ILLINOIS ATTORNEY GENERAL
KWAME RAOUL

August 4, 2026

Via Federal Rulemaking Portal (Regulations.gov)

The Honorable Todd Blanche
Acting Attorney General of the United States

Robert Cekada
Director of the Bureau of Alcohol, Tobacco,
Firearms and Explosives

c/o: 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 Avenue, NE
Washington, DC 20226

ATTN: RIN 1140-AA82

Re: Revising Firearms Transaction Record, "Form 4473"

Dear Acting Attorney General Blanche and Director Cekada:

We, the Attorneys General for the States of Illinois, Arizona, California, Colorado, Connecticut, Delaware, District of Columbia, Hawai'i, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, Virginia, and Washington ("the States"), write in opposition to the Bureau of Alcohol, Tobacco, Firearms and Explosives' ("ATF") notice of proposed rulemaking ("Proposed Rule") entitled Revising Firearms Transaction Record, "Form 4473," first noticed in the Federal Register on May 8, 2026.[1]

[1] *Revising Firearms Transaction Record, "Form 4473,"* 91 Fed. Reg. 25432 (proposed May 8, 2026) (to be codified at 27 C.F.R. pt. 478).

The Proposed Rule accompanies a slate of nearly three dozen ATF rule changes or proposed rule changes that reflect an agency which has "fundamentally changed course."[2] Acting Attorney General Todd Blanche calls this the "most comprehensive regulatory reform package in the history of ATF."[3] Several of these proposed rules, working together, profoundly alter the processes by which a federal firearms licensee ("FFL") sells or transfers firearms to an unlicensed person.[4] That process is shepherded and documented through ATF Form 5300.9 and 5300.9A ("Form 4473"). The Proposed Rule would make changes to the requirements governing this process, as well as to Form 4473 itself.[5]

The Proposed Rule aims to expand the definition of the state of residence, even allowing certain individuals to simultaneously claim two states as their residence, and would allow use of non-government-issued documents as primary evidence of residence. It also would double the period of validity for an initiated Form 4473 and the accompanying background check, from the current 30 days to two months. Further, the Proposed Rule seeks to entirely change the process by which FFLs facilitate private-party transfers and background checks. As to the Form itself, the Proposed Rule would make several changes, including the removal of: (1) the FFL's review and recordation of the buyer's identification document details, (2) a key certification where the buyer must answer Yes or No on whether they intend to buy the firearm to transfer it for prohibited reasons, and (3) county and city information for the buyer. ATF also would allow auto-population of certain information, thereby making the information more prone to errors. Taken together, and

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[2] *ATF's New Era of Reform*, ATF, https://www.atf.gov/rules-and-regulations/atf-launches-new-era-reform (last updated May 12, 2026).

[3] ATF, *Acting AG Blanche and Acting ATF Director Cekada Announce Changes to ATF Regulations*, https://www.justice.gov/opa/video/acting-ag-blanche-and-acting-atf-director-cekada-announce-changes-atf-regulations (Apr. 29, 2026).

[4] *See Firearm Records Retention Periods*, 91 Fed. Reg. 24413 (proposed May 6, 2026) (to be codified at 27 C.F.R. pt. 478) (shortening retention periods for Form 4473 and related records); *Firearms Transactions and Straw Purchases*, 91 Fed. Reg. 24448 (proposed May 6, 2026) (to be codified at 27 C.F.R. pt. 478) (narrowing prohibited straw-purchase definition); *Defining "Willfully" for Firearms Violations*, 91 Fed. Reg. 25201 (proposed May 8, 2026) (to be codified at 27 C.F.R. pt. 478) (raising the threshold for license revocation); *Revising Non-Over-the-Counter Firearms Transaction Requirements*, 91 Fed. Reg. 25216 (proposed May 8, 2026) (to be codified at 27 C.F.R. pt. 478) (expanding remote transfers and substituting copies of identification and remote identity proofing for in-person identification examination); *Clarifying Exceptions to the Brady Act Background Check Requirement*, 91 Fed. Reg. 24436 (proposed May 6, 2026) (to be codified at 27 C.F.R. pt. 478) (amending the regulatory structure involving NICS background checks for state firearms purchasing permits); *Selecting Biological Sex on ATF Forms*, 91 Fed. Reg. 24462 (proposed May 6, 2026) (to be codified at 27 C.F.R. pts. 478, 479, and 555) (requiring individuals to select their biological sex under the question of "sex" on ATF forms); *Removing Youth Handgun Safety Act Notice*, 91 Fed. Reg. 25187 (proposed May 8, 2026) (to be codified at 27 C.F.R. pt. 478) (removing requirement that FFLs who deliver handguns to non-licensees post signs and provide written notice regarding the Youth Handgun Safety Act provisions for each handgun purchase).

[5] In conjunction with this Proposed Rule, ATF separately proposed significant revisions to the Form 4473 itself through an information collection request. *See* 91 Fed. Reg. 25433; *see also 60-Day Notice of Information Collection Request: Form 4473*, 91 Fed. Reg. 25448 (May 8, 2026). Several of the undersigned States submitted a comment opposing that request on July 7, 2026, and incorporate it by reference here. *See* Multistate Attorneys General Comment Opposing the Form 4473 Information Request, OMB Control No. 1140–0020, July 7, 2026, https://www.regulations.gov/comment/ATF-2026-0001-0229. Additionally, several of the undersigned States are separately submitting a comment in opposition to the proposed rule, *Selecting Biological Sex on ATF Forms*, 91 Fed. Reg. 24462 (proposed May 6, 2026), which also would impact Form 4473, and we incorporate that comment by reference here.

along with the other notices of changes to the sale process, these changes would undercut the security of the lawful firearm transfer process, as well as how Form 4473 is meant to operate as a tool to regulate that process, and to provide accurate and definitive documentation in the event it is required by law enforcement.

The States have substantial public safety and law enforcement interests that are harmed by these proposals, including preventing the unlawful transfer of firearms to prohibited persons, and successfully prosecuting criminals who break the law. By weakening both the initial screen and the resulting record, the Proposed Rule would make it more difficult for the States to prevent unlawful transfers, trace crime guns, investigate trafficking and violent crime, and prosecute offenders. The States—and their residents—would bear the resulting investigative costs and public safety harms. These are serious reliance interests that ATF cannot disregard.

The States submit this comment to protect those interests and identify the myriad ways in which the Proposed Rule violates the Administrative Procedure Act ("APA"). The Proposed Rule is contrary to law—specifically the Gun Control Act of 1968. It is also arbitrary and capricious, because ATF neither explains its reversal of longstanding policy nor considers the States' reliance interests, among other things. And it is procedurally defective because ATF has failed to consider the impact of the entire regulatory package together, ATF has not disclosed the substance of outside influence that appears to have shaped the Proposed Rule, and ATF has failed to conduct an adequate Regulatory Impact Analysis.

Therefore, we urge ATF to withdraw the Proposed Rule.

Background

Form 4473 arises from the Gun Control Act of 1968 ("GCA" or the "Act"). The GCA was passed to aid federal, state, and local law enforcement in "their fight against crime and violence,"[6] and particularly to address the pervasive problem of interstate firearms trafficking.[7] To that end, the GCA channels commercial firearms sales through federally licensed dealers, requires specific transaction records on which crime gun tracing depends, and prohibits FFLs from transferring firearms to those who may not possess them.[8] To comply with the GCA, FFLs must verify the identity (and accordingly the identification documents) of the purchaser.[9] Because an FFL may not sell firearms to "any person who the licensee knows or has reasonable cause to believe does not reside in . . . the State" where the FFL does business,[10] FFLs also must

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[6] Gun Control Act of 1968, Pub. L. No. 90-618, § 101, 82 Stat. 1213 (codified as amended at 18 U.S.C. §§ 921–934).

[7] *Huddleston v. United States*, 415 U.S. 814, 824 (1974) (describing Congress' intent to address the significant role that interstate firearms trafficking plays in contributing to "lawlessness and violent crime in the United States").

[8] *See* 18 U.S.C. §§ 921–934; *see also* Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. No. 90-351, tit. IV, § 901(a)(3), 82 Stat. 197, 225 (congressional finding that "only through adequate Federal control over interstate and foreign commerce in these weapons, and over all persons engaging in the businesses of importing, manufacturing, or dealing in them, can this grave problem be properly dealt with, and effective State and local regulation of this traffic be made possible").

[9] *See* 27 C.F.R. § 478.124(c)(3)(i).

[10] 18 U.S.C. § 922(b)(3).

verify the transferee's residence, and, in most circumstances, conduct background checks through the FBI's National Instant Criminal Background Check System ("NICS").[11]

ATF implements the GCA's firearm transaction record requirements for FFLs through Form 4473.[12] Form 4473 and its related regulations serve two primary purposes, both of which are essential to public safety.

First, FFLs use Form 4473 in their required process to determine if non-licensed transferees (buyers) may lawfully receive the firearm(s) sought.[13] To do this, the Act requires that FFLs (1) determine if the individual may lawfully receive the firearm based upon the information provided and verified on Form 4473, and then (2) initiate a background check.[14] ATF and industry organizations often herald FFLs as the "first line of defense" against illegal firearm sales, and Form 4473 is a key part of that defense.[15] Just two years ago, ATF declared that Form 4473 is "critical to the prevention of criminal diversion of firearms" and crime gun tracing, and warned that transfers without a completed form and recorded NICS check would undermine the GCA, frustrate traces, and prevent verification of purchasers' identities and background checks.[16]

Second, even after the firearm has been transferred, Form 4473 maintains its importance.[17] The information collected within Form 4473 "is critical to law enforcement," including "facilitating crime gun traces."[18] Separate from verifying the identities of the individuals seeking

[11] *See* 27 C.F.R. § 478.102(a); *see also* 27 C.F.R. § 478.124(c)(1); 18 U.S.C. § 922(b)(5).

[12] 18 U.S.C. § 923(g)(1)(A) ("Each…licensed dealer shall maintain such records of…sale, or other disposition of firearms at his place of business for such period, and in such form, as the Attorney General may be regulations prescribe."); 27 C.F.R. § 478.124(a) (stating a "licensed importer, licensed manufacturer, or licensed dealer shall not sell or otherwise dispose, temporarily or permanently, of any firearm to any person, other than another licensee, unless the licensee records the transaction on a firearm transaction record, Form 4473").

[13] *See* 18 U.S.C. § 922(b)–(d); 27 C.F.R. § 478.99.

[14] *See also* 27 C.F.R. § 478.124(c)(5) ("The licensee shall sign and date the form if the licensee does not know or have reasonable cause to believe that the transferee is disqualified by law from receiving the firearm and transfer the firearm described on the Form 4473."); 27 C.F.R. § 478.102(a)(1) ("Before the completion of the transfer, the licensee has contacted NICS").

[15] *E.g., NSSF, ATF Celebrate 25 Years of Partnership With The 'Don't Lie for the Other Guy' Anti-Straw Purchasing Campaign*, NAT'L SHOOTING SPORTS FOUND. (Sept. 15, 2025), https://www.nssf.org/articles/nssf-atf-25-year-dont-lie-for-the-other-guy-partnership/; *Abramski v. United States*, 573 U.S. 169, 188 (2014) (stating that "the firearms law contemplates that the dealer will check not the fictitious purchaser's but instead the true purchaser's identity and eligibility for gun ownership").

[16] *Definition of "Engaged in the Business" as a Dealer in Firearms,* 89 Fed. Reg. 28968, 29053, 29089 (Apr. 19, 2024), https://www.federalregister.gov/documents/2024/04/19/2024-07838/definition-of-engaged-in-the-business-as-a-dealer-in-firearms.

[17] Because FFLs must retain Forms 4473, 27 C.F.R. § 478.124(b) and 27 § C.F.R. 478.129(b), federal and state law enforcement use them to trace crime guns, solve crimes, and ensure public safety. 18 U.S.C. § 923(g)(1)(B) ("The Attorney General may inspect or examine the inventory and records" of an FFL, *inter alia*, "in the course of a reasonable inquiry during the course of a criminal investigation" and "for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation."); *see also What happens to the data provided on Form 4473*?, ATF, https://www.atf.gov/firearms/questions-and-answers (last visited July 25, 2026) (apply category "ATF Form 4473" and navigate to question "What happens to the data provided on Form 4473?") ("ATF may inspect individual Forms 4473 containing personally identifying information held by FFLs only for limited regulatory or law enforcement functions . . . for example, when tracing firearms linked to individual criminal investigations").

[18] *60-Day Notice of Information Collection Request: Form 4473*, 91 Fed. Reg. 25448 (May 8, 2026).

to obtain firearms and requesting the relevant background check, Form 4473 also requires that the FFL "identify the firearm to be transferred by listing . . . 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 prior to the transfer of the firearm.[19] This information can help "link a suspect to a firearm in a criminal investigation" via crime gun tracing.[20]

Form 4473 remains critical through criminal prosecutions as well.[21] Several statutes make it a crime to make knowingly false statements "with respect to any fact material to the lawfulness of the sale" of a gun,[22] or "with respect to the information required . . . to be kept" in the gun dealer's records.[23] The clarity of the questions and answers on Form 4473 thus is essential to achieving conviction in those cases.

Discussion

I. The Changes in this Proposed Rule

Under the current regulations, an FFL can only transfer a firearm to a resident of the state where the FFL operates, with limited exceptions, and the buyer must prove residence with their government-issued identification document, even in circumstances where the individual has residences in different states and may lawfully purchase a firearm where they are currently living.[24] ATF now proposes to broadly expand the definition of state of residence so that a person may be considered a resident of a state "even if the person is not domiciled in that state." Additionally, ATF proposes language that conflicts with the GCA and would allow military service members to simultaneously maintain two states of residency, where they essentially commute to work over state lines.[25]

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[19] 27 C.F.R. § 478.124(c)(4).

[20] *National Tracing Center,* "The Tracing Process," ATF, https://www.atf.gov/firearms/tools-services-law-enforcement/national-tracing-center (last updated September 19, 2024).

[21] *See Huddleston*, 415 U.S. at 825 (explaining that ATF Form 4473 is a "means of providing adequate and truthful information about firearms transactions" to assist in the government's detection of firearms that are either obtained for an illegal purpose or purchased by someone ineligible to own a firearm).

[22] 18 U.S.C. § 922(a)(6).

[23] *Id.* § 924(a)(1)(A).

[24] *See* 27 C.F.R. § 478.124; 27 C.F.R. § 478.11 (defining "identification document" and "state of residence"); *see also* ATF Ruling 2001-5, *Identification of Transferee*, (Dec. 31, 2001), https://www.atf.gov/firearms/docs/ruling/2001-5-identification-transferee/download.

[25] Specifically, the GCA states, "a member of the Armed Forces on active duty **is** a resident of the State in which his permanent duty station is located." 18 U.S.C. § 921(b) (emphasis added). In the corresponding regulation, ATF reiterates this definition. *See* 27 C.F.R. § 478.11 ("State of residence…If an individual is on active duty as a member of the Armed Forces, the individual's State of residence is the State in which his or her permanent duty station is located, as stated in 18 U.S.C. § 921(b)."). ATF now proposes to substitute "is the State," from the regulation, with "includes the State," which would make the remainder of the sentence, "as stated in 18 U.S.C. 921(b)," inaccurate. 91 Fed. Reg. 25434.

The Proposed Rule also would allow an individual to use various *non-government-issued* documents as primary evidence of residence, such as leases and utility bills.[26] ATF's rationale for this is that some individuals with multiple residences "are likely to have driver's licenses, voter registrations, and car registrations from the states in which they are domiciled rather than their second residence address where they are stationed or attending school."[27] These residency and identification changes would reduce the FFL's ability to comply with state firearm laws as well as with the residency requirement in the GCA itself.

The Proposed Rule also would extend the period during which an initiated Form 4473 and its accompanying NICS background check are valid for a purchase, from the current 30 days to two months. ATF states that the "30-day time limit is causing many technical violations for FFLs," specifically that this "technical violation, which has been cited among other substantive violations, contributed to revoking 95 federal firearms licenses, with another 237 FFLs receiving warning conferences" and that most "were within two calendar months of the original check."[28] ATF claims that this change will not impact public safety, based entirely on the assertion that there are "no available statistics for how many purchasers who lawfully purchase firearms become prohibited persons between the first and second month after purchasing."[29]

Additionally, the Proposed Rule would allow "licensees [to] use Form 4473 to facilitate a private-party background check only if they do not take possession of the firearm."[30] This is the exact opposite of current procedure, which requires an FFL facilitating a private-party NICS background check to "enter the firearm into the FFL's A&D record as an acquisition from the private party seller."[31] ATF gives no explicit justification for this change, but simply includes it in a section entitled "Restructuring § 478.124," implying it is for organizational and clarity purposes.

ATF proposes several other changes it frames as "non-substantive" form changes. For example, it proposes removing from § 478.124(c)(1) the requirement that transferees must state the "county or similar political subdivision and whether they reside within city limits." The Proposed Rule argues that "transferees are often unsure how to answer the question or whether they live within formal city limits, in the county, or in another political subdivision" and claims that information is unnecessary for law enforcement because many "online sources . . . can provide

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[26] Related to this change, the Proposed Rule would now require identity verification by a government-issued photo identification, not simply a government-issued identification, as the regulations currently provide. *See, e.g.,* 27 C.F.R. § 478.11 (defining "identification document"); 91 Fed. Reg. 25438.

[27] 91 Fed. Reg. 25433.

[28] 91 Fed. Reg. 25434.

[29] 91 Fed. Reg. 25435.

[30] 91 Fed. Reg. 25436.

[31] ATF PROCEDURE 2020-2, ATF (Sept. 2, 2020), https://www.atf.gov/sites/default/files2/atf_proc._2020-2_recordkeeping_and_background_check_procedure_0_0_0.pdf; *see also* Open Letter to All Pennsylvania Federal Firearms Licensees, ATF (Dec. 29, 2005), https://www.atf.gov/media/18301/download ("NICS regulations prohibit FFLs from using NICS to conduct a background check on a person who is not attempting to acquire a firearm from the FFL. Therefore, in a 'private transfer,' an FFL who conducts a [background] check without taking a firearm into inventory would violate NICS regulations.").

necessary information about a person's political subdivision using the person's residence address."[32]

The Proposed Rule also would remove the requirement that "licensees certify that they do not know or have reason to believe the transferee intends to sell or dispose of the firearm to a prohibited person or intends to use the firearm in furtherance of a felony, terrorism, or drug trafficking."[33] This is reflected on the current Form 4473 by Yes/No questions *directed to the prospective buyer* that specifically ask whether they intend to buy the firearm to transfer it for these prohibited reasons, and then a final signature *by the FFL* that certifies, based on the buyer's answers, the FFL's review of verification documents, and the NICS check, that the FFL does not believe it is unlawful for them to transfer the firearm to the buyer. ATF now claims that this certification is covered under the FFL's general certification: "it is not unlawful for me to sell, deliver, transport, or otherwise dispose of the firearm(s) listed on this form,"[34] without the buyer's specific answers about intent to make a prohibited transfer or usage.

ATF also would no longer require that FFLs document the details of the buyer's identification document (type of document, date issued, date expired, document number) on Form 4473 and would allow the FFL to instead simply attach a copy.[35] This removes another security step that presently requires the FFL to closely review the identification document. It also separates the document details from the form contents, leaving the opportunity for it to be torn away and misplaced.

Finally, the Proposed Rule would allow FFLs to auto-populate certain information on the Form. ATF claims this is to "improve efficiency and eliminate errors caused by entering the information manually," ignoring that auto-population itself may cause errors, without the check that comes with manual entry, namely, that a person directly provides their own information.[36]

II. The Proposed Rule Violates the Administrative Procedure Act.

These proposed changes violate the APA, which prohibits agency action that is contrary to law and arbitrary and capricious.[37] Under the APA, courts are "to set aside federal agency action that is 'not in accordance with law. . . .'"[38] This includes regulations "that are contrary to clear congressional intent."[39] Further, an agency action is arbitrary and capricious "if it is not reasonable and reasonably explained."[40] Agency decisions are not reasonably explained when, among other

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[32] 91 Fed. Reg. 25437.

[33] 91 Fed. Reg. 25436.

[34] 91 Fed. Reg. 25436.

[35] *Id.*

[36] 91 Fed. Reg. 25437.

[37] 5 U.S.C. § 706(2)(A).

[38] *FCC v. NextWave Pers. Commc'ns Inc*., 537 U.S. 293, 300 (2003) (quoting 5 U.S.C. § 706(2)(A)).

[39] *United Farm Workers v. United States Dep't of Lab*., 509 F. Supp. 3d 1225, 1235 (E.D. Cal. 2020) (internal quotation marks omitted); *see also Fed. Election Comm'n v. Democratic Senatorial Campaign Comm*., 454 U.S. 27, 32 (1981) ("[Courts] must reject administrative constructions of the statute, whether reached by adjudication or by rule-making, that are inconsistent with the statutory mandate or that frustrate the policy that Congress sought to implement.") (citations omitted).

[40] *Ohio v. Env't Prot. Agency*, 603 U.S. 279, 292 (2024) (internal quotation marks and citations omitted).

things, "the agency has . . . entirely failed to consider an important aspect of the problem, [or] offered an explanation for its decision that runs counter to the evidence before the agency. . . ."[41] Where an agency changes a prior position, it is required to "display awareness that it *is* changing position" and "must show that there are good reasons for the new policy."[42] An agency must provide a "more detailed justification" for a change where "its prior policy has engendered serious reliance interests. . . ."[43]

Several changes in the Proposed Rule are contrary to law because they affirmatively frustrate the GCA's purposes and the congressional intent underlying the Act. These changes are also arbitrary and capricious because ATF failed both to acknowledge and consider the serious reliance interests of the States in overhauling Form 4473 and provide an adequate justification for it. The States urge ATF to withdraw this Proposed Rule.

A. The State of Residence and Identification Document Proposal Is Contrary to Law and Arbitrary and Capricious.

ATF's expansion of the definition of state of residence, generally and for military personnel, as well as loosening the ways in which a person can prove their residence, are sweeping changes that, working together, contravene the purposes of the GCA by making it easier for individuals to purchase firearms unlawfully. In addition to undermining the GCA, the Proposed Rule reflects arbitrary and capricious action. ATF's justification, to add "convenience and flexibility"[44] to the process of buying a firearm, does not outweigh the serious public safety impact of these changes.

1. <u>This Proposal Undermines the Purpose of the GCA.</u>

The GCA's purpose is to keep firearms "out of the hands of those not legally entitled to possess them[,]"[45] as well as to provide a reliable and accurate source of information for law enforcement investigating crimes and tracing firearms. Core to the GCA is the judgment "that there was a serious problem of individuals going across State lines to procure firearms which they could not lawfully obtain or possess in their own State," and that absent federal restrictions on firearms trafficking, state and local law enforcement would not be able "to control this traffic within their own borders through the exercise of their police power."[46]

To that end, the GCA makes it unlawful for an FFL to sell firearms (with some exceptions) to "any person who the licensee knows or has reasonable cause to believe does not reside in . . . the

[41] *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

[42] *F.C.C. v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009).

[43] *Id.*

[44] 91 Fed. Reg. 25439.

[45] *Abramski*, 573 U.S. at 181 (internal citations omitted).

[46] *Mance v. Sessions*, 896 F.3d 699, 705–06 (5th Cir. 2018) (citing Congress' findings in the GCA); *see also Navegar, Inc. v. United States*, 192 F.3d 1050, 1063 (D.C. Cir. 1999) (describing "the widely accepted knowledge that there is a vast interstate market in firearms that makes the states unable to control the flow of firearms across their borders or to prevent the crime inevitably attendant to the possession of such weapons once inside their borders.").

State in which the licensee's place of business is located. . . ."[47] The FFL must therefore determine the state in which the purchaser resides.[48]

Firearms obtained in states with looser firearms laws are routinely trafficked into jurisdictions with stricter laws. From 2017 to 2021, 27% of traced guns, or 390,154 guns, were recovered in a state other than where they were originally sold.[49] And, for example, in 2024, 16% of firearms recovered in Illinois and successfully traced to the final dealer of record originated in the neighboring state of Indiana.[50] To provide another example, in 2021, just over half (50.4%) of the firearms recovered by law enforcement in California and successfully traced to a final dealer of record were traced to dealers located in other states.[51]

By broadly expanding the definition of state of residence and allowing a wide array of documents without any governmental source to confirm residence, the Proposed Rule would make it much easier for individuals to purchase firearms in a state in which they are not a resident, including firearms that are *illegal to possess in the person's actual state of residence*. It would do so by allowing a person to claim residence of a state for firearm purchase purposes "even if the person is not domiciled in that state[,]"[52] and would in turn additionally frustrate state laws that prohibit the importation of firearms purchased in another state.[53] And while the Proposed Rule provides examples of what this may include, there is no limiting principle to this proposed definition, and it would allow a prospective buyer to be considered a resident where they are not. As a result, the Proposed Rule would make it harder for FFLs to determine if a prospective buyer is a resident (albeit part-time) of the state where the FFL is located and therefore make it easier for traffickers to operate.

Specifically, the Proposed Rule opens the door to several scenarios where it is unclear how the FFL should determine the buyer's residence and the legality of their purchase. For example, is the buyer a resident of a state in which their significant other resides and where they spend a significant amount of time? Are they a resident of the state where their place of employment or business is located? The Proposed Rule leaves it up to individual FFLs, without any guidance, to determine case-by-case.

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[47] 18 U.S.C. § 922(b)(3).

[48] In recognizing that "some valid government-issued identification documents do not include the bearer's current residence address," ATF has allowed such identifications documents to be supplemented with another valid government-issued document that shows the bearer's current address. ATF Ruling 2001-5, *Identification of Transferee*, (Dec. 31, 2001), https://www.atf.gov/firearms/docs/ruling/2001-5-identification-transferee/download.

[49] *Five Things to Know About Crime Guns, Gun Trafficking, and Background Checks*, Everytown Research & Policy (Oct. 10, 2022), https://everytownresearch.org/report/five-things-to-know-about-crime-guns/.

[50] *Firearms Trace Data: Illinois – 2024*, ATF (July 24, 2025), https://www.atf.gov/firearms/report/firearms-trace-data/firearms-trace-data-illinois-2024.

[51] *See* California DOJ Office of Gun Violence Prevention, *Data Report: The Impact of Gun Violence in California*, p. 17-18 (Aug. 2023), https://oag.ca.gov/system/files/media/OGVP-Data-Report-2022.pdf.

[52] 91 Fed. Reg. 25443.

[53] *See, e.g.*, CAL. PENAL CODE § 27585.

Further, this broad definition, combined with the option to use non-government-issued documents to prove residence, creates a loophole to evade the firearm laws of the state in which a buyer resides. The following are just two scenarios facilitated by the Proposed Rule:

- An Illinois parent is on their college-age child's lease and utility bills while the child attends college in Missouri. Knowing that assault weapons are banned in Illinois, the Illinois parent uses their passport and their child's lease and utility bills to purchase an assault weapon in Missouri and brings it back to Illinois.
- An Illinois resident who used to live in Indiana is engaged in a straw-purchasing scheme. Because they have purchased firearms from several Illinois FFLs and want to avoid being flagged as a suspect buyer, they use old bank statements and a cancelled check with an Indiana address, along with a government-issued photo ID with no residential address, to purchase guns in Indiana. They then traffic them into Illinois.

The Proposed Rule also makes it much easier for an individual to purchase a firearm with fake documentation. Blank residential lease forms are widely available and need only be filled out, printed, and signed to appear legitimate.[54] Any document available as a PDF for printing at home can be quickly and easily edited before printing, something that many gun traffickers will surely do if this Proposed Rule is finalized.

The identification-document changes extend to digital credentials as well. The Proposed Rule would permit an FFL to accept a digital identification document whenever such documents are commonly accepted in the state where the FFL's premises are located—the law of the FFL's state, not the issuing state, supplies the criterion.[55] Yet nothing in the Proposed Rule requires any mechanism for verifying a digital credential's authenticity or revocation status with the issuing authority in real time, despite known and growing counterfeit and screenshot-based attacks on mobile identification documents. ATF nowhere considered conditioning acceptance of digital identification on the existence of a real-time verification mechanism—an obvious alternative the APA required it to address.

Finally, the Proposed Rule aims to allow members of the armed forces to *simultaneously* have two states of residency based on the fact that they commute to work across state lines.[56] Specifically, the Proposed Rule seeks to substitute the word "is," for "includes," in order to "avoid[] any such implication" that a member of the armed forces would have only one state of residency.[57] This proposal is not consistent with the plain language of the GCA, which clearly states that the individual "*is* a resident of the state in which his permanent duty station is located."[58] These changes frustrate the GCA's purposes and are contrary to congressional intent.

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[54] *See, e.g.*, *Lease Agreement Template*, https://rentalleaseagreements.com/ (last visited July 31, 2026).

[55] 91 Fed. Reg. 25434 (proposed changes to 27 C.F.R. § 478.11).

[56] 91 Fed. Reg. 25434. Proposed Example 6 (91 Fed. Reg. 25443) confirms ATF's intent to allow military members two states of residency simultaneously. It also conflicts with Examples 1 and 2 of the current regulation, as well as the plain language of the GCA, under which travel for work does not create residence and a person with homes in two states is a resident of each only while present there. 27 C.F.R. § 478.11.

[57] 91 Fed. Reg. 25434.

[58] 91 Fed. Reg. 25434 (emphasis added); see also 18 U.S.C. 921(b) (emphasis added).

2. <u>The Proposed Rule Lacks Adequate Justification and Ignores Reliance Interests.</u>

ATF primarily justifies its proposed changes with a claim that the changes will add "convenience and flexibility"[59] to the process of buying a firearm. This is insufficient in contrast to the public safety harm that would flow from the changes.

That ATF would require government-issued identification to prove identity but not residence shows the arbitrariness of this action. This indicates ATF understands the need to verify identity and how to do so reliably, but has little concern for the residency rules, which are of particular interest to the States. ATF would allow proof of residency sourced from private individuals or entities (such as a residential lease). ATF asserts that these documents "often provide the best primary evidence of residence and are routinely the evidentiary basis upon which state governments list a person's address on the driver's license or state identification card."[60] ATF provides no citation to back up this claim. Even if true, ATF fails to consider that such documents have no imprimatur of accuracy, unlike a government-issued identification, and that purchasers with an interest in falsifying their residency will have no problem doing so.

Further, ATF provides no data as to why this change is necessary for enhanced "convenience and flexibility" nor why the current system is inadequate. For example, ATF does not explain adequately (or at all) why a person in these categories cannot reasonably acquire the required documentation under the current scheme. Indeed, ATF has already issued a ruling that allows people with residences not yet reflected by their government ID to prove residence with government-issued documents.[61]

ATF also invokes the REAL ID Act[62] and how the new list of acceptable documents to prove residence is being brought into alignment with those accepted by most states issuing REAL ID-compliant identification.[63] But ATF never explains why documents sufficient for a state agency's supervised ID-issuance process should suffice at a firearms counter—or why the resulting government-issued ID should no longer be required for proof of residence.

Failure to provide an adequate justification is especially problematic because the Proposed Rule also entirely ignores serious reliance interests. The States have a vested interest in making sure that state laws are followed during firearm transactions. The residency requirement is a key part of this. For example, many states have banned (or otherwise restricted) the sale of assault weapons,[64] and their laws must be followed by residents of, and within, their state. Crime guns recovered in states with strict gun control laws are often acquired in neighboring states with more

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[59] 91 Fed. Reg. 25439.

[60] 91 Fed. Reg. 25433.

[61] ATF Ruling 2001-5, *Identification of Transferee*, (Dec. 31, 2001), https://www.atf.gov/firearms/docs/ruling/2001-5-identification-transferee/download.

[62] REAL ID Act of 2005, Pub. L. No. 109-13, 119 Stat. 302.

[63] 91 Fed. Reg. 25438.

[64] *E.g.*, Cal., CAL. PENAL CODE §§ 30500-31115; Conn., CONN. GEN. STAT. §§ 53-202a – 53-202o; Del., DEL. CODE TIT. 11, § 1466(A); D.C., D.C. CODE ANN. §§ 7-2502.02(A)(6), 7-2505.01, 7-2505.02(A); Haw., HAW. REV. STAT. ANN. §§ 134-1, 134-4, 134-8; Ill., 720 ILCS 5/24-1.9-1.10; Md., MD. CODE ANN., CRIM. LAW §§ 4-301 – 4-306, MD. CODE ANN., PUB. SAFETY § 5-101(R); Mass., MASS. GEN. LAWS Ch. 140, §§ 121, 122, 123, 131M; N.J., N.J. STAT. ANN. §§ 2C:39-1w, 2C:39-5, 2C:58-5, 2C:58-12, 2C:58-13; N.Y., N.Y. PENAL LAW §§ 265.00(22), 265.02(7), 265.10, 400.00(16-A); R.I., R.I. GEN LAWS §§ 11-47.2-1, 2; And Wash., REV. CODE WASH. (ARCW) Title 9, Ch. 9.41.

permissive markets.[65] The States have, up until now, relied upon the federal regulation's state residency requirement in order to reduce this type of illegal misconduct. If that now becomes illusory, the States will be forced to devote additional enforcement and intelligence resources to interdiction of illegally purchased guns from out-of-state.

These residency and identification changes, where ATF only considered the possibility of slight inconveniences for legal purchases, rather than the reality of intentional criminal acts, are plainly arbitrary and capricious.

B. The Doubling of the Validity Period for the NICS Background Check and Initiated Form 4473 Should Be Withdrawn.

Doubling the validity period of an initiated Form 4473 and its accompanying NICS background check—from the current 30 days to two months—would harm public safety for no sufficient, demonstrable benefit.

This proposal violates the APA in several ways. First, it is inconsistent with the GCA, as amended by the Brady Handgun Violence Prevention Act ("Brady Act"), and so is contrary to law. The GCA is meant "to provide support to Federal, State, and local law enforcement officials in their fight against crime and violence[.]"[66] This includes by ensuring a firearm is not transferred "pursuant to a 'stale' NICS check."[67] ATF recognizes that this change could create "a risk that a person could become prohibited between the first and second months after the background check" but dismisses the idea because "it has no evidence (even anecdotal evidence) suggesting that the risk is high."[68] However, ATF's own data refute that dismissal. The Proposed Rule reports 14,632 "delayed denials"[69] between 2020 and 2024—purchasers already prohibited at the initial check who nonetheless received a firearm—including an annual average of approximately 360 delayed denials resolved in the 31-to-60-day window.[70]

Further, the Brady Act contemplates that the FFL will conduct the NICS check as close to the transfer as possible, to best effectuate its goal of public safety. Indeed, in initially imposing the 30-day limitation on the validity of the NICS check and Form 4473, ATF noted "it is clear that the Brady law contemplates that the licensee should contact NICS *immediately* prior to the transfer of a firearm."[71] Because the Proposed Rule would allow the FFL to conduct the NICS check and complete Form 4473 further removed in time from the actual transfer, it is plainly contrary to law.

Second, the proposal violates the APA because it is arbitrary and capricious. ATF promulgated the 30-day limitation to balance public safety against state-mandated waiting

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[65] *Supra* notes 49, 50, and 51.

[66] Gun Control Act of 1968, Pub. L. No. 90-618, § 101, 82 Stat. 1213 (codified as amended at 18 U.S.C. §§ 921–934).

[67] *Implementation of Public Law 103-159, Relating to the Permanent Provisions of the Brady Handgun Violence Prevention Act*, 63 Fed. Reg. 58272, 58275 (proposed Oct. 29, 1998) (codified at 27 C.F.R. pts. 178 and 179).

[68] 91 Fed. Reg. 25435.

[69] The Proposed Rule contains two figures for "delayed denials": 14,632 in the narrative of the preamble, and 14,636 in Table 2. 91 Fed. Reg. 25440.

[70] 91 Fed. Reg. 25440, Table 2.

[71] 63 Fed. Reg. 58274 (emphasis added).

periods.[72] In reaching this compromise, ATF explicitly declined to adopt a longer time period and emphasized that FFLs "should try to avoid lengthy delays between the time the NICS check is conducted and the time the firearm is transferred."[73] In the Proposed Rule, ATF takes a step back from this position and determines that the extension "strikes a better balance between avoiding unnecessary regulatory violations while preserving public safety."[74] However, it does not explain why this is the case nor does it meaningfully account for the reliance interests as required by the APA.[75]

ATF's proffered rationale behind the change is inadequate. It states that the current 30-day limit "is causing many technical violations for FFLs"—specifically 1,050 violations in 5 years, 78% of which were within two calendar months of the original check—which "has been cited among other substantive violations, contributed to revoking 95 federal firearms licenses, with another 237 FFLs receiving warning conferences."[76] But selling a firearm on an expired background check is hardly technical—it directly undermines the purpose and effectiveness of the GCA's background check system. ATF's 78% figure also undermines the choice the agency made. If more than three-quarters of the violations occur within two calendar months of the original check, a far more modest extension—to 45 days, for example—would capture most of the asserted compliance benefit while preserving a meaningful re-screening interval for purchasers whose circumstances change after the initial check. Yet ATF treated the choice as binary between the status quo and a doubling, analyzing no intermediate alternative. The States do not offer such an alternative as a substitute for withdrawal, but an obvious and less harmful alternative of this kind must be addressed, and ATF's failure to consider it is independently arbitrary and capricious.[77]

Further, while ATF claims that the violations "burden FFLs and their employees," it admits that the violations carry no "financial penalties."[78] It claims these violations contributed to revoking 95 licenses but identifies 1,050 violations for transferring post 30 days in the past 5 years, reflecting that these violations only result in the revocation of a license after several repeat violations. In any event, out of more than 128,000 FFLs in operation, these numbers are not significant.[79]

The Proposed Rule also speculates that the extension would reduce FFLs' need to repeat the process in that 30- to 60-day window.[80] But again, ATF provides no data to suggest this is a

[72] 63 Fed. Reg. 58274.

[73] 63 Fed. Reg. 58274.

[74] 91 Fed. Reg. 25435.

[75] *Fox Television Stations*, 556 U.S. at 515, and *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221–22 (2016).

[76] 91 Fed. Reg. 25434.

[77] *See State Farm*, 463 U.S. at 46–51 (agency must address obvious alternatives and give adequate reasons for their abandonment); *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 30 (2020) (agency must consider alternatives within the ambit of the existing policy).

[78] 91 Fed. Reg. 25439.

[79] The extension also could not be justified by analogy to the Brady Act's treatment of certain state-issued permits as alternatives to a point-of-sale NICS check. 18 U.S.C. § 922(t)(3); 91 Fed. Reg. 25435. A qualifying permit issues only after a state investigation, subject to continuing revocation authority; an FFL has no comparable relationship with a buyer who returns on day sixty. *Id.*

[80] 91 Fed. Reg. 25439.

burden. Indeed, ATF previously has recognized that FFLs can take certain precautions in order to not violate the 30-day rule or have to repeat the process, including by "conduct[ing] the NICS check after the firearm comes in, rather than at the time that the order is placed" in the event a longer delay is expected.[81] Thus, this speculation wholly fails to meet the "more detailed justification" test the APA requires.[82]

Finally, ATF asserts that there is no evidence this change will "adversely impact public safety,"[83] but does not describe what steps it took to look for such evidence. The Brady Act is fundamentally about public safety, and doubling the length of the validity of a NICS check cannot reasonably be seen as a net zero impact on public safety. Given the extensive evidence that the current background check system works, ATF's decision to dramatically alter that system should have *some* basis in evidence. The proposal should be withdrawn.

C. The Private Transfer Change Conflicts with the GCA and Lacks Justification.

ATF proposes to revise the regulations to preclude an FFL who is "facilitating a background check" from taking "the firearm into the licensee's inventory . . . or facilitate the transfer in any other way."[84] This is an unexplained reversal from current ATF procedure, which encourages FFLs to facilitate background checks for private transfers and require that, when doing so, the FFL take the firearm into its inventory and log the firearm into their A&D book.[85] As ATF has recognized, there are important reasons for this procedure: namely, to enhance public safety and assist law enforcement, particularly with respect to crime gun tracing.[86]

ATF's ability to trace crime guns depends heavily on records kept by licensed retailers, and thus private sales present a crime-gun-tracing obstacle.[87] That is why, up until this point, ATF has encouraged FFLs to facilitate private sales, recording the sale via Form 4473 and in the FFL's A&D book.[88] Despite this profound public safety concern and benefits to law enforcement, the

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[81] 63 Fed. Reg. 58275.

[82] *Fox Television Stations,* 556 U.S. at 515.

[83] 91 Fed. Reg. 25435.

[84] 91 Fed. Reg. 25446.

[85] ATF PROCEDURE 2020-2 (Sept. 2, 2020), https://www.atf.gov/sites/default/files2/atf_proc._2020-2_recordkeeping_and_background_check_procedure_0_0_0.pdf (hereinafter, "ATF PROCEDURE 2020-2"); *see also Open Letter to All Pennsylvania Federal Firearms Licensees*, ATF (Dec. 29, 2005), https://www.atf.gov/media/18301/download ("NICS regulations prohibit FFLs from using NICS to conduct a background check on a person who is not attempting to acquire a firearm from the FFL. Therefore, in a 'private transfer,' an FFL who conducts a [background] check without taking a firearm into inventory would violate NICS regulations.").

[86] ATF PROCEDURE 2020-2, at 2.

[87] 89 Fed. Reg. 29083 (when a firearm is transferred by an unlicensed person, records enabling a trace rarely exist); *id.* (ATF can "determine the purchaser in 77 percent" of law enforcement's trace requests "[l]argely as a result of the records the GCA requires licensees to maintain").

[88] ATF PROCEDURE 2020-2. Several states, such as Illinois, have gone a step further and require background checks on private sales and require FFLs (or state police) to facilitate those private sales. *See, e.g.*, 430 ILCS 65/3(a-10) ("[A]ny person who is not a federally licensed firearm dealer and who desires to transfer or sell a firearm or firearms to any person who is not a federally licensed firearm dealer shall, before selling or transferring the firearms, contact a federal firearm license dealer . . . to conduct the transfer or the Illinois State Police with the transferee's or purchaser's Firearm Owner's Identification Card number to determine the validity of the transferee's or purchaser's Firearm

Proposed Rule essentially prohibits the FFL from creating a record of the transfer in its A&D book, thereby hampering law enforcement's ability to trace firearms that were transferred via private sales. And even though the Proposed Rule still would require the FFL to fill out a Form 4473 for private sales, another one of ATF's 34 proposed rules would shorten the retention period for Form 4473 used to facilitate voluntary private-party transfers to 90 days—after which there would be no record of the transfer, making the firearm virtually untraceable.[89] This proposal therefore plainly undermines the central purpose of the GCA and is contrary to law.

Moreover, this action is arbitrary and capricious because ATF does not even attempt to provide a justification for this change and ignores its public safety impacts.[90] Indeed, the Proposed Rule buries the change in a section entitled "Restructuring § 478.124," implying it is merely organizational.

D. Other Changes Are Contrary to the GCA and Arbitrary and Capricious.

The Proposed Rule claims that several changes "make it easier for people to follow," remove redundant language, and improve efficiency in completing the Form. In combination with the rest of ATF's rulemaking package, however, these changes undermine the goals of the GCA and are contrary to law, and ATF's efficiency justification is insufficient in light of the States' serious reliance interests in the current Form.

First, the removal of political subdivision, county, and city limits information is contrary to the GCA. Because some counties, cities, and other government subdivisions may have firearm regulations and laws that are stricter than those under state law,[91] this question is meant to assist FFLs in ensuring that they only transfer firearms to individuals who may lawfully possess that type of firearm in the locality where they reside, as well as to quickly identify the right law enforcement agency, when one must be contacted. Specifically, ATF acknowledges "[i]dentifying the subdivision or city limits in which a person resides allows ATF to identify the correct law enforcement authority to notify" under the 2022 NICS Denial Notification Act.[92] Congress enacted that statute to ensure prompt notification of state, local, and tribal law enforcement when a prohibited person attempts to acquire a firearm in their jurisdiction,[93] and striking that field

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Owner's Identification Card under State and federal law, including the National Instant Criminal Background Check System."); *see also* Cal. Penal Code § 27545 (requires private party transactions through FFL).

[89] *See Firearm Records Retention Periods*, 91 Fed. Reg. 24413 (proposed May 6, 2026) (to be codified at 27 C.F.R. pt. 478) (shortening retention periods for Form 4473 and related records). Several of the undersigned States are separately submitting a comment in opposition to that proposed rule and incorporate that comment by reference here.

[90] *Fox Television Stations*, 556 U.S. at 515; *see also Encino Motorcars*, 579 U.S. at 221–22 ("[A] reasoned explanation is needed for disregarding facts and circumstances that underlay or were engendered by the prior policy. It follows that an unexplained inconsistency in agency policy is a reason for holding an interpretation to be an arbitrary and capricious change from agency practice.") (citations and quotations omitted).

[91] For example, an ordinance in Cook County, Illinois generally prohibits the transfer of a firearm to any person "if the licensee or permit holder knows or reasonably should know that the person requesting the firearm has previously purchased or otherwise obtained a firearm within 30 days prior to the date on which the purchase or transfer is sought." Cook County Ordinances Sec. 54-183. Illinois state law includes no such limit. *See also Kirk v. City of Morgan Hill*, 83 Cal. App. 5th 976 (2022) (holding Morgan Hill, CA ordinance requiring that the theft or loss of a gun be reported within 48 hours is not preempted by California state law, which requires missing guns be reported within five days).

[92] 91 Fed. Reg. 25437.

[93] NICS Denial Notification Act of 2022, Pub. L. No. 117-103, 136 Stat. 49 (codified at 18 U.S.C. § 925B).

conflicts with the statutory framework and injects delay and error into the very notifications Congress sought to accelerate.

Other changes to Form 4473 are also contrary to the GCA. The Proposed Rule would remove a critical certification because it is purportedly duplicative of other certifications. It is not. ATF seeks to remove a Yes/No question, asking the buyer to confirm that they do not intend to purchase the firearm for specific prohibited reasons. That in turn allows the FFL to understand its obligations, provides a clear and direct warning of types of firearms sales that are prohibited, and—critically—makes the FFL's more general certification that the sale is not unlawful meaningful. Removing this certification does not "lead to [less] misunderstandings," but would likely increase the occurrence of prohibited sales. [94] Nor can these changes be assessed in isolation from the rest of ATF's rulemaking package. In a contemporaneous proposal, ATF seeks to narrow straw purchasing prohibitions, exempting entire categories of purchases made on another person's behalf.[95] Taken together, the two proposals would narrow the substantive offense while simultaneously degrading the record evidence used to detect and prove it—an interaction neither docket acknowledges, let alone analyzes.

The Proposed Rule also would allow FFLs to attach a copy of the buyer's identification document to Form 4473 instead of copying the document information onto the Form itself. It also would allow auto-population of certain information into Form 4473. In the quest to maximize efficiency, however, these changes remove the essential close observation by the FFL to confirm the identity of the buyer. Indeed, FFLs identify potential straw purchasers by, among other things, closely observing the transferee during completion of the form, and carefully reviewing identification documents.[96] Auto-population and attaching a copy in lieu of closely reading and transcribing the identification document increases the likelihood that prohibited persons acquire firearms.

These changes are also arbitrary and capricious. The political subdivision, county, and city limits information is a longstanding requirement on the Form.[97] Address-to-jurisdiction lookups are not reliably accurate: Massachusetts alone contains multiple municipalities with easily

[94] Removing the transferee's intent certifications also hampers straw purchase and false statement prosecutions under 18 U.S.C. §§ 922(a)(6) and 924(a)(1)(A), which rest on the clear, discrete questions and certifications of Form 4473: the government proves the knowingly false statement by pointing to the specific answer the buyer personally gave to a plain-English question. 18 U.S.C. §§ 922(a)(6), 924(a)(1)(A), 932; *see, e.g.*, 720 ILCS 5/24-3.5 (criminalizing false statements in connection with the purchase of a firearm); *State v. Pleva*, 203 N.J. Super. 178 (1985).

[95] *Firearms Transactions and Straw Purchases*, 91 Fed. Reg. 24448 (proposed May 6, 2026) (to be codified at 27 C.F.R. pt. 478). Several of the undersigned States are separately submitting a comment in opposition to that proposed rule and incorporate that comment by reference here.

[96] Don't Lie for the Other Guy, ATF, "Retailers Are the First Line of Defense," https://www.atf.gov/firearms/tools-services-law-enforcement/atf-firearms-programs/dont-lie-other-guy (last visited July 30, 2026); *see also* 27 C.F.R. § 478.124(c)(3)(i) (explaining that the FFL "shall verify the identity of the transferee by examining the identification document . . . presented, and shall note on the Form 4473 the type of identification used"); *see also* What is a Straw Purchase and What Should FFLs Know?, FFLGUARD (June 9, 2025), https://www.fflguard.com/what-is-a-straw-purchase-and-what-should-ffls-know/ (noting that FFLs must remain vigilant to identify signs of straw purchasing, including address inconsistencies and identification documents that appear new, altered, or inconsistent with the buyer's appearance).

[97] "The requirement that the form include 'county' has been in the regulations and on the form since 1988," and the "similar political subdivision and whether [one] reside[s] within city limits" was added in 2022. 91 Fed. Reg. 25437.

confused names (*e.g.*, Bridgewater and East Bridgewater; the three Brookfields), and border addresses, unincorporated areas, and tribal lands routinely produce ambiguous results in commercial geocoders. Nevertheless, ATF proposes to delete this question, asserting, without evidence, that people often "misread the word 'county' as 'country,'" and because "many online sources" exist from which the FFL or law enforcement can obtain this information concerning an individual's county (or similar subdivision) and whether they reside within city limits.[98] This would make it materially harder to prove that a prospective buyer lives in a jurisdiction where a particular firearm is prohibited, or that the FFL knew the sale of the firearm was illegal because the buyer is not required to provide specific residence information. Further, if transferees truly misread "county" as "country," that is a problem solved by redesigning the field for clarity—an obvious alternative ATF never considered—not by deleting the question that makes statutory compliance practicable.

Several confusing things about the certification change—removing a Yes/No question asking the buyer to confirm that they do not intend to purchase the firearm for specific prohibited reasons—also demonstrate ATF has not engaged in reasoned decision-making. The Proposed Rule ignores the fact that the specific certification is one made by the prospective buyer, not the FFL. Section 478.124(c) requires the FFL to obtain a Form 4473 showing "certification that *the transferee* does not intend to purchase or acquire any firearm for sale or other disposition to a person so prohibited or in furtherance of any felony or other offense punishable by imprisonment for a term of more than one year, a Federal crime of terrorism, or a drug trafficking offense."[99] And the Proposed Rule's purportedly "new Form 4473's FFL general certification" already is on the current Form, so presumably that existing certification was never a sufficient stand-in for the buyer's more specific certification.[100] These gaffes "paint a picture of agency action that was not the product of reasoned decision-making, but of a rushed and pre-determined agenda."[101]

The removal of the requirement for the FFL to review and provide details of the buyer's identification also harms the process, particularly where ATF would allow significant auto-population. ATF's only explanation for the change is a superficial assertion, without any evidence, that it will improve efficiency and reduce errors. However, as the Proposed Rule recounts, ATF previously instructed licensees not to auto-populate Form 4473 out of concern that doing so might make it difficult to prosecute individuals for making false statements if they did not personally enter the data.[102] That concern is rooted in the statutes themselves: 18 U.S.C. §§ 922(a)(6) and 924(a)(1)(A) reach only statements knowingly made, and where a field was populated by software from a scanned document or a prior transaction, a defendant will argue that they did not make—or did not knowingly verify—the statement at issue. The Proposed Rule nowhere explains why the prosecutorial concerns that animated ATF's prior instruction have now disappeared, and an unexplained reversal of this kind is arbitrary and capricious.[103]

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[98] *Id.*

[99] 27 C.F.R. § 478.124(c)(1) (emphasis added).

[100] ATF, FORM 4473, FIREARMS TRANSACTION RECORD, (Revised Aug. 2023) at p. 3, Section E, https://www.atf.gov/media/18646/download.

[101] *Nat'l TPS All. v. Noem*, 166 F.4th 739, 774 (9th Cir. 2026) (Mendoza, J., concurring).

[102] 91 Fed. Reg. 25437–38.

[103] *Fox Television Stations,* 556 U.S. at 515; *Encino Motorcars*, 579 U.S. at 221–22.

III. Procedural Defects Compound the Substantive Failures of the Proposed Rule.

The Proposed Rule suffers from several procedural defects that are independent of, and compound, its substantive shortcomings. The APA requires a transparent process that permits meaningful public participation, discloses the actual basis for agency action, and allows affected sovereigns and stakeholders to respond to the materials and assumptions that shaped the proposal. ATF did not satisfy those requirements.

First, even if the Proposed Rule itself did not violate the APA, which it does, it is a piece of a larger deregulatory scheme that weakens the system that Congress built to keep firearms "out of the hands of those not legally entitled to possess them."[104] ATF has divided the administrative record in a way that makes the package harder to evaluate and challenge. The APA does not permit that kind of compartmentalized decision-making or gamesmanship. An agency must "examine the relevant data" and provide a reasoned explanation that shows a "rational connection between the facts found and the choice made."[105] ATF cannot evade that requirement by asking the public to comment on the pieces while withholding analysis of the whole.

Second, ATF failed to conduct required state consultation under Executive Order 13132.[106] Section 6(a) of that EO requires every agency to maintain an accountable process to ensure "meaningful and timely input by State and local officials" in developing regulatory policies with federalism implications.[107] The Proposed Rule identifies no consultation with the States at all. Instead, the Proposed Rule appears to proceed from the premise that no federalism consultation was required. That conclusion required a reasoned explanation, particularly given the proposal's obvious effects on state enforcement systems and public-safety responsibilities,[108] which ATF failed to provide.

Third, ATF failed to disclose the substance of the significant outside influence that appears to have shaped the Proposed Rule. In materials accompanying the rulemaking package, ATF states that "[n]one of these rules were drafted directly or indirectly by any member of the gun industry."[109] Yet at the public announcement of the rulemaking package, the Department of Justice and ATF said the review leading to this Proposed Rule "included a consideration of industry and expert feedback and concerns."[110] ATF's "New Era of Reform" materials describe the package as built on "partnership with the firearms industry" and "trust and collaboration."[111] That message was reinforced at the announcement itself, where ATF Director Cekada boasted of "partnership"

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[104] *Abramski*, 573 U.S. at 181 (internal citations omitted).

[105] *State Farm*, 463 U.S. at 43.

[106] Exec. Order No. 13132, § 1(a), 64 Fed. Reg. 43255, 43255 (Aug. 10, 1999).

[107] *Id*. § 6(a), 64 Fed. Reg. 43257.

[108] *See* Section II, *supra*.

[109] ATF, *ATF Launches New Era of Reform: Questions and Answers* (2026), www.atf.gov/rules-and-regulations/atf-launches-new-era-reform/questions-and-answers.

[110] DOJ Press Release, *DOJ and ATF Announce Regulatory Reforms to Reduce Burdens on Law-Abiding Gun Owners and Businesses* (Apr. 29, 2026), www.justice.gov/opa/pr/doj-and-atf-announce-regulatory-reforms-reduce-burdens-law-abiding-gun-owners-and-businesses.

[111] ATF, *ATF's New Era of Reform* (May 12, 2026), https://www.atf.gov/rules-and-regulations/atf-launches-new-era-reform.

and conversations with "stakeholders," while surrounded by industry representatives who themselves acknowledged their significant influence.[112] The Proposed Rule's misrepresentation about this input violates the APA.[113]

IV. ATF's Regulatory Impact Analysis Is Inadequate.

The Proposed Rule's Regulatory Impact Analysis ("RIA") fails to consider the full range of costs and harms of the Proposed Rule, including costs it will impose on the States, their residents, and law enforcement.[114] Nor can the States assess the Proposed Rule's real-world costs divorced from the entire deregulatory package. The only costs discussed relate to the validity-period doubling, and that analysis is lacking. ATF admits the change risks prohibited persons acquiring firearms but concludes that risk is minimal based on data regarding delayed denials—data that does not reflect the relevant cohort of those who become prohibited between 31 and 60 days. The RIA likewise assigns no cost to the enforcement consequences the States will bear from failed traces and impaired prosecutions. A cost-benefit analysis that credits speculative industry convenience while assigning zero value to concrete law-enforcement harms is not reasoned decision-making. Finally, ATF quantifies no meaningful benefit to industry, except to claim without support that the changes will reduce burden and add convenience and flexibility.[115]

Conclusion

The Proposed Rule would cause irreparable harm to public safety, harming the States, its law enforcement agencies, and its citizens. Many of those harms could not be undone after the fact: a firearm transferred to a prohibited person on a stale background check, a trace that fails for want of a reliable record, or a prosecution lost to an ambiguous form cannot be remedied retroactively. In short, these changes conflict with the GCA and lack the reasoned explanation the APA requires. The undersigned Attorneys General on behalf of the States, therefore, urge ATF to withdraw the Proposed Rule.

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[112] *See* Statement of Robert Cekada, Acting AG Blanche and Acting ATF Director Cekada Announce Changes to ATF Regulations, Video (Apr. 29, 2026), https://www.justice.gov/opa/video/acting-ag-blanche-and-acting-atf-director-cekada-announce-changes-atf-regulations. Director Cekada stood before representatives of National Shooting Sports Foundation ("NSSF"), the National Rifle Association, the American Suppressor Association, and the Gun Owners of America ("GOA"). *See also* NSSF, *NSSF Welcomes ATF Landmark Rulemaking Package* (Apr. 29, 2026), https://www.nssf.org/articles/nssf-welcomes-atf-landmark-rulemaking-package/; The Weekly Reload Podcast, "How ATF's New Regulations Change the Gun Industry (Ft. NSSF's Larry Keane)," published May 10, 2026, https://thereload.com/podcast-how-atfs-new-regulations-change-the-gun-industry-ft-nssfs-larry-keane/ (Larry Keane, NSSF's Senior Vice President and General Counsel, claimed that ATF reached out to NSSF "as they were working on the drafts to get perspective from the industry."); Nat'l Rifle Ass'n, *ATF Announces New Director, Historic Regulatory Overhaul* (Apr. 30, 2026), https://www.nraila.org/articles/20260430/atf-announces-new-director-historic-regulatory-overhaul; Gun Owners of Am., *Here's What GOA Did for Your Gun Rights This Week* (May 2, 2026), https://www.gunowners.org/na040226/.

[113] ATF should place into the administrative record *all* materials, including communications and documents, concerning pre-Proposed Rule and post-Proposed Rule discussions with industry representatives, trade associations, advocacy organizations, Members of Congress or their staff, and other stakeholders. ATF should then reopen the comment period for at least 90 days. Without these steps, any final rule will rest on a procedurally defective record.

[114] *Supra* Section II.

[115] 91 Fed. Reg. 25439.

Sincerely,

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