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# FINAL RULE 2021R-05F

## Definition of “Frame or Receiver” and Identification of Firearms



U.S. Department of Justice

Bureau of Alcohol, Tobacco, Firearms and Explosives



# REASONS FOR CHANGE

- The Department of Justice (“Department”) amended the Federal regulations to:
  - Remove and replace regulatory definitions of “firearm frame or receiver” and “frame or receiver” because the current regulations fail to capture the full meaning of those terms.
  - Clarify the meaning of “firearm” and “gunsmith.”
  - Provide definitions of terms such as “complete weapon,” “complete muffler or silencer device,” “multi-piece frame or receiver,” “privately made firearm,” and “readily” for purposes of clarity given advancements in firearms technology.
- The Department also amended ATF’s regulations on marking and recordkeeping that are necessary to implement these definitions.



# Effect Date of Final Rule

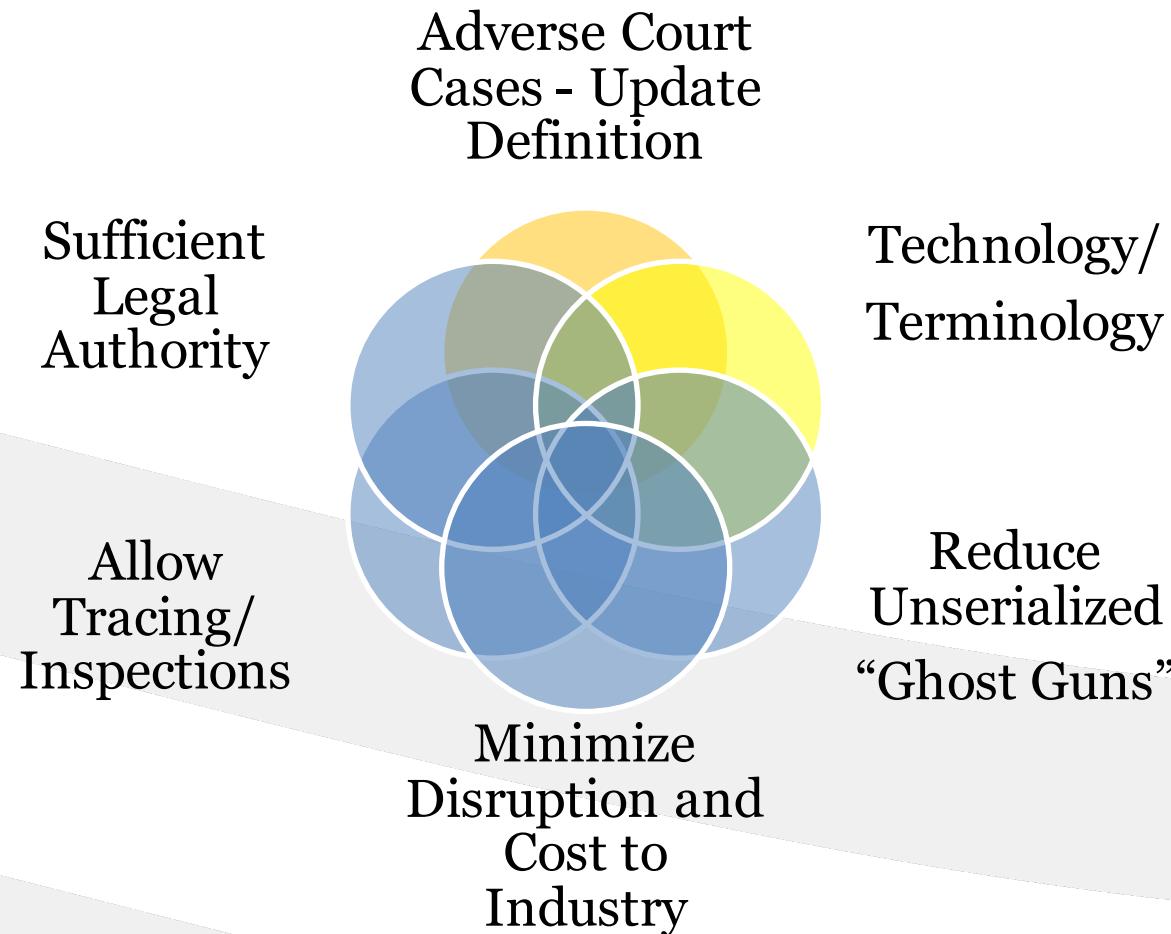
- The final rule was signed by the Attorney General on April 11, 2022.
- Published in the Federal Register on April 26, 2022.
- The Final Rule is effective on August 24, 2022, 120 days from the date it was published in the Federal Register.



# Goals of this rulemaking are to address and balance...



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# Topics of Discussion

- Definition of Firearm, Frame and Receiver
- Privately Made Firearms (PMFs)
- Marking requirements
- Recordkeeping requirements
- Record retention
- ATF Rulings/Procedure affected

- ❖ These are the broad topics, but they are all interrelated. Change to one requirement requires changes to others.

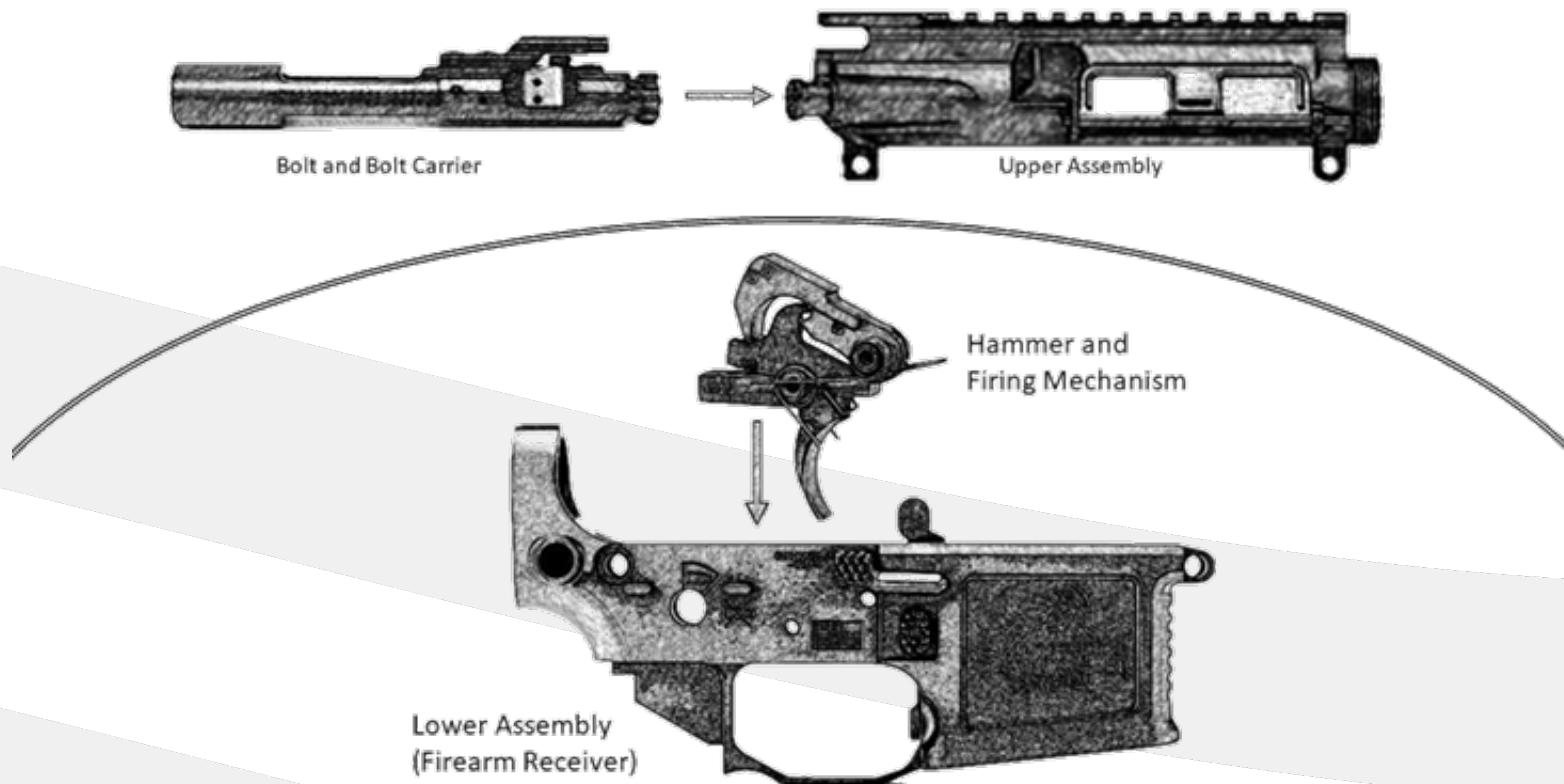


# Defining Frame or Receiver - Background

- The predecessor to the Gun Control Act (GCA) – the Federal Firearms Act – regulated “any part or parts” of a “firearm.” While debating the GCA, Congress recognized that it was “impractical to have controls over each small part of a firearm” and therefore substituted “frame or receiver” for the words “any part or parts.” Since shortly after passage of the GCA in 1968, the term “firearm frame or receiver” has been defined by regulation.
- On December 14, 1968, the Department of the Treasury published final regulations that defined “firearm frame or receiver” as “that part of a firearm which provides housing for the hammer, bolt or breechblock, and firing mechanism, and which is usually threaded at its forward portion to receive the barrel.” This definition has remained unchanged until now.
  - This definition described a housing for three fire control components: **hammer, bolt or breechblock, and firing mechanism**. However--
    - Numerous firearms do not utilize a hammer.
    - Vast majority of firearms commonly used today—including the AR-15 and variants—do not have a single housing for all those components. See Figure 1 (next slide).
  - The original definition of “firearm frame or receiver” lacked analysis as to the stage at which an item is regulated as a frame or receiver.
  - Technology and manufacturing processes complicated the analysis. Further, as ATF stated in the final rule, Federal courts have applied ATF’s definition of “frame or receiver” in a way that would leave most firearms currently in circulation in the United States without an identifiable frame or receiver.



# Figure 1



# Definition of Frame and Receiver

- The final rule includes an additional section—27 CFR 478.12—
  - Defines “frame” and “receiver” to address issues of interest to the public and the firearms industry.
  - This definition is incorporated in, and applies to 27 CFR Part 447 and Part 479, as well.
  - The definition provides greater detail and analysis, better accounts for diverse and modern firearm designs, provides greater detail on when an item becomes regulated as a frame or receiver, and addresses those firearms with frame or receivers that are further broken down to constituent parts.
  - The final rule also defines which part of a firearm silencer is the “frame or receiver.”
- The term “**frame**” now means the part of a handgun or “variants” (also a defined term) using a handgun design, that provides housing or a structure for the sear or equivalent—that part that holds back the hammer, striker, bolt, or similar component prior to firing.
- The term “**receiver**” means the part of a rifle, shotgun, or projectile weapon other than a handgun, or variants, that provides housing or a structure for the bolt, breechblock or other primary component designed to block or seal the breech prior to firing.
- The term “**variant**” means a weapon utilizing a similar frame or receiver design irrespective of new or different model designations or configurations, characteristics, features, components, accessories, or attachments.



# Definition of Frame and Receiver

- The final rule, 27 CFR 478.12(a)(4), includes analysis and pictures of the frame or receiver of specific firearms and variants to better guide the public and the firearms industry.
  - Includes revolvers, pistols, including those using chassis systems (serialization visible or “conspicuous” when placed in grip), bolt action rifles, various shotgun designs, AK variants, Steyr AUG variants, Thompson submachineguns, HK variants, FN-FAL, and Stens.
  - These are some examples:

Semiautomatic Pistol



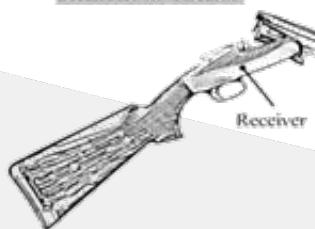
Sig P250 / P320



Bolt Action Firearms



Break Action Firearms



AK



FN FAL



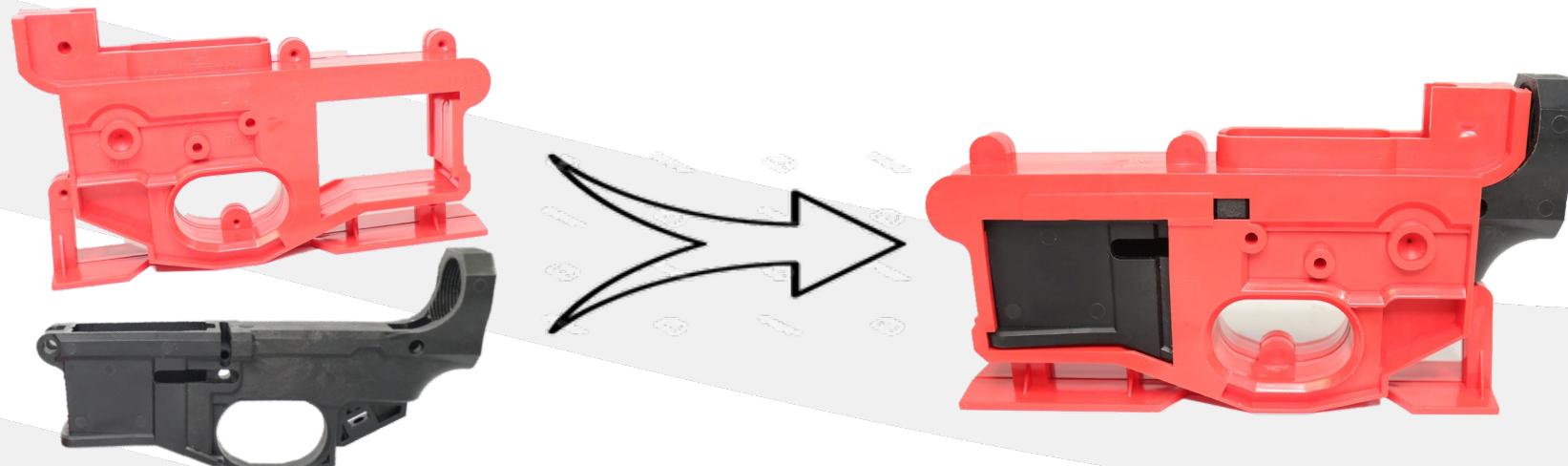
# Definition of Frame and Receiver

- In addition, the final rule addresses “partially complete, disassembled, or nonfunctional frames or receivers” and provides standards that the industry and the public can apply to better determine whether the component has reached the stage of manufacture to be regulated as a “frame or receiver.”
  - The rule makes clear that the “frame” or “receiver” includes a partially complete frame or receiver, including a parts kit, that is designed to or may readily be completed, assembled, restored, or otherwise converted to function as a frame or receiver, *i.e.*, to house or hold the applicable fire control component.
- It is important to note that in classifying any frame or receiver, “the Director may consider any associated templates, jigs, molds, equipment, tools, instructions, guides, or marketing materials that are sold, distributed, or possessed with the item or kit, or otherwise made available by the seller or distributor of the item or kit to the purchaser or recipient of the item or kit.”
  - This change makes clear that many of the products currently marketed and sold as unregulated “80% kits” contain a “frame or receiver” that is regulated by Federal law.



# Definition of Frame and Receiver

- *Example 1—Frame or receiver:* A **frame or receiver parts kit** containing a partially complete or disassembled billet or blank of a frame or receiver that is sold, distributed, or possessed with a compatible jig or template is a frame or receiver, as a person with online instructions and common hand tools may readily complete or assemble the frame or receiver parts to function as a frame or receiver.



# Definition of Firearm

- The rule clarifies that the definition of “firearm” includes a **weapon parts kit** that is designed to or may readily be completed, assembled, restored, or otherwise converted to expel a projectile by the action of an explosive.



- The term “firearm” does not include a weapon, including a weapon parts kit, in which the frame or receiver of such weapon is “destroyed” as described in the definition “frame or receiver.”



# Definition of Firearm, Frame and Receiver

- The rule makes clear that the terms **shall not** include a forging, casting, printing, extrusion, unmachined body, or similar article that has not yet reached a stage of manufacture where it is clearly identifiable as an unfinished component part of a weapon (e.g., unformed block of metal, liquid polymer, or other raw material).



# Definition of Firearm, Frame and Receiver

*Example 2—Not a receiver:* A billet or blank of an AR-15 variant receiver without critical interior areas having been indexed, machined, or formed that is not sold, distributed, or possessed with instructions, jigs, templates, equipment, or tools such that it may readily be completed is not a receiver.

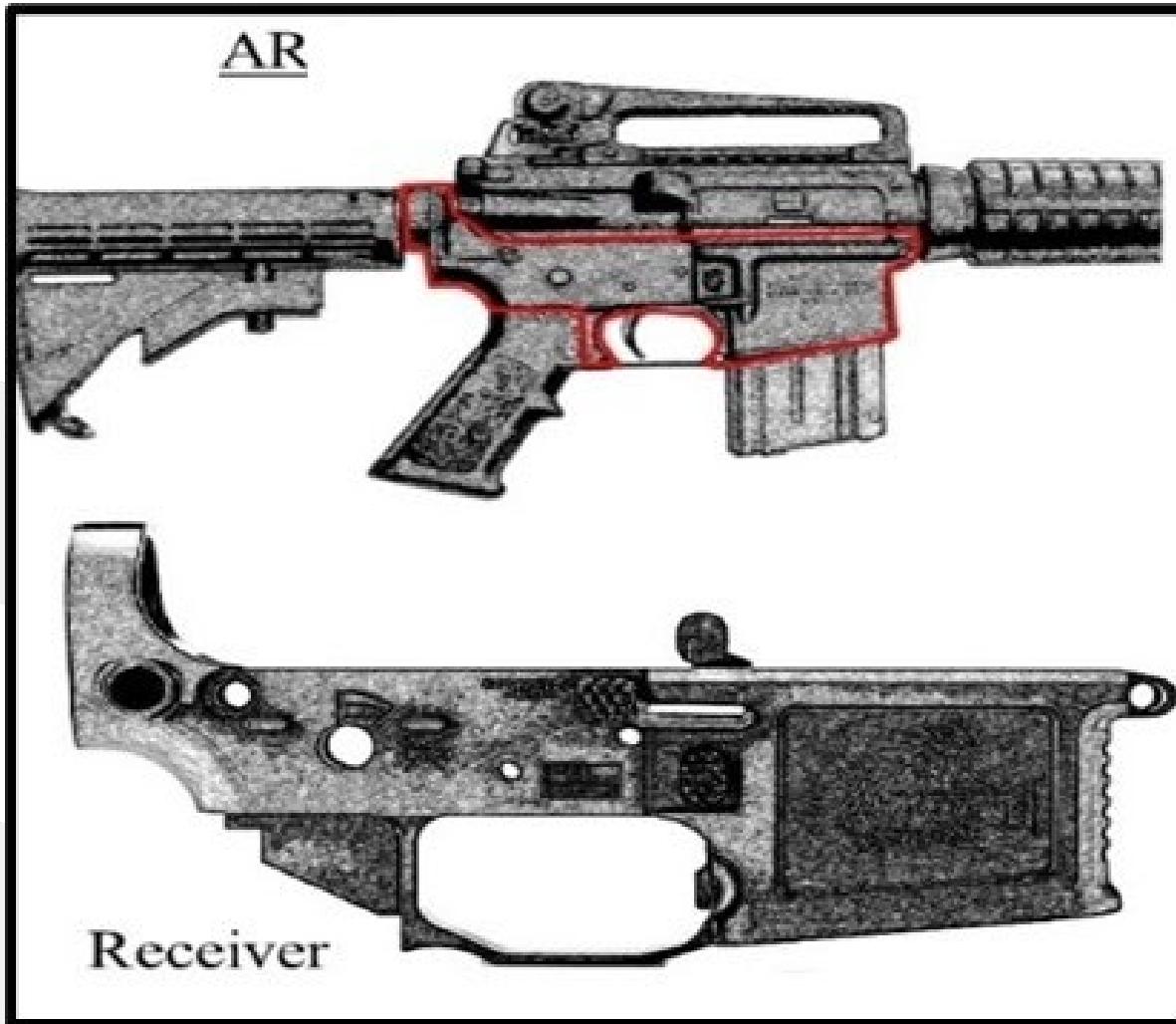


# Definition of Firearm, Frame and Receiver

- Finally, the rule provides that prior determinations that a partially complete, disassembled, or nonfunctional frame or receiver, including parts kits, was not, or did not include, a frame or receiver prior to April 26, 2022, the publication of rule are not valid or authoritative.
- With these changes, it is important to understand those things that are **unchanged** by the rule.
  - Specifically, that “part” of a firearm classified as the “frame” or “receiver” prior to publication of the final rule shall continue to be classified as the “frame” or “receiver” under Federal law.
  - For example, pursuant to 27 CFR 478.12(a)(2), the “receiver” of an AR-15/M-16 variant firearms would be the upper assembly as it provides housing for the bolt.
    - However, the final rule makes clear that “[t]he receiver is the lower part of the weapon that provides housing for the trigger mechanism and hammer (i.e., lower receiver). Figure 3.
- The rule also identifies the frame or receiver of the Ruger Mark IV pistol (upper assembly) and the Benelli 121 M1 Shotgun (lower assembly) as other examples.

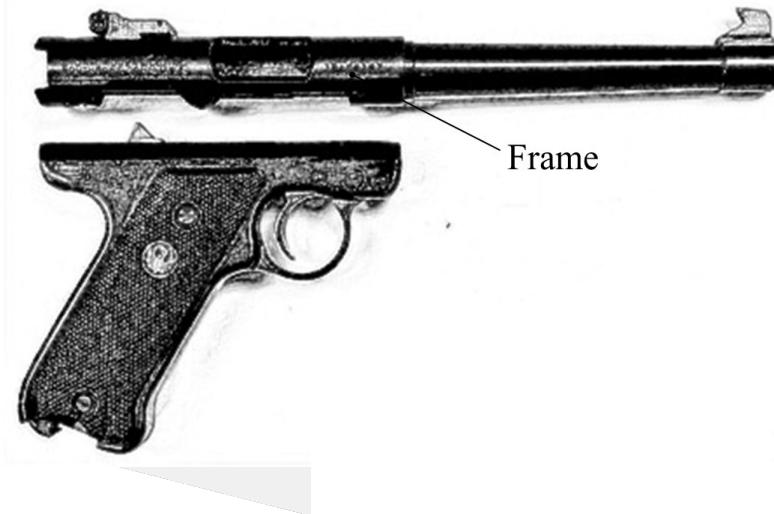


# AR Receiver Unchanged by the Final Rule

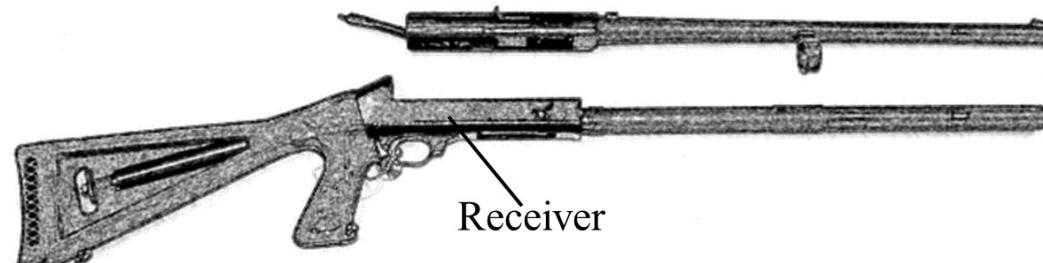


# Other Frames or Receivers of Firearms Unchanged by the Final Rule

Ruger Mark IV

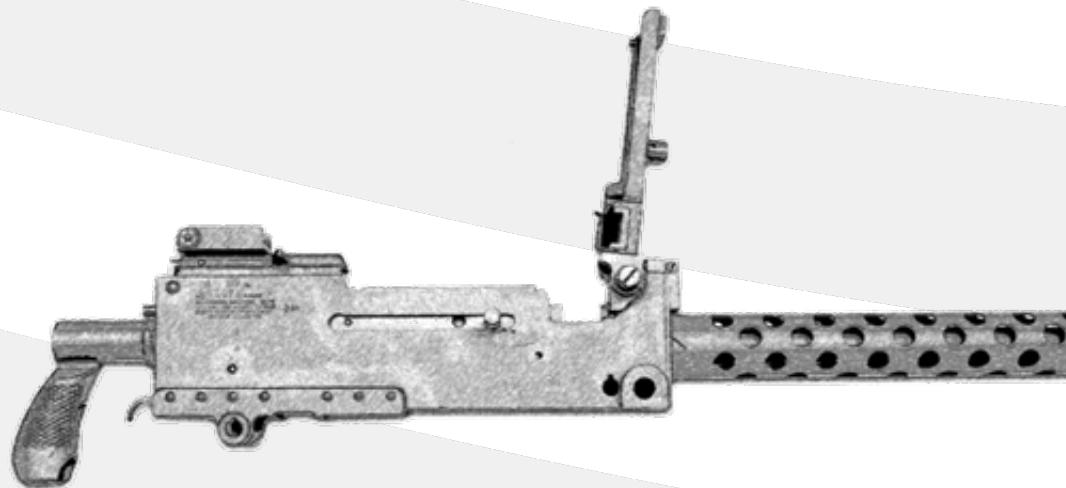


Benelli 121



# Other Frames or Receivers of Firearms Unchanged by the Final Rule

- The final rule states that, consistent with ATF's long-standing classifications and ATF Ruling 2010-3, the right-side plate of "box-type" receivers will continue to be the "receiver" of the firearm.
  - Specifically, the receiver "is the side plate of the weapon that is designed to hold the charging handle."
    - This includes the Vickers/Maxim, Browning 1919, M2, and box-type machineguns and semiautomatic variants.



# Privately Made Firearms (PMF)



# PMF

## **Definition of a Privately Made Firearm:**

- The final rule amends 27 CFR Parts 447.11 and 478.11 to define a firearm made by a nonlicensee as a “Privately Made Firearm” (“PMF”).
  - A PMF is defined as “[a] firearm, including a frame or receiver, completed, assembled, or otherwise produced by a person other than a licensed manufacturer, and without a serial number placed by a licensed manufacturer at the time the firearm was produced. The term shall not include a firearm identified and registered in the National Firearms Registration and Transfer Record pursuant to chapter 53, title 26, United States Code, or any firearm manufactured or made before October 22, 1968 (unless remanufactured after that date).”
- The final rule amends the regulations to require all FFLs to identify (mark) any PMF they take into their inventory. This requirement will allow licensees to comply with GCA recordkeeping requirements when accepting PMFs and allow ATF to trace those firearms through licensees’ records if involved in a crime.



# PMF

## The final rule:

- **Does not** prohibit an individual from making their own PMF.
- **Does not** mandate unlicensed persons mark their own PMF.
- **Does not** require an FFL to accept unmarked PMFs into their inventory.
- **Does not** apply to firearms marked and registered pursuant to the NFA, [26 U.S.C. 5842](#) and [27 CFR 479.102](#), upon approval of an [ATF Form 1](#).
- **Does not** apply to firearms manufactured or made before the effective date of the Gun Control Act of 1968, October 22, 1968, unless remanufactured after that date.



# PMF

## **Definition of a Gunsmith:**

- To ensure greater access to professional marking services for PMFs, the final rule amends the definition of the term “engaged in the business” pertaining to a “gunsmith” to include persons who engage in the business of marking PMFs.
- Specifically, the final rule amends 27 CFR 478.11:

*(d) **Gunsmith.** A person who, as a service performed on existing firearms not for sale or distribution, devotes time, attention, and labor to repairing or customizing firearms, making or fitting special barrels, stocks, or trigger mechanisms to firearms, **or placing marks of identification on privately made firearms in accordance with this part**, as a regular course of trade or business with the principal objective of livelihood and profit, but such term shall not include a person who occasionally repairs or customizes firearms (including identification), or occasionally makes or fits special barrels, stocks, or trigger mechanisms to firearms. In the case of firearms for purposes of sale or distribution, such term shall include a person who performs repairs (e.g., by replacing worn or broken parts) on complete weapons, **or places marks of identification on privately made firearms**, but shall not include a person who manufactures firearms (i.e., frames or receivers or complete weapons) by completion, assembly, or applying coatings, or otherwise making them suitable for use, requiring a license as a manufacturer;*



# PMF

## **Required Markings on PMFs:**

- Licensees who take a PMF into inventory are required to mark it with an individual serial number that begins with the licensee's abbreviated Federal firearms license number, which is the first three and last five digits, as a prefix to a unique identification number, followed by a hyphen, e.g., "12345678-[unique identification number]" in accordance with 478.92(a)(2). The markings must be completed no later than **seven days** upon receipt, **or before the date of disposition**, whichever is sooner.
- *Per amended regulation, [27 CFR 478.92](#)(a)(2), an acceptable method of identifying a PMF is by placing the serial number on a metal plate that is permanently embedded into a polymer frame or receiver, or other method approved by the Director.*
  - ATF has long held that placing a serial number directly on the polymer does not meet the specified requirement of 27 CFR 478.92 since marking in this manner would make the serial number "susceptible [to] being readily obliterated, altered or removed."
- Notably, licensees are not required to mark PMFs received for same day adjustment or repair and returned to the person from whom it was received.



# PMF

## Serialized PMF Markings:

- Where the PMF is already marked by a nonlicensee with a unique identification number that otherwise meets the marking standards in 478.92, FFLs may establish a PMF serial number by placing their abbreviated license number (first three and last five digits) as a prefix to the number, followed by a hyphen, e.g., **“12345678-[unique identification number].”**
- The final rule amends 27 CFR 478.92(a)(4)(iii)(D) to allow for such adoption of a PMF serial number.
- The resulting serial number must be unique and therefore may not duplicate any number that the FFL has previously placed on a firearm.
- FFLs **must** be aware of the serial numbers they have used/marked.



# PMF

## **PMF Marking Timeframe:**

- PMFs in an FFL's existing inventory must be marked within 60 days of the effective date of the Final Rule, *i.e.*, by October 23, 2022.
  - Until this date, FFLs may mark the PMFs themselves, if capable, or contract out marking services to a gunsmith for them to serialize PMFs.
  - After this date, FFLs may contract out marking services of PMFs to a gunsmith (licensed or unlicensed) but only if the gunsmith is performing such engraving services under the direct supervision of the requesting FFL.
- Any such PMF transferred within 60 days from the effective date must be properly marked before the PMF may be transferred.
- FFLs who acquire PMFs after the effective date are required to mark PMFs within seven (7) days of receipt (or before date of disposition, whichever is sooner) 27 CFR 479.92(a)(2).



# PMF

## Other Persons Marking PMFs for FFL:

- FFLs that do not have the capability to mark a PMF may take PMFs they receive to another FFL, or to a nonlicensee, to have those PMFs marked under their direct supervision, in accordance with 27 CFR 478.92(a)(2).
- An FFL who marks an unmarked PMF for the original FFL who received the PMF **shall not** log the firearm into its records, if the firearm is marked on-the-spot under the direct supervision of the original licensee recording the acquisition of the firearm. The marking licensee shall mark the firearm with the original licensee's license number in accordance with 478.92(a)(2).
- A nonlicensee may mark a PMF for the original FFL who received the PMF provided it is marked on-the-spot, under the direct supervision of the original licensee, and with the original licensee's FFL number.
- An individual who devotes time attention and labor to placing marks of identification on privately made firearms as a regular course of trade or business with the principal objective of livelihood and profit must be licensed as a dealer-gunsmit.
- In no case may the original licensee dispose of an unmarked PMF until the firearm is properly marked and the serial number is recorded in the original licensee's records.



# PMF

## **Recordkeeping and Marking Exception:**

### **A&D Records:**

- As with all firearms, except in cases where a PMF is received by a FFL for adjustment or repair and returned to the person from whom received on the same day, licensees must record the acquisition of a PMF by the close of the next business day following receipt of the firearm.
- If a PMF is unmarked upon receipt by a licensee, the licensee may leave the serial number portion of the A&D record blank until the PMF is properly marked. However, the PMF must be marked within seven (7) days of receipt (or prior to disposition, whichever comes first) and once marked, the A&D record must be updated.
- The final rule amends A&D recordkeeping requirements to require licensees to record “privately made firearm” or “PMF” in the absence of a manufacturer’s name in the “Description of firearm” section (formerly licensed manufacturer and/or licensed importer name).



# PMF

## **ATF Form 4473:**

- The final rule amends [27 CFR 478.124](#) in part to require licensees to record “**privately made firearm**” or “**PMF**” on the ATF Form 4473 for over-the-counter transactions and, pursuant to 18 U.S.C. 922(c), for other than over-the counter transactions.
- Specifically, the licensee shall identify the firearm to be transferred by listing on the Forms 4473 the name of the manufacturer, the name of the importer (if any), the type, model, caliber or gauge, and the serial number of the firearm to be transferred. **Where no manufacturer name has been identified on a privately made firearm, the words “privately made firearm” (or abbreviation “PMF”) shall be recorded as the name of the manufacturer.**



# Marking Requirements



# Marking Requirements

## Impact on Manufacturers and Importers:

- Revised marking requirements under the final rule are intended to increase the success rate in the tracing of firearms used in criminal activities through licensees' records.
- Licensed manufacturers and importers are required by Federal law and the regulations to identify each firearm they manufacture or import by placing a serial number on the frame or receiver.
  - Prior to the final rule, in addition to the serial number, additional markings (i.e., model – if designated, caliber or gauge, name as manufacturer or importer, city and State and the name and country of the foreign manufacturer when applicable) were required to be placed on either the frame, receiver, or the barrel.



# Marking Requirements

- Under the final rule, licensed manufacturers and importers are required to identify each firearm manufactured or imported by placement of the serial number, name of licensee, and city and State of their place of business on the frame or receiver in accordance with the regulations. **These markings may no longer be placed on the barrel or pistol slide (if applicable).**
- The model, caliber or gauge, foreign manufacturer, and country of manufacture may be placed on the frame or receiver, or barrel, or pistol slide.
- Additionally, this revised guidance provides two options for marking the serial number, name, and place of business on the frame or receiver.
- Specifically, a frame or receiver must have an individual serial number and one of the following:
  1. Name of FFL (or recognized abbreviation) and City & State (or recognized abbreviations) where the FFL maintains their business **OR**
  2. Name of FFL (or recognized abbreviation), and abbreviated FFL number (first three and last five digits with no dashes) as a serial number prefix, followed by a hyphen, then the assigned unique identification number (as stated in the amended regulation, 27 CFR 478.92(a)(1)(i)).
- Please note that the serial number and any abbreviated license number (Option 2) must be marked in a print size no smaller than 1/16 inch (as stated in the amended regulation 27 CFR 478.92(a)(v)).



# Marking Requirements

## Marking Requirements for Multi-Piece Frames and Receivers:

- The final rule defines “multi-piece frame or receiver” at 27 C.F.R. 478.12 --

*The term “multi-piece frame or receiver” shall mean a frame or receiver that may be disassembled into multiple modular subparts, i.e., standardized units that may be replaced or exchanged...*

*...The term shall not include the internal frame of a pistol that is a complete removable chassis that provides housing for the energized component, unless the chassis itself may be disassembled...*

*...The modular subpart(s) identified in accordance with § 478.92 with an importer’s or manufacturer’s serial number shall be presumed, absent an official determination by the Director or other reliable evidence to the contrary, to be part of the frame or receiver of a weapon or device...*

- For multi-piece frames or receivers, the requirements regarding individual serial numbers may vary.
- For a multi-piece frame or receiver that has more than one outermost component, all similar parts that are required to be marked must be marked with the same serial number if sold together as a complete modular frame or receiver.
- However, the final rule requires each outermost modular subpart of a frame or receiver be marked with a unique serial number when the modular subparts are disposed of separately (27 C.F.R. 478.92(a)(iv)).



# Marking Requirements

- Multi-piece frames or receivers are to be identified and marked as follows:
  1. The outermost housing or structure designed to house, hold, or contain the primary energized component of a handgun, breech blocking or sealing component of a projectile weapon other than a handgun, or internal sound reduction component of a firearm muffler or firearm silencer, as the case may be, is the subpart of a multi-piece frame or receiver that must be marked with the identifying information;
  2. If more than one modular subpart is similarly designed to house, hold, or contain such primary component (e.g., left and right halves), each of those subparts must be identified with the same serial number not duplicated on any other frame or receiver; and
  3. A marked modular sub-part of a multi-piece frame or receiver must be presumed, absent an official determination by the Director or other reliable evidence to the contrary, to be a part of the frame or receiver of a weapon.



# Marking Requirements

Typical AR-15 Receiver (top view)



“Modular” AR-15 (top view)



Left Side



Right Side



# Marking Requirements

- Once a modular subpart of a multi-piece frame or receiver has been marked and then aggregated (assembled or unassembled) with the other frame or receiver subparts, the marked part cannot be removed and replaced unless:
  1. The subpart replacement is not a firearm under 26 U.S.C. 5845;
  2. The subpart replacement is identified by the licensed manufacturer of the original subpart with the same serial number in the manner prescribed by this section; and
  3. The original subpart is destroyed under the firearm licensee's control or direct supervision prior to such placement.
    - ❖ This is because removing and replacing the identified component of a multi-piece frame or receiver would place the possessor in violation of 18 U.S.C. 922(k) and 27 CFR 478.34 (and if an NFA firearm, 26 U.S.C. 5861(g) and (h)), which prohibit the possession of any firearm with the manufacturer's or importer's serial number removed.
- If a modular subpart of a multi-piece frame or receiver is sold separately, the rule requires that it be identified with an individual serial number. This is to ensure that the frame or receiver of the resulting weapon has traceable marks of identification.



# Marking Requirements

## Marking Muffler or Silencer parts, and transfers for further manufacturing or repair:

- Under the final rule, manufacturers and makers of complete muffler or silencer devices only need to mark the part of the device that is designated the frame or receiver.
- The final rule defines firearm muffler or silencer frame or receiver at 27 C.F.R. 478.12(b) –

*The terms “frame” and “receiver” shall mean, in the case of a firearm muffler or firearm silencer, the part of the firearm, such as an outer tube or modular piece, that provides housing or a structure for the primary internal component designed to reduce the sound of a projectile (i.e., baffles, baffling material, expansion chamber, or equivalent)...*

*...In the case of a modular firearm muffler or firearm silencer device with more than one such part, the terms shall mean the principal housing attached to the weapon that expels a projectile, even if an adapter or other attachments are required to connect the part to the weapon...*

*...The terms shall not include a removable end cap of an outer tube or modular piece.*



# Marking Requirements



# Marking Requirements

## Marking Muffler or Silencer parts and transfers for further manufacturing or repair cont'd:

- The end cap of a silencer cannot be a “frame” or “receiver.” In most cases, the “frame” or “receiver” would be the outer tube, or the principal housing attached to the weapon. In the case of a multi-piece frame or receiver, if there are two or more similar subparts that make up a multi-piece frame or receiver then those subparts would be marked with the same serial number.
- Minor components of silencers would not need to be engraved or registered when transferred between Special Occupational Taxpayers (SOTs).
- A subpart of a firearm muffler or silencer that is not a component part of a complete weapon at the time sold must be identified by an individual serial number.
  - Therefore, any firearm muffler or silencer part transferred separately to an individual that is not a SOT **MUST** be marked and registered and transferred in accordance with the National Firearms Act.



# Marking Requirements

## Marking Muffler or Silencer parts and transfers for further manufacturing or repair cont'd:

- There should be very few circumstances in which there is more than one unique serial number placed on a weapon (e.g., remanufactured or imported firearm where the manufacturer or importer chooses to mark their own serial number rather than adopting an existing serial number).
- The definition of “transfer” in Part 479 now excludes temporary conveyances solely for repair, identification, evaluation, research, testing, or calibration and return to the same lawful possessor.
- With respect to parts defined as firearm mufflers or silencers, which are difficult to mark and record, the final rule allows them to be transferred between qualified licensees (SOT) for purposes of further manufacture or repair of complete devices without immediately marking and registering them in the National Firearms Registration and Transfer Record (“NFRTR”).



# Marking Requirements

## Time limits for marking firearms (GCA vs NFA):

- GCA firearms must be marked within seven (7) days after completion of the manufacturing process, or prior to disposition, whichever comes first.
  
- NFA firearms must be marked by close of the next business day after completion of the manufacturing process, or prior to disposition, whichever comes first.



# Marking Requirements

## **Marking Exceptions:**

- Under the final rule, licensees are allowed to adopt and not required to mark the serial number or other identifying markings previously placed on a firearm under the following conditions:
  1. When a firearm that has not been sold, shipped, or otherwise disposed of to a person other than a licensee and the serial number is not duplicated (i.e., newly manufactured firearms).
  2. When a licensee remanufactures or imports a firearm that was sold, shipped, or disposed of to a nonlicensee when the licensee identifies the firearm with their name and city and state; or their name, “FFL”, and abbreviated Federal firearms license number (i.e., **FFL12345678**).
  3. When a manufacturer performs a service as a gunsmith (as defined in section 27 CFR 478.11) on an existing firearm that is for a non-licensee and not for sale or distribution.



# Marking Requirements

## **Marking Grandfathering Provisions:**

- The final rule allows manufacturers and importers to mark firearms (other than a PMF) of the same design in the same manner as before the effective date of the final rule (August 24, 2022).
- Almost all firearms, except as described below, that ATF classified prior to issuance of the final rule are grandfathered and may continue to be marked in the same manner as before the effective date of the final rule.
  - ATF classifications of partially complete, disassembled, or nonfunctional frames or receivers that determined the parts kit, was not, or did not include a “frame or receiver” are no longer valid or authoritative after the date of publication of the final rule.
    - ATF may not have been provided with a full and complete parts kit containing those items along with any templates, jigs, molds, equipment, tools, instructions, guides, or marketing materials that were made available to the purchaser or recipient of the item or kit.
    - As explained in the final rule, these items and materials are necessary for ATF and others to make a proper firearm classification under the GCA and NFA (if applicable). Thus, these items must be marked in accordance with the revised requirements.



# Recordkeeping Requirements

## ➤ Gun Control Act (GCA)

- 27 CFR 478.122
- 27 CFR 478.123
- 27 CFR 478.125(e)
- 27 CFR 478.125(i)

## ➤ National Firearms Act (NFA)

- 27 CFR 479.103



# Recordkeeping Requirements

- The final rule requires all licensed manufacturers and importers to consolidate their records of manufacture, importation, acquisition, and disposition of firearms.
- The final rule requires **ALL** licensees to eliminate duplicate recordkeeping entries.
  - In the event the licensee records a duplicate entry with the same firearm and acquisition information, whether to close out an old record book or for any other reason, the licensee shall record a reference to the date and location of the subsequent entry (e.g., date of entry, book name/number, page number, and line number) as the disposition.
- The final rule clarifies that licensed dealers (including gunsmiths), manufacturers, and importers may conduct same day on the spot adjustments or repairs to firearms without recording them as acquisitions or dispositions, provided they are returned to the person from whom they were received on the same day.



# Recordkeeping Requirements

## Recording information into the A&D record:

- Manufacturers **MUST** record the acquisition of GCA firearms manufactured or otherwise acquired within seven (7) days, or prior to disposition, whichever is sooner.
- If there is more than one manufacturer or importer, country of manufacture, or serial number marked on a firearm--
  - Licensees **MUST** record all firearms markings in the A&D record.
- Any FFL number either as a prefix, or if remanufactured or imported, separated by a semicolon, placed on a firearm, must be included in the serial number recorded in the A&D record.
- All firearms acquired by an FFL, except for same day adjustments or repairs returned to the same person, must be recorded as an “acquisition,” in the A&D record.



# Recordkeeping Requirements

## NFA Requirements:

- Manufacturers **MUST** record NFA firearms in the A&D Record by close of the next business day unless there is a sufficient commercial record of acquisition, in which case the grace period to record would be extended until the seventh day.
- Manufacturers may delay submission of an ATF Form 2, *Notice of Firearms Manufactured or Imported*, if firearm muffler or silencers parts are transferred between qualified licensees for further manufacture or to complete devices that are registered upon completion of the device, or to repair existing, registered devices.
  - FFL/SOT manufacturers may transfer a part defined as a firearm muffler or firearm silencer to another qualified FFL/SOT manufacturer without immediately identifying or registering such part, provided that it is for further manufacture (i.e., machining, coating, etc.) or manufacturing a complete muffler or silencer device. Once the device with such part is completed, the manufacturer who completes the device shall identify, record, and register it in the manner and within the period specified in this part for a complete muffler or silencer device.
  - FFL/SOT manufacturers may transfer a replacement part defined as a firearm muffler or firearm silencer other than a frame or receiver to another FFL/SOT manufacturer or dealer without identifying or registering such part, provided that it is for repairing a complete muffler or silencer device that was previously identified, recorded, and registered in accordance with this part and part 479.



# Record Retention

- The final rule requires that **ALL** licensees **MUST** retain **ALL** required records (A&D Records and ATF Forms 4473) until the business or licensed activity is discontinued. A&D records must be kept either on paper or in an electronic alternate method approved by the Director, at the licensed business premises readily accessible for inspection.
- The final rule made changes to § 478.50(a) to make clear that a warehouse may be used for the storage of **paper records over 20 years of age**.
  - The warehouse may not be used to conduct other business activities, which would require a separate license and fee.
  - Any warehouse utilized for the storage of required paper records more than 20 years old is subject to inspection.
- Licensees should not send records to the National Tracing Center until discontinuance of business.



# Rulings and Procedure Affected

- ATF publishes formal rulings and procedures to promote uniform understanding and application of the laws and regulations it administers, and to provide uniform methods for performing operations in compliance with the requirements of the law and regulations.
- ATF Rulings represent ATF's guidance as to the application of the law and regulations to the entire state of facts involved and apply retroactively unless otherwise indicated.



# Rulings Superseded

## FFL Requirements (Type 01-Gunsmith v. Type 07-Manufacturer):

- ATF Ruling 2009-1 (Firearms Manufacturing Activities—Camouflaging or Engraving Firearms)
  - Ruling 2009-1 stated that any person who engages in the business of camouflaging or engraving firearms must be licensed as a dealer but does not need a license as a manufacturer regardless of the purpose for which the activity was performed.
- ATF Ruling 2010-10 (Manufacturing Operations May be Performed by Licensed Gunsmiths Under Certain Conditions)
  - Ruling 2010-10 stated that a Type 01-Gunsmith that performs activities on behalf of licensed manufacturers or importers need not obtain a Type 07-Manufacturer license under certain conditions.
- The regulations provide a definition of “gunsmith” which differentiates gunsmithing and manufacturing based on the purpose for which the activity is being performed. 27 CFR 478.11. **The final purpose (i.e., for purposes of sale or distribution) of the activities being performed determine whether a Type 01-Gunsmith License or a Type 07-Manufacturer License is required.**
- These rulings are superseded by the final rule to the extent that those processes are performed on new or remanufactured firearms “for purposes of sale or distribution.” That is, if the activity is performed as a part of the production of a new or remanufactured firearm for sale or distribution, then a **Type 07-Manufacturer FFL is required.**



# Rulings Superseded

## **Marking Requirements:**

- ATF Ruling 2009-5 (Firearms Manufacturing Activities, Identification Markings of Firearms)
  - A “non-marking variance request” or notice is no longer required under the amended regulations under certain circumstances.
  - The amended regulations enumerate specific exceptions as to when and how a licensee may adopt existing markings:
    - When a firearm that has not been sold, shipped, or otherwise disposed of to a person other than a licensee (i.e., newly manufactured firearms). Under these circumstances, the licensee must adopt both the serial number **and** the other identifying markings provided the serial number adopted is not duplicated on any other firearm.



# Rulings Superseded

## Adoption of Markings Continued:

- When a licensee remanufactures or imports a firearm that was previously sold, shipped, or disposed of to a nonlicensee, provided that the licensee legibly and conspicuously places, or causes to be placed, on the frame or receiver either: their name (or recognized abbreviation), and city and State (or recognized abbreviation) where they maintain their place of business; or their name (or recognized abbreviation) and abbreviated Federal firearms license number, which is the first three and last five digits, individually (i.e., not as a prefix to the serial number adopted) after the letters “FFL”, in the following format: “FFL12345678.” The serial number adopted or placed on the firearm generally may not be a duplicate.
  
- When a manufacturer performs a service for a nonlicensee as a gunsmith (as defined in section 27 CFR 478.11) on an existing firearm that is not for sale or distribution.



# Rulings Superseded

- ATF Ruling 2012-1 (Time Period for Marking Firearms Manufactured)
  - The regulations codify this ruling by requiring that all complete GCA firearms outside the purview of the NFA must be marked within seven (7) days after completion of the entire manufacturing process, or prior to disposition, whichever is sooner.



# Rulings Superseded

## ➤ ATF Ruling 2013-3 (Adopting Identification of Firearms)

- The regulations codify this ruling by allowing licensed manufacturers and importers who remanufacture or import firearms to adopt an existing serial number, caliber/gauge, model, or other markings already identified on a firearm, provided they legibly and conspicuously place, or cause to be placed, on the frame or receiver, either:
  - Name of FFL (or recognized abbreviation) and City & State (or recognized abbreviation) where the FFL maintains their business, OR
  - Name of FFL (or recognized abbreviation) and their abbreviated FFL number (first three and last five digits with no dashes) individually, not as a prefix to the serial number adopted.



# Rulings Superseded

## Recordkeeping Requirements:

- ATF Ruling 2011-1 (Importers Consolidated Records)
  - The regulations codify this ruling by requiring all licensed importers to consolidate their records of importation, acquisition, and disposition of firearms.
  - Separate records are no longer allowed.
- ATF Ruling 2016-3 (Consolidation of Records Required for Manufacturers)
  - The regulations codify this ruling by requiring all licensed manufacturers to consolidate their records of manufacture, acquisition, and disposition of firearms.
  - Separate records are no longer allowed.



# Rulings Amplified

- ATF Ruling 2002-6 (Identification of Firearms, Armor Piercing Ammunition, and Large Capacity Ammunition Feeding Devices)
  - The regulations amplify the meaning of the terms "conspicuously" and "legibly" to explain how they apply to the marking of frames or receivers, including multi-piece frames and receivers and modular silencer devices.
  - The ruling still applies in all other respects.



# Rulings Amplified

- ATF Ruling 2016-1 (Requirements to Keep Firearms Records Electronically)
  - The regulations amplify this ruling to explain that acquisition and disposition records over 20 years of age may be maintained electronically and cannot be destroyed.
  - The ruling still applies in all other respects.
- ATF Ruling 2016-2 (Electronic ATF Form 4473)
  - The regulations amplify this ruling to explain that ATF Forms 4473 over 20 years of age may be maintained electronically and cannot be destroyed.
  - The ruling still applies in all other respects.



# Rulings Clarified

- Revenue Ruling 55-342 (FFLs Assembling Firearms from Component Parts)
  - The regulations clarify that a gunsmith must obtain a manufacturer's license when the activity is conducted on a firearm for purposes of sale or distribution.
- ATF Ruling 77-1 (Gunsmithing at Shooting Events)
  - The regulations clarify ATF Rul. 77-1 by explaining that licensed manufacturers and importers, who may engage in the business as a licensed dealer/gunsmith without obtaining a separate license, may also perform same-day adjustment or repair and return the firearm to the person from whom received without an acquisition record entry.
- ATF Ruling 2009-2 (Installation of Drop-in Replacement Parts)
  - This ruling stated that gunsmiths who engage in the business of installing "drop in" replacement parts must be licensed as dealers.
  - The regulations clarify this to the extent that licensed dealer/gunsmiths may install "drop in" replacement parts to repair their own firearms, or to repair firearms for other licensees who plan to resell them without being licensed as a manufacturer.
  - The regulation also clarifies that a dealer/gunsmith may repair or customize customer owned firearms which includes using drop-in replacement parts.



# Rulings Clarified

- ATF Ruling 2010-3 (Identification of Maxim Side-Plate Receivers)
  - The regulations clarify that the classification of the right-side plate of Vicker/Maxim receiver is grandfathered and may continue to be marked on the right-side plate unless the receiver is re-designed.
- ATF Ruling 2015-1 (Manufacturing and Gunsmithing)
  - The regulations provide a definition of “gunsmith.”
    - The purpose for which the activity is being performed will determine what type of license is required (i.e., dealer/gunsmith or manufacturer).
  - This rule further clarifies when a manufacturer’s license is required.
  - Dealer-gunsmiths must be licensed as manufacturers whenever they perform work that produces or remanufactures firearms (weapons or frames or receivers) for sale or distribution.



# Procedure Clarified

- ATF Procedure 2020-1 (Recordkeeping Procedure for Non-Over-the-Counter Firearm Sales by Licensees to Unlicensed In-State Residents that Are NICS Exempt)
  - The regulations clarify that ATF Proc. 2020-1 is no longer an alternate method of complying with 27 CFR 478.124(f).
    - The regulation no longer requires that the firearm description information be completed after the licensee receives a completed ATF Form 4473 from the transferee.
  - ATF Proc. 2020-1 **MUST** still be followed whenever non-over-the counter transactions are conducted in accordance with section 478.96(b).



# ATF Resources

- ATF Website - Definition of “Frame or Receiver” and Identification of Firearms: <https://www.atf.gov/rules-and-regulations/definition-frame-or-receiver>
- ATF eRegulations: <https://regulations.atf.gov/>
- ATF Rulemaking: <https://www.atf.gov/rules-and-regulations/rulemaking>
- Federal Regulation: <https://www.govinfo.gov/content/pkg/FR-2022-04-26/pdf/2022-08026.pdf>



# Contact Us

- For questions regarding the application of the final rule, contact the Firearms Industry Programs Branch at Firearms Industry Programs Branch: [FIPB@atf.gov](mailto:FIPB@atf.gov).
  - Subject line should state **Frame or Receiver Final Rule**.
- For technical questions regarding firearms, contact the Firearms and Ammunition Technology Division at: [Fire\\_Tech@atf.gov](mailto:Fire_Tech@atf.gov).
- For questions regarding the rulemaking process, contact the Office of Regulatory Affairs at: [ORA@atf.gov](mailto:ORA@atf.gov).

