

ALERT

Executive Order Signals Rollback of Biden-Era Firearms Regulations and Overhaul of Second Amendment Policy at DOJ

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On Friday, February 7, President Trump issued a first-of-its-kind Executive Order prioritizing the Second Amendment as “an indispensable safeguard of security and liberty.” The order is the first step in what could be a broad reversal of the Biden Administration’s firearms policies.

The directive instructs Attorney General Pam Bondi to, within 30 days, “examine all orders, regulations, guidance, plans, international agreements, and other actions of executive departments and agencies (agencies) to assess any ongoing infringements of the Second Amendment rights of our citizens, and present a proposed plan of action to the President, through the Domestic Policy Advisor, to protect the Second Amendment rights of all Americans.”

The review will be sweeping. At a minimum, key areas for scrutiny will include:

- Presidential and agency actions that may have restricted firearm rights.
- Rulemakings by the U.S. Department of Justice (DOJ) and Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) that implicate the Second Amendment.
- Reports and policies from the White House Office of Gun Violence Prevention.
- The Government’s legal positions in litigation implicating the Second Amendment.

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Practice Areas

Oversight, Investigations & White Collar
Enforcement

- Agency firearm and ammunition classification policies.
- The processing of applications to make, manufacture, transfer, or export firearms.

After Attorney General Bondi submits her proposal, DOJ will work with the domestic policy advisor to finalize and, ultimately, implement the plan of action. This could result in a broad unwinding of the Biden Administration's firearms policies.

Takeaways

This action by the President appears to be the first Executive Order in American history focused on enhancing Second Amendment rights. As a result, federal firearms licensees should expect to see ATF's enforcement priorities change in the coming months. While the ultimate outcome of the Executive Order will be unknown for the near future, some of the biggest targets for the new Administration could include:

- ATF's pistol brace rule that classified pistols equipped with stabilizing braces as "short-barreled rifles" under the National Firearms Act (NFA). Last year, the Eighth Circuit rejected that rule and its factors in *FRAC v. Garland*, 112 F.4th 507 (8th Cir. 2024), and the rule remains inoperative.
- ATF's Frame or Receiver rule that interpreted federal firearms statutes to restrict partially completed frames or receivers, such as parts kits, under the NFA and Gun Control Act (GCA).
- ATF's Zero Tolerance Policy that requires inspectors to revoke the federal firearms license of American gun stores over simple paperwork errors and other non-willful violations of the GCA.
- The process by which ATF issues firearms and ammunition classification letters.
- ATF's Engaged in the Business rule, an agency interpretation that broadens the definition of "firearms dealer."
- NFA form processing to limit unnecessary delays for applicants.

Furthermore, DOJ may move to stay proceedings in civil and criminal cases across the country as the government works to ensure that its litigation positions do not conflict with the Administration's realignment of firearms policy.

For any questions or further information on the implications of this Executive Order, please contact any of the attorneys listed on this notice.

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