimate sales options and from adopting evolving technology as it develops.

Alternative 2: Expand the pool of vendors allowed to operate identity verification for FFLs.

ATF also considered other approaches to expand the pool of eligible vendors allowed to operate identity verification for FFLs. The certification requirement is likely going to limit an FFL’s choices and freeze out a lot of legitimate companies that do not want to pay the very limited number of firms that currently dominate the market for access. However, ATF feels the standards and steps proposed in this rule would be necessary to meet public safety considerations under the GCA, and thus did not select the option of reducing the required standards or removing the third-party certification requirement. ATF is expecting greater understanding of these dynamics during the public comment period.

Alternative 3: Rulemaking.

ATF determined that the rulemaking option was necessary to expand

consumer choice while ensuring an appropriate level of security to mitigate the risks inherent with remote or virtual firearm purchases. ATF anticipates that, as with other industries when new technology becomes available and they are permitted to use the technology, the CSP market would evolve and FFL remote sales options might expand, prices and logistical processes might decrease, and more FFLs and purchasers might find that remote sales better serve their needs.

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 more than \$100 million in a given year. However, because the economic impact would consist of \$104 million in annual deregulatory savings, it would thus not impose costs greater than zero. The proposed rule would remove the existing restriction on FFLs that prohibits most NOTC sales and would save the public \$1.04 billion over ten years in burdens arising from exclusively in-person sales, as well as qualitative benefits in terms of greater flexibility and options in how individuals purchase firearms. ATF therefore expects this rule, if finalized as proposed, to qualify as an Executive Order 14192 deregulatory action (defined in OMB Memorandum M–25–20 as a final action that imposes total costs less than zero).

C. Executive Order 14294

Executive Order 14294 (Fighting Overcriminalization in Federal Regulations) requires agencies promulgating regulations with criminal

regulatory offenses potentially subject to criminal enforcement to explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the mens rea standard applicable to each element of those offenses. This proposed rule would not create a criminal regulatory offense and is thus exempt from Executive Order 14294 requirements.

D. Executive Order 13132

This proposed rule would not have substantial direct effects on the states, the relationship between the federal government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132 (Federalism), the Director has determined that this proposed rule would not impose substantial direct compliance costs on state and local governments, preempt state law, or meaningfully implicate federalism. It thus does not warrant preparing a federalism summary impact statement.

E. Executive Order 12988

This proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform).

F. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, agencies are required to conduct a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements unless the agency head certifies, including a statement of the factual basis, that the proposed rule would not have a significant economic impact on a substantial number of small entities. Small entities include certain small businesses, small not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

ATF performed an Initial Regulatory Flexibility Analysis of the potential impacts on small businesses and other entities that could occur due to this proposed rule, if finalized as proposed. Based on the information from this analysis, ATF found the following:

Based on ATF's Federal Firearms Licensing Center, as of December 23, 2025, there are 45,605 dealer FFLs (Type 01 licenses). The majority of these FFLs are likely to be small but would benefit from this proposed rule because it would allow all of them to potentially capitalize on a larger statewide market by allowing online sales, thereby

conferring a benefit, and would impose no costs.

However, these mostly small sellers might be indirectly and negatively affected by this proposed rule due to potentially increased competition from the minority of larger retailers in their respective states. ATF is unable to assess a significant impact and requests public comment on the impact to small entities that sell firearms.

Initial Regulatory Flexibility Analysis (“IRFA”)

The RFA establishes “as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to ensure that such proposals are given serious consideration.” Public Law 96–354, sec. 2(b), 94 Stat. 1164 (1980).

Under the RFA, the agency is required to consider whether the proposed rule would have a significant economic impact on a substantial number of small entities. Agencies must perform a review to determine whether the proposed rule would have such an impact. If the agency determines that it would, the agency must prepare an IRFA (or a regulatory flexibility analysis for a final rule) as described in the Act.

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

1. Describing the reasons why the agency is considering acting.

ATF proposes to amend 27 CFR 478.96 by eliminating the restrictions against NOTC transfers to unlicensed persons who must undergo a NICS background check and who are residents of the same state in which the FFL's business premises are located. The rule proposes to permit such NOTC transfers when the non-licensee's identification can be verified remotely. This proposed change would better account for technological developments since the Brady Act was enacted in 1994, which now enables FFLs to verify both an identity document and a particular person's identity remotely. ATF does not anticipate this rule creating significant economic cost for small entities, as this rule would allow voluntary compliance and potential

benefits for all regulated FFLs and have a deregulatory savings to consumers.

2. Succinctly stating the objectives of, and legal basis for, the proposed rule.

The objective of this proposed rule is to reduce regulatory restrictions on FFLs and the public arising from the current requirement to purchase most firearms in person. The proposed rule would expand opportunities for remote sales, and thereby also permit FFLs and purchasers to benefit from advances in technology.

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

Based on ATF's Federal Firearms Licensing Center, as of December 23, 2025, there are 45,605 dealer FFLs (Type 01 licenses) who could receive a benefit from this proposed rule due to increased opportunities to sell within their respective states. Businesses would have to weigh the potential market sales benefits against potential costs to determine whether they would want to offer remote sales. But those who would elect to do so would have individually determined that the benefits outweigh any costs they might incur. The majority of dealer FFLs are likely to be small entities, and because electing to offer remote sales is voluntary, any small entities that would choose to do so would potentially benefit from this proposed rule.

4. Describing the proposed rule's projected reporting, record-keeping, and other compliance requirements, including an estimate of the classes of small entities which would be subject to the requirement and the type of professional skills necessary to prepare the report or record.

While the rule would not require small businesses to incur costs, it could result in transaction costs if they choose to offer remote sales. But because remote sales are voluntary, they would make that cost-benefit analysis for themselves (and presumably decide the benefits outweigh any costs) before deciding to offer their customers remote sales. There would be no additional requirements or costs imposed by this proposed rule. This rule would reduce costs and burdens on the public. The primary risk of costs to small FFLs is not the voluntary compliance costs, since many can and likely will decline to offer the service and face the costs, or more likely pass the added costs on to the consumer as a surcharge. Small FFLs are exposed to risk primarily from the potential competition effects from larger retailers being able to remotely sell to the small FFL's regionally or community-based clientele, which could be an indirect outcome of the

proposed rule. The ultimate market effects of the rule are not known, and ATF seeks public comment to better inform the estimated impacts.

5. Identifying, to the extent practicable, all relevant federal rules which might duplicate, overlap, or conflict with the proposed rule.

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

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

ATF estimates that the majority of the firearms industry is largely composed of small businesses. This proposed rule simply relaxes federal requirements and makes it easier for small business to sell firearms across their state without requiring customers to travel to the FFL in person. Should this proposed rule provide significant impacts to small businesses, it would alleviate significant hurdles rather than impose new hurdles. However, market dynamics in response to the proposed rule are yet unknown, despite the best estimates of ATF subject matter experts. The same benefits that might accrue to small entities might also accrue to larger retailers, which could potentially cause greater competition for small entities within their states as an indirect cost. Nevertheless, given the uncertainty involved with the net market effects, no other known alternatives would alleviate burdens on small businesses. ATF determined that the benefits to the proposed rule outweigh the potential impacts to small businesses that could perhaps be indirectly affected by this proposed rule.

G. Small Business Regulatory Enforcement Fairness Act of 1996

This proposed rule is not likely to have a significant economic impact on a substantial number of small entities under the Small Business Regulatory Enforcement Fairness Act of 1996, 15 U.S.C. 657 and 5 U.S.C. 601 note, as this rule does not impose any additional costs. While there could be costs to FFLs, including small businesses, from engaging in remote sales, they are not required to do so. This proposed rule removes a prohibition previously limiting options on all FFLs, including small entities, that might find that engaging in remote sales would provide more benefits than costs. If the remote transaction capability appeals to small entities, they would now have an option to pursue it, but no obligation to do so

if it does not benefit them or appeal to them. As a voluntary, deregulatory rulemaking, the proposed rule cannot have a direct negative impact to small entities.

However, these mostly small sellers might be indirectly negatively affected by this proposed rule due to potentially increased competition from the larger retailers in their respective states. At the same time, small entities could also benefit from this proposed rule because it would allow them to potentially capitalize on a larger statewide market by allowing online sales. ATF is unable to assess a significant impact and requests public comment on the impact to small entities that sell firearms.

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 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.

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 the 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 rule has an existing OMB-approved information collection associated with it, OMB control number 1140–0020, Firearm Transaction Record, ATF Form 5300.9 (“Form 4473”). While ATF is proposing a technical amendment to 27 CFR 478.96 to update the information collection's OMB control number to reflect this current collection, this proposed rule would not impose any new reporting or record-keeping requirements covered under the PRA, nor would it impact the existing information collection. FFLs who currently sell firearms to non-licensees through over-the-counter transactions must use Form 4473 and retain it and any associated documents collected as part of the transaction. The FFLs who might choose to offer remote sales on the basis of the proposed rule, if finalized as proposed, would continue

to use Form 4473 and retain it and any associated documents collected as part of the transaction.

J. Congressional Review Act

Pursuant to the Congressional Review Act, 5 U.S.C. 801 *et seq.*, ATF anticipates that this proposed rule would meet the criteria in 5 U.S.C. 804(2) because it would result in an annual effect on the economy of \$100 million or more. However, because the economic impact would consist of \$236 million in annual deregulatory savings, it would thus not impose costs greater than zero. The proposed rule would remove the existing restriction on FFLs that prohibits most NOTC sales and would save the public \$2.36 billion over ten years in burdens arising from exclusively in-person sales, as well as qualitative benefits in terms of greater flexibility and options in how they purchase firearms.

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-AB05 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-AB05. 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-AB05).

Severability

Consistent with the Administrative Procedure Act, the issues raised in this

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

List of Subjects in 27 CFR Part 478

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

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

PART 478—COMMERCE IN FIREARMS AND AMMUNITION

1. The authority citation for 27 CFR part 478 is revised to read as follows:

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

2. Amend § 478.96 by:

- a. Revising the heading of paragraph (b) to read “Non-over-the-counter (NOTC) transaction for NICS-exempt transfers”;
- b. Redesignating paragraphs (c) and (d) to (d) and (e), respectively;
- c. Adding a new paragraph (c);
- d. Amending newly designated paragraph (d) by, in the heading, adding the word “all” between the words “for” and “NOTC”; in the introductory text, adding the words “or initiates the NICS background check under paragraph (c)” between the words “of this section” and the comma; in paragraph (d)(1), adding an “s” to the end of the word “paragraph”, adding “or (c)” after “(b)”, and adding “and, for NICS-exempt transfers,” between the comma and the words “the sworn statement”; and in paragraph (d)(4), redesignating the paragraph reference “(c)” as “(d)”; and
- e. Amending newly designated paragraph (e)(2) by redesignating the paragraph reference “(d)” as “(e)”.

New paragraph (c) reads as follows:

§ 478.96 Non-over-the-counter and out-of-state sales.

* * * * *

(c) NOTC transactions for NICS background check transfers. Licensed importers, manufacturers, or dealers may also transfer firearms to a non-licensee who is subject to the provisions of § 478.102(a) of this part and who does not appear in person at the licensee’s business premises, if the non-licensee meets the following requirements:

(1) The non-licensee complies with all the requirements in paragraph (b)(1) of this section; and

(2) Submits with Form 4473 a true copy of a valid photo identification document as defined by § 478.11 of this part, residence verification if the photo identification document does not contain the transferee’s current residence information (see § 478.124(g)), and any other applicable supporting documents prescribed in § 478.124(c).

(3) In such cases, licensees must, prior to every transfer, conduct a video conference with the transferee. During the conference, licensees must inspect the transferee’s actual photo identification document and compare it with the transferee’s appearance in conformance with § 478.124(c). Licensees must then ensure the transferee verifies their identity through a credential service provider (CSP) using a remote identity verification process.

(i) A “remote identity verification process” requires a CSP to validate the transferee’s photo identification document and bind the document to the person who appears for remote identity proofing.

(ii) An independent third party must assess the CSP’s remote identity proofing process as conforming with the National Institute of Standards and Technology (NIST) guidelines for Identity Assurance Level 2 (IAL2). The CSP’s binding process must employ a live physical facial comparison by a CSP representative, or an automated biometrical facial comparison (e.g., “selfie” verification), using a live capture of the transferee’s facial image and liveness detection. An independent third party must assess the CSP’s authentication process for digital identity claimants as conforming with the NIST guidelines for Authentication Assurance Level 2 (AAL2).

(iii) In addition, the licensee must comply with applicable requirements in §§ 478.124(c), (g), (h), and (i) of this part, including verifying the transferee’s residence.

(4) If the CSP verifies the transferee’s identity, the licensee must initiate a NICS background check prior to

transferring the firearm, pursuant to § 478.102(a). The licensee must wait for the NICS background check response or the end of the applicable investigatory period, as required by § 478.102(c) before shipping or delivering the firearm.

(5) When conducting a NOTC transfer subject to a NICS check, the licensee must follow all procedures listed in paragraph (b)(2) of this section, except the requirement to document a NICS exemption under (b)(2)(i).

3. Amend § 478.124(c)(5) by:

- a. Redesignating paragraphs (iii) through (v) as paragraphs (iv) through (vi);
- b. Adding a new paragraph (iii);
- c. In newly designated paragraph (v), adding the phrase “that are NICS exempt” after the words “For non-over-the-counter transfers”; and
- d. In newly designated paragraph (vi), adding the phrase “and non-over-the-counter transfers” after the words “For over-the-counter transfers”.

The new paragraph reads as follows:

§ 478.124 Firearms transaction record.

* * * * *

(c) * * *

* * * * *

(5) * * *

(iii) For non-over-the-counter transfers subject to a NICS check, ensure that the transferee has included a true copy of the transferee’s photo identification document with Form 4473 and that the document’s information matches the information the transferee provided on the form. Then follow the procedures for remote identity verification in § 478.96(c).

* * * * *

4. Amend § 478.124(d)(1) by removing the citation “§ 478.96(d)” and adding in its place the citation “§ 478.96(e)”.

5. Amend § 478.124(i) by adding the words “remote identity proofing verification” between the semi-colon and the words “and other required information”.

Robert Cekada,

Director.

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