

ALERT

ATF Proposes Streamlining Machine Gun Transfer Procedures for Licensees

CHANGES INCLUDE SIMPLIFIED “LAW LETTER,” NEW RESTRICTIONS FOR GOVERNMENT-FURNISHED UNREGISTERED GUNS

May 18, 2026

The Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) published a proposed rule on May 6 that would amend 27 C.F.R. § 479.105 to streamline and clarify the regulatory framework governing the transfer, manufacture, and possession of post-May 19, 1986 (post-86) machine guns by qualified manufacturers, importers, and dealers operating under the National Firearms Act (NFA). Wiley has advised and advocated on behalf of clients regarding this proposed regulatory revision.

ATF has invited interested parties to submit comments on this proposed rule. Submissions are due on July 6, 2026.

Background

Under 18 U.S.C. § 922(o), the transfer and possession of machine guns registered after 1986 is generally prohibited, subject to limited exceptions for transfers to or by, or possession by or under the authority of, the United States, a federal agency, a state, or a state agency or political subdivision. The proposed amendments to 27 C.F.R. § 479.105 are intended to better align existing regulations with plain language of 18 U.S.C. § 922(o), reduce administrative burden, and clarify several regulatory practices that have created recurring compliance issues for industry participants.

Proposed Changes

Authors

Michael D. Faucette
Partner
202.719.4587
mfaucette@wiley.law

Practice Areas

Export Controls and Economic Sanctions
International Trade
National Security

Simplifying Machine Gun “Law Letters”

One of the most significant proposed changes concerns transfers of post-86 machine guns to qualified dealers for demonstration to governmental entities. Under the current regulations, dealers seeking to receive these firearms generally must submit a letter from a governmental entity (“law letter”) requesting a demonstration of a particular machine gun, documentation establishing the dealer’s ability to satisfy future government sales, and justification regarding the quantity of machine guns requested. Because the statute only requires that the machine gun be possessed under the authority of the government, ATF’s proposal would eliminate a requirement to include the following elements from government “law letters”:

- The availability of the machine gun to fill future orders;
- Why more than one machine gun may be needed;
- A request for a demonstration; and
- That a machine gun is “particularly suitable for use” by the government.

In sticking with the statute, the proposed rule would only require that a law letter include the following:

- The government entity’s letterhead;
- A request from the government entity that the dealer obtain a particular machine gun;
- That the transfer and possession of the machine gun by the dealer is under the authority of the requesting government entity; and
- Signature from a person with authority to sign on behalf of the government entity, to include such person’s contact information.

If the letter includes the above elements, ATF will confirm with the signing government official that the letter is legitimate.

ATF also proposes removing ATF Form 5320.24 as an alternative method for demonstrating official governmental interest.

This proposal would end a decades-long practice of ATF second-guessing requests by state, local, and even federal agencies that wish to have a federal firearm licensee (FFL) transfer or possess a machine gun under their authority.

Clarification for Licensees Discontinuing NFA Business – “No Letter” Machine Guns

The proposed rule would revise procedures applicable to qualified manufacturers, importers, and dealers that discontinue NFA business activities. Current 27 C.F.R. § 479.105(f) permits qualified licensees discontinuing business to transfer post-86 machine guns to governmental entities or other manufacturers or importers. Among other changes, the proposed rule would **add dealers** as a class of entities that can receive machine guns from licensees ending NFA business.

The proposal would also clarify that a licensee may discontinue only its NFA business activities while continuing to operate as an FFL under the Gun Control Act (GCA), and that relinquishing or allowing Special Occupational Taxpayer (SOT) status to lapse is sufficient to invoke the transfer provisions. ATF also proposes allowing a discontinuing licensee to use a single ATF Form 5320.3 (Form 3) both to notify ATF of the discontinuance and request approval for the transfer of post-86 machine guns, eliminating the need for separate submissions.

New Procedure for Federal Government-Furnished Unregistered Machine Guns

The proposed rule would create new governing circumstances under 27 C.F.R. § 479.105, in which federal agencies furnish unregistered machine guns to qualified licensees for activities such as repair, testing, or further manufacturing. Because machine guns possessed by the federal government are not required to be registered in the National Firearms Registration and Transfer Record (NFRTR), current regulations can create compliance complications when qualified licensees temporarily receive such firearms from the federal government.

Previously, because the federal government is exempt from the NFA, an FFL could receive a machine gun under the authority from the federal government without any affirmative requirement for documentation. Under the proposed rule, a qualified licensee could only receive and possess these firearms pursuant to either a government contract or an official government agency letter. The documentation would need to specify that the firearm is being furnished under governmental authority for an authorized governmental purpose and that the firearm will ultimately be returned to the government. ATF states that the proposed provision is intended to resolve recurring compliance issues involving government-furnished machine guns used in support, maintenance, testing, and manufacturing activities.

Wiley has a robust International Trade Practice, which includes issues arising from the ATF, the Bureau of Industry and Security, the Directorate of Defense Trade Controls, and related export control laws and regulations. Should you have any questions about this alert, U.S. export controls, or any other national security-related issues, please do not hesitate to contact the attorney listed on this alert.

Jack Maniscalco, an International Trade Specialist at Wiley Rein LLP, contributed to this alert.