



August 4, 2026

Via Federal eRulemaking Portal and U.S. Mail

The Honorable Todd Blanche,
Acting Attorney General of the United States

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

c/o: ATF Rulemaking Comments
Mail Stop 6N-518, Office of Regulatory Affairs
Enforcement Programs and Services
Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF)
99 New York Avenue, NE
Washington, DC 20226

Attn: DOJ ATF RIN 1140-AA93; DOJ ATF RIN 1140-AA96

Re: Multistate Comment Letter on Recently Proposed Changes to Regulations Related to the Federal Statutory Prohibition on Importation of Firearms

Dear Acting Attorney General Todd Blanche and ATF Director Robert Cekada,

The undersigned Attorneys General of the States of New York, Arizona, California, Colorado, Connecticut, Delaware, the District of Columbia, Hawai'i, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, North Carolina, Oregon, Rhode Island, Vermont, Virginia, and Washington (the "States") submit this comment letter in response to the Notices of Proposed Rulemaking by the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice ("ATF") in the May 8, 2026 edition of the Federal Register. This letter addresses proposed rules related to the importation of firearms, entitled:

- Importing Dual-Use Frames, Receivers, or Barrels (RIN 1140-AA96), 91 Fed. Reg. 25192 (May 8, 2026); and

- Firearms Activities in Foreign Trade Zones, Customs-Bonded Warehouses (RIN 1140-AA93), 91 Fed. Reg. 25237 (May 8, 2026).

Federal law prohibits importing firearms unless they fall into certain narrow statutory exceptions.¹ This prohibition was enacted initially as a part of the 1968 Gun Control Act (the “GCA”).² The National Firearms Act (the “NFA”) separately prohibits importing NFA-defined firearms, subject to similar exceptions.

ATF has published two NPRMs that will broaden these exceptions beyond what Congress intended. *First*, ATF proposes authorizing the importation of frames, receivers, and barrels of non-sporting weapons if they could, in theory, be used in a sporting weapon (the “Dual-Use NPRM”).³ And *second*, ATF proposes to allow the importation of firearms for any reason into both customs-bonded warehouses and foreign trade zones (the “CBW FTZ NPRM”).⁴ Both proposals are contrary to law, for the reasons described below. And both proposals are arbitrary and capricious, as they represent a change in agency position without reasoned analysis and because ATF has failed to consider an important aspect of the problem, namely the massive public safety implications that flow from both of these proposals.

ATF seeks to promulgate these rules separately and presents them as “clarify[ing]” federal law or “[r]esolving regulatory ambiguity.”⁵ But taken together, they represent a major departure from past agency practice—one that is at odds with the federal laws governing importation of firearms and that will create grave new risks to public safety. If promulgated as written, these rules will allow unscrupulous companies to profit from importing military-grade weaponry. The States urge ATF to withdraw the Dual-Use NPRM and the CBW FTZ NPRM.

I. Background

Federal law prohibits, with certain exceptions, the importing of any firearm, including the frame, receiver, or barrel of a firearm.⁶ The law includes exceptions for imports for research, competition,

¹ 18 U.S.C. § 922(I).

² Pub. L. No. 90-618, 82 Stat. 1213 (1968).

³ Importing Dual Use-Frames, Receivers, or Barrels, 91 Fed. Reg. 25,192 (May 8, 2026), <https://www.federalregister.gov/documents/2026/05/08/2026-09163/importing-dual-use-frames-receivers-or-barrels>.

⁴ Firearm Activities in Foreign Trade Zones, Customs-Bonded Warehouses, 91 Fed. Reg. 25,237 (May 8, 2026), <https://www.federalregister.gov/documents/2026/05/08/2026-09162/firearm-activities-in-foreign-trade-zones-customs-bonded-warehouses>.

⁵ ATF, New Era of Reform: Clarify, <https://www.atf.gov/rules-and-regulations/atf-launches-new-era-reform/clarify> (last accessed June 23, 2026).

⁶ 18 U.S.C. § 922(I) (GCA prohibition); 18 U.S.C. § 925(d) (exceptions); 26 U.S.C. § 5844 (NFA prohibition).

and training.⁷ It also allows imports of firearms that are “particularly suitable for or readily adaptable to sporting purposes, excluding surplus military firearms” so long as they are not NFA-covered firearms.⁸ As the agency previously explained, “it is generally unlawful under the GCA to import firearms that are not recognized as suitable for sporting purposes or that are ‘firearms’ as defined under the NFA.”⁹ The statute goes on to provide that the sporting purposes exception does not apply to the importation of a frame, receiver, or barrel of a firearm “where the Attorney General has not authorized the importation of [such] firearm.”¹⁰ Additionally, most firearms and firearms parts are “defense articles,” subject to the Arms Export Control Act (the “AECA”), which imposes separate registration and licensure requirements.¹¹

As an additional exception to the general prohibition on importation, ATF has previously allowed bringing firearms into a foreign-trade zone (“FTZ”) for very limited purposes. Specifically, ATF has defined “importation” as “[t]he bringing of a firearm or ammunition into the United States; except that the bringing of a firearm or ammunition from outside the United States into a foreign-trade zone for storage pending shipment to a foreign country or subsequent importation into this country, pursuant to this part, shall not be deemed importation.”¹² A foreign-trade zone is an area (designated by the Foreign Trade Zone Board) that is in or adjacent to a port of entry of the United States, where goods are exempt from U.S. customs laws.¹³ Though FTZs are considered “outside the customs territory of the United States,”¹⁴ the GCA, NFA, and AECA all apply in FTZs.¹⁵

As for customs-bonded warehouses (“CBW”), the agency has previously taken the position that only items that are “importable under the GCA and NFA by meeting an exception” under either law may be brought into a CBW.¹⁶ CBWs are “buildings or parts of buildings and other enclosures” that have been “designated by the Secretary of the Treasury as bonded warehouses for the storage of imported merchandise.”¹⁷ Unlike FTZs, they are (for customs purposes) inside the United

⁷ 18 U.S.C. § 925(d)(1).

⁸ 18 U.S.C. § 925(d)(3).

⁹ ATF, Open Letter to All Federal Firearms Licensees: Allowable Activities for Firearms Brought into Customs Bonded Warehouses and Foreign Trade Zones (Oct. 31, 2024), <https://www.atf.gov/media/16846/download> (hereinafter “2024 CBW Open Letter”).

¹⁰ 18 U.S.C. § 925(d)(3).

¹¹ 2024 CBW Open Letter.

¹² 27 C.F.R. 478.11; *see also* 27 C.F.R. 479.11 (similar definition of “importation” for NFA firearms).

¹³ 19 U.S.C. §§ 81b, 81c.

¹⁴ 15 C.F.R. 400.1(c).

¹⁵ 2024 CBW Open Letter.

¹⁶ *Id.*

¹⁷ 19 U.S.C. § 1555(a).

States.¹⁸ Also unlike FTZs, the ATF's current regulations do not permit an exemption to allow importation of certain firearms into CBWs.

The existing rules reflect urgent policy considerations and decades of consistent interpretation. Congress enacted the GCA in part to address a "flood" of imported "surplus military weapons and low-priced foreign-made firearms," which caused "major law enforcement problems" throughout the 1960s.¹⁹ The general prohibition on imports stopped the inflow of cheap firearms and has had lasting effects. Today, 18 U.S.C. § 922(l) and § 925(d)(3) together prevent criminals from accessing functionally equivalent weapons by buying them piecemeal. ATF has sensibly interpreted this statutory language to "permit[] no exceptions" for decades.²⁰

Loosening these restrictions—as ATF now proposes to do—threatens these policy achievements. ATF suggests, for example, that the Dual-Use NPRM could allow imported "AK receivers."²¹ AK ("Avtomat Kalashnikova") receivers are key components of AK-47-style rifles, which are cheap, durable assault rifles used in conflicts around the world (they were a service weapon of the Soviet Army for decades). For good reason, they are illegal in many States.²² Importing them will undermine those States' laws and imperil public safety. Additionally, cheap firearms parts will likely do more than just facilitate circumvention of 18 U.S.C. § 922(l) and § 925(d)(3)'s import restrictions. Increasing the number of imported barrels threatens to aggravate the ongoing proliferation of ghost guns, which combine unmarked frames and receivers with commercially available parts.

In implementing 18 U.S.C. § 922(l) and § 925(d)(3), ATF has consistently counted firearms in CBWs as imported and limited the FTZ exception to firearms held "for storage." Less than three weeks after Congress enacted the GCA in 1968, ATF proposed its first set of implementing regulations, including the predecessor to 27 C.F.R. 478.11. Those proposed regulations defined

¹⁸ Compare 19 U.S.C. § 81c(a) with 19 U.S.C. § 1555.

¹⁹ H.R. Rep. No. 90-1577, at 9 (1968); see also, e.g., President's Comm'n on the Assassination of President Kennedy, *Report of the President's Commission on the Assassination of President Kennedy* 118-19 (1964) (describing purchase of \$21 imported surplus rifle used in Kennedy assassination), <https://www.govinfo.gov/content/pkg/GPO-WARRENCOMMISSIONREPORT/pdf/GPO-WARRENCOMMISSIONREPORT.pdf>.

²⁰ U.S. Dep't of Just., Bureau of Alcohol, Tobacco, Firearms, and Explosives, *Open Letter to Federally Licensed Firearms Importers and Registered Importers of U.S. Munitions Import List Articles* (Nov. 22, 2005), <https://www.atf.gov/media/18291/download>.

²¹ 91 Fed. Reg. at 25,193.

²² See, e.g., N.Y. Penal Law §§ 265.01-b, 265.00(3)(e), 265.00(22)(a); 720 ILCS 5(i)/24-1.9(a)(1)(J)(i); Cal. Penal Code §§ 30510, 30605(a)-(b); Mass. Gen. Laws ch. 140, §§ 121, 131M; Conn. Gen. Stat. § 53-202a;

“importation” in exactly the same language that 27 C.F.R. 478.11 uses today.²³ ATF finalized that language after notice and comment and it has remained unchanged ever since.²⁴ Just over two years later, ATF promulgated the predecessor to 27 C.F.R. 479.11, and its operative provisions have similarly remained unchanged.²⁵ Under regulations promulgated contemporaneously with the GCA, the FTZ exception has always applied only to firearms kept “for storage,” and CBWs have never been excluded from the definition of “importation.” ATF most recently reaffirmed this position in 2024.²⁶

Other federal regulations indicate that this limit on FTZ use (to keeping items “for storage”) is far from unique to firearms. Among others, the same restriction appears in regulations that govern wine,²⁷ distilled spirits,²⁸ specially denatured spirits,²⁹ and beer.³⁰ Unlike the identical language in 27 C.F.R. 478.11 and 479.11, ATF has never indicated any “ambiguity in these definitions as to what is and is not permitted.”³¹

II. The Dual-Use NPRM Is Contrary to Law

The Dual-Use NPRM cannot be reconciled with the plain text of the statutes that govern importation of firearms and firearm parts.

First, the NPRM would authorize the importation of materials that “had been previously configured on non-sporting firearms, military surplus, or firearms regulated under 27 CFR part 479.”³² This contradicts the plain text of 18 U.S.C. § 925(d)(3). That section authorizes an exemption for weapons “generally recognized as particularly suitable for or readily adaptable to sporting purposes,” but then excludes from that exemption any “surplus military firearms.” It also excludes from the exemption any firearm that “fall[s] within the definition of a firearm as defined in section 5845(a) of the Internal Revenue Code of 1986,” which is another way of saying NFA firearms.

²³ *Compare* Commerce in Firearms and Ammunition, 33 Fed. Reg. 16,285, at 16,287 (Nov. 6, 1968), *with* 27 C.F.R. § 478.11.

²⁴ *See* Commerce in Firearms and Ammunition, 33 Fed. Reg. 18,555, at 18,558 (Dec. 14, 1968).

²⁵ *Compare* Machine Guns, Destructive Devices, and Certain Other Firearms, 36 Fed. Reg. 14,255, at 14,257 (Aug. 3, 1971), *with* 27 C.F.R. § 479.11.

²⁶ *See* 2024 CBW Open Letter at 2 (“[T]here are no federal laws or regulations that exempt or suspend application of [the GCA, NFA, or AECA] and [their] regulations in CBWs.”).

²⁷ 27 C.F.R. §§ 28.121(c), 28.211(c).

²⁸ *Id.* §§ 28.91(a)(3), 28.171(c).

²⁹ *Id.* § 28.151(b).

³⁰ *Id.* at §§ 28.141(a)(3), 28.144(b)(2), 28.221(c).

³¹ 91 Fed. Reg. at 25,239.

³² 91 Fed. Reg. at 25,199.

Second, the NPRM purports to authorize the importation of parts of firearms that, if brought in fully assembled, would violate federal importation laws. This, too, contradicts 18 U.S.C. § 925(d)(3), which provides that “where the Attorney General has not authorized the importation of the firearm . . . it shall be unlawful to import any frame, receiver, or barrel of such firearm which would be prohibited if assembled.” In other words, the agency may not allow importation of a component part, where it has not already authorized the importation of the type of firearm from which that part came. But this is precisely what the NPRM would allow—because it would now allow importation of a frame, receiver, or barrel, even if it came from a non-sporting configured firearm that cannot be imported. The NPRM contends that this is simply a reflection of changing gun technology: “Many parts, including frames, receivers, or barrels, are modular. This modularity allows the same frame, receiver, or barrel to be used in both sporting and non-sporting firearm configurations.”³³ That may well be, but Congress has spoken. If a firearm part comes from a firearm which is not authorized to be imported, the agency’s hands are bound.

Third, the NPRM would allow people, including FFLs, to use imported parts from a non-sporting rifle to assemble a non-sporting firearm or NFA firearm, in direct contravention of 18 U.S.C. § 922(r). The NPRM would add a new paragraph that permits “[a] frame, receiver, or barrel that is imported because there is an identified firearm sporting configuration at the time of importation” to be “used to assemble a . . . non-sporting” firearm or NFA-defined firearm.³⁴ Here, the regulation authorizes assembly of a weapon prohibited for importation (a “non-sporting firearm”) even though 18 U.S.C. § 922(r) prohibits precisely that: “It shall be unlawful for any person to assemble from imported parts any semiautomatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under section 925(d)(3) of this chapter as not being particularly suitable for or readily adaptable to sporting purposes.” To be sure, the NPRM does include a savings clause (“provided assembling such firearm complies with 18 U.S.C. 922(r), and the NFA”).³⁵ But the savings clause cannot be reconciled with the clear language of the proposed rule, which purports to authorize violations of 18 U.S.C. § 922(r), and it cannot save this NPRM from itself.³⁶ The same defect extends to the NFA: Congress permitted importation of NFA-defined firearms only for narrow governmental, scientific, research, and industry-sample purposes, 26 U.S.C. § 5844, and a rule that contemplates the assembly of new NFA firearms from imported

³³ 91 Fed. Reg. at 25,193.

³⁴ 91 Fed. Reg. at 25,199.

³⁵ 91 Fed. Reg. at 25,193.

³⁶ See *Fed. Trade Comm’n v. Credit Bureau Ctr., LLC*, 937 F.3d 764, 775 (7th Cir. 2019) (citation omitted) (“The Supreme Court has long instructed that acts ‘cannot be held to destroy [themselves]’ through saving clauses.”); *City & Cnty. of San Francisco v. Trump*, 897 F.3d 1225, 1239 (9th Cir. 2018) (Savings clauses “are read in their context,” and “cannot be given effect when the Court, by rescuing the constitutionality of a measure, would override clear and specific language”); *Shomberg v. United States*, 348 U.S. 540, 547–48, (1955) (declining to “nullify” “clear legislative purpose” based on savings clause).

dual-use parts cannot be squared with that prohibition or with the NFA's separate making and registration requirements. 26 U.S.C. §§ 5821, 5822.

III. The Dual-Use NPRM Is Arbitrary and Capricious

The Dual-Use NPRM is arbitrary and capricious because it “fail[s] to consider an important aspect of the problem” and because it “is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.”³⁷ Additionally, the NPRM would create confusion and needlessly muddy the waters.

The NPRM fails to consider an important aspect of the problem, by not considering any public safety effects that will flow from adopting a rule that allows the importation of military surplus parts and similarly dangerous firearm parts. ATF's failure to consider how flooding the U.S. market with cheap parts taken from military surplus and other non-sporting weapons is particularly galling when contrasted with the history underlying Congress' adoption of the initial ban on importing non-sporting weaponry. *See supra* page 4. Even more galling is ATF's complete failure to recognize that the firearm parts in question are in high demand among criminal networks for use in assembling dangerous and untraceable ghost gun assault weapons. ATF's own data confirm the danger: privately made “ghost guns” submitted to ATF for tracing rose from 1,629 in 2017 to 19,273 in 2021—an increase of more than 1,000 percent.³⁸

Similarly, the NPRM—issued *after* the agency's June 23, 2025 letter ruling (ATF Ruling 2025-1), allowing the importation of non-sporting barrels so long as someone can conjure a sporting use for that barrel—gives no real consideration of a full range of alternatives that the agency might adopt. For instance, the only alternatives that the agency considered in any detail were: (1) maintaining the status quo, post-June 2025 letter ruling (i.e. allowing importation of non-sporting barrels); (2) issuing guidance to allow importation of dual-use frames or receivers; and (3) promulgating the Dual-Use NPRM.³⁹ Missing from this list is a key, obvious alternative: rescinding the June 2025 letter ruling, and returning to the prior status quo, in which dual-use frames, receivers, and barrels cannot be imported. Other alternatives that the agency could have considered included gathering information and publishing a study about how expanding imports to allow dual-use frames, receivers, and barrels to be imported into the United States will impact public safety. The failure to take this step is particularly concerning, given the very apparent lack of information about this and other likely costs that will stem from the NPRM, if it is issued as a final rule.

³⁷ *Motor Vehicle Manufacturers Ass'n of the United States, Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

³⁸ ATF, National Firearms Commerce and Trafficking Assessment (NFCTA): Crime Guns, Volume Two, Part III, at 5 (2023), <https://www.atf.gov/firearms/docs/report/nfcta-volume-ii-part-iii-crime-guns-recovered-and-traced-us/download>.

³⁹ 91 Fed. Reg. at 25,195.

To that end, the NPRM asserts—without support—that the NPRM will “impose no costs.”⁴⁰ Taking just one of the platforms of firearm parts that are now available: the suggestion that opening up U.S. borders to a torrent of imported AK-47 frames, receivers, and barrels “will impose no costs” ignores the ways in which gun parts are used to build untraceable ghost guns and the particular lure that AK-47s have to would-be mass shooters.⁴¹ Additionally, States such as California, Arizona, and New Mexico are particularly concerned about how this rule could fuel drug cartel-related violence at or near the Southern border of the United States, with a significant loss of life and drain on law enforcement resources. Moreover, the economic costs to city and state governments from even one shooting involving military grade weaponry are staggering.⁴² The “no costs” assertion also contradicts the NPRM itself, which concedes both that ATF “does not have sufficient information to calculate quantifiable savings” and that an “unknown subset of domestic manufacturers may be adversely affected with increased competition.”⁴³

Separately, the NPRM is arbitrary and capricious because its proffered purpose (“clarification”) is at odds with the NPRM’s shifting and circular explanations. The NPRM clarifies nothing and instead leaves would-be importers and gun owners with unanswered questions: how could someone import a frame from a non-sporting weapon and use it to assemble a non-sporting weapon (which the NPRM would permit) without violating 18 U.S.C. 922(r)? How implausible does a “sporting configuration” need to be before ATF will determine that there is no world in which a firearm part is dual-use? What standard will ATF use to evaluate the justifications proffered by importers? We do not know the answers to these questions, because the NPRM does not say.

Finally, the NPRM is arbitrary and capricious because it demonstrates “naiveté from which ordinary citizens are free.”⁴⁴ The NPRM creates an incentive to invent “sporting configurations,” no matter how outlandish and divorced from what the firearm parts have been used to do (prior to importation). The NPRM’s suggestion that 18 U.S.C. § 922(r) permits assembly of imported non-sporting parts into a non-sporting firearm is an invitation to violate that statute. The consequences will be the proliferation of dangerous, military grade weaponry on American streets.

IV. The CBW FTZ NPRM Is Contrary to Law

The CBW FTZ NPRM makes two changes to the ATF’s regulations; both are contrary to the federal law.

⁴⁰ 91 Fed. Reg. at 25,195.

⁴¹ See, e.g., C.J. Chivers, *Tools of Modern Terror*, N.Y. TIMES (<https://www.nytimes.com/interactive/2016/world/ak-47-mass-shootings.html>).

⁴² *Report: The Economic Cost of Gun Violence*, Everytown for Gun Safety Support Fund (July 19, 2022), <https://everytownresearch.org/report/the-economic-cost-of-gun-violence/>.

⁴³ 91 Fed. Reg. at 25,195.

⁴⁴ *Dep’t of Com. v. New York*, 588 U.S. 752, 785 (2019) (citation omitted).

First, the CBW FTZ NPRM proposes allowing bringing firearms into CBWs on the same terms as the regulations allow bringing firearms into FTZs.⁴⁵ This rule is contrary to law, because it overlooks crucial distinctions between CBWs and FTZs, as well as the underlying reason why bringing firearms into FTZs is not considered “importation.” FTZs must be in or adjacent to ports of entry into the United States,⁴⁶ and products held in FTZs are not “subject to the customs laws of the United States.”⁴⁷ Indeed, once a product is taken from U.S. territory into an FTZ, it is deemed to have been *exported* for customs purposes.⁴⁸ Contrast that with the law governing CBWs, which provides that “bonded warehouses shall be used solely for the storage of *imported* merchandise, . . . or for the repacking, sorting, or cleaning of *imported* merchandise.”⁴⁹ In other words, when an item is in a CBW, it has already been imported for customs purposes, which means that the prohibition on importation applies, subject *only* to the limited exceptions found in 18 U.S.C. § 925(d). ATF cannot wave a wand and declare otherwise through this regulation.

The second proposed change fares no better. The current text of 27 C.F.R. § 479.11 specifies that importation is “[t]he bringing of a firearm within the limits of the United States or any territory under its control or jurisdiction, from a place outside thereof . . . with intent to unlade” and then exempts from that definition bringing a gun “into a foreign trade zone for storage pending shipment to a foreign country.” Similarly, 27 C.F.R. § 478.11 defines importation as “[t]he bringing of a firearm or ammunition into the United States” and then exempts “the bringing of a firearm or ammunition from outside the United States into a foreign-trade zone for storage pending shipment to a foreign country or subsequent importation into this country, pursuant to this part, shall not be deemed importation.” The proposed regulation would exempt from the definition of “importation” *any* activity—not just storage—in both FTZs and CBWs. Though the NPRM casts its changes as “faithfully align[ing] with the” text of “18 U.S.C. 925(d)(3),”⁵⁰ the proposed rule would stretch a minor exception⁵¹ into a massive loophole that effectively guts the prohibition on importation found in 18 U.S.C. § 922(l) and that is completely untethered from the narrow language of 18 U.S.C. § 925(d). To be sure: the CBW and FTZ statutes contemplate, in abstract, that those spaces could be used for non-storage tasks. But the question is whether doing so is importation under the GCA and NFA. And while those statutes do not expressly define “import,” they do define importer. Under the GCA, “[t]he term ‘importer’ means any person engaged in the business of importing or bringing firearms or ammunition into the United States for purposes of

⁴⁵ 91 Fed. Reg. at 25,238.

⁴⁶ 19 U.S.C. § 81b(a).

⁴⁷ 19 U.S.C. § 81c(a).

⁴⁸ *Id.*

⁴⁹ 19 U.S.C. § 1555(a) (emphasis added).

⁵⁰ 91 Fed. Reg. at 25,239.

⁵¹ The States take no position, in this comment, about the lawfulness of the storage in FTZ exception in current GCA regulations, except to note the GCA’s prohibition of importation “for purposes of sale or distribution.” 18 U.S.C. § 921(a)(9).

sale or distribution.”⁵² And under the NFA, “[t]he term ‘importer’ means any person who is engaged in the business of importing or bringing firearms into the United States.”⁵³ Both statutes rely upon a definition of importation that is, simply, bringing something into the United States. ATF affirmed that interpretation “roughly contemporaneously with enactment of the statute,” and it has “remained consistent over time.”⁵⁴ Neither statute carves out CBWs or FTZs as an exception. Compounding the problem, the NPRM cedes to customs authorities the question of what may be done with firearms in these zones, stating that CBP “is responsible for determining what operations pertaining to firearms conducted in a CBW are permissible” and that the FTZ Board is responsible for FTZs. Congress vested enforcement of the GCA and NFA in the Attorney General, and “[a] general delegation of decision-making authority to a federal administrative agency does not, in the ordinary course of things, include the power to subdelegate that authority beyond federal subordinates.”⁵⁵

V. The CBW FTZ NPRM Is Arbitrary and Capricious

The CBW FTZ NPRM “fail[s] to consider an important aspect of the problem,”⁵⁶ “relie[s] on factors which Congress has not intended it to consider,”⁵⁷ fails to “consider responsible alternatives to its chosen policy and to give a reasoned explanation for its rejection of such alternatives,”⁵⁸ and fails to offer good reasons for the change in policy.⁵⁹

The NPRM’s main justification for including CBWs among the import exceptions appears to be that some members of the gun industry are already importing non-sporting weapons into CBWs in violation of ATF regulations.⁶⁰ Indeed, the NPRM candidly describes these businesses as “current non-compliant FFL importers.”⁶¹ This is the case, apparently, even though ATF previously issued an open letter to all federal firearms licensees, reminding them that “[t]o lawfully bring firearms into a CBW, the items must be importable under the GCA and NFA by meeting an exception” to the general prohibition on importation.⁶² Put another way: ATF is arguing that it is appropriate to change its regulations because some unscrupulous companies are violating those regulations. The

⁵² 18 U.S.C. § 921(a)(9).

⁵³ 26 U.S.C. § 5845(l).

⁵⁴ *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 386 (2024); *see also Skidmore v. Swift & Co.*, 323 U.S. 134 (1944).

⁵⁵ 91 Fed. Reg. at 25,239; *U.S. Telecom Ass’n v. FCC*, 359 F.3d 554, 566 (D.C. Cir. 2004).

⁵⁶ *State Farm*, 463 U.S. at 43.

⁵⁷ *Id.*

⁵⁸ *Farmers Union Cent. Exch., Inc. v. FERC*, 734 F.2d 1486, 1511 (D.C. Cir. 1984).

⁵⁹ *Southwest Airlines Co. v. FERC*, 926 F.3d 851, 856 (D.C. Cir. 2019).

⁶⁰ 91 Fed. Reg. at 25,238.

⁶¹ 91 Fed. Reg. at 25,240.

⁶² 2024 CBW Open Letter at 3.

States are hard pressed to see how this kind of encouragement of illegality is a proper factor to rely upon in support of this decision by a law enforcement agency.

The CBW FTZ NPRM identifies three alternatives: (1) maintain the status quo; (2) issue guidance that is substantively identical to the NPRM; and (3) the NPRM. In doing so, ATF overlooks several alternatives. First, if the agency is concerned that there is no functional difference between FTZs and CBWs,⁶³ it could prohibit importation into FTZs for any purpose, including storage. Second, given that ATF purports to receive numerous inquiries about what constitutes storage, it could issue guidance on what constitutes storage or it could issue an NPRM solely to define storage. And third, it could take enforcement action against companies that, after the issuance of the 2024 CBW Open Letter, continued to import guns illegally into CBWs or to use FTZs for any purpose other than storage for non-importable guns.

The NPRM's economic analysis is no more rigorous. Its claimed \$1.67 million in industry savings rests on an assumption ATF admits it cannot verify—that ten percent of FFL importers operate in CBWs—and the NPRM asserts that the proposal would “impose no costs” even while acknowledging that approximately 21,499 domestic manufacturers “may be indirectly and negatively affected” by expanded imports.⁶⁴

Finally, the CBW FTZ NPRM fails to consider the impacts on public safety that will flow from increased importation of otherwise prohibited guns and components thereof. Just as with the Dual-Use NPRM, the very predictable effect of this rule, if promulgated, will be the proliferation of military grade weaponry. That is not speculation: ATF acknowledges that it “has previously denied requests from importers who have sought permission to first bring nonsporting weapons (which generally cannot be imported under the GCA) into an FTZ or CBW in order to reconfigure or reassemble them into sporting configurations before bringing them into the United States.”⁶⁵ The proposed rule would authorize precisely those transactions—and, combined with the Dual-Use NPRM, would allow importers to strip otherwise-banned weapons for importable “dual-use” parts inside these zones. Additionally, there is every reason to believe that companies will exploit this loophole to import military grade weaponry, cut them up for parts, and then sell unserialized parts (such as triggers, grips, magazines, stocks, optics mounts, springs, sights, pins, and other parts) for the assembly of ghost guns (whether 3D printed or from kits). This is already happening, and the expansion of this practice will have real, devastating effects in the undersigned States.

⁶³ *Id.*

⁶⁴ 91 Fed. Reg. at 25,240–41.

⁶⁵ 91 Fed. Reg. at 25,239.

VI. Other Procedural Defects

ATF advanced this rule as part of a package the DOJ and ATF publicly described as the product of “partnership with the firearms industry,” and “trust and collaboration” with licensees.⁶⁶ Industry organizations have publicly claimed substantial authorship of the package, describing “months” of work with ATF and DOJ and taking credit for specific rule changes.⁶⁷ Where an agency relies on input from regulated parties — including legal theories, factual assertions, or draft language — the substance of that input must appear in the record so the public can respond and a court can assess the basis for the agency’s decision.⁶⁸ ATF should place into this docket all pre- and post-NPRM communications with industry representatives concerning these proposed rules, and reopen the comment period so the public and the States can respond.

Additionally, both NPRMs posit, without support, that “[t]his proposed rule would not have substantial direct effects on the states, the relationship between the federal government and the states, or the distribution of power and responsibilities among the various levels of government.”⁶⁹ The States’ experience suggests otherwise, however. These rules will allow proliferation of non-sporting guns and gun parts. State law enforcement agencies will need to devote resources to interdiction of illegal imports and the predictable increase of violence, especially by international drug cartels. These rules will also undermine state firearms laws—such as prohibitions on untraceable firearms and assault-style firearms—that rely on the federal import prohibition as an upstream safeguard. Because these federalism effects are substantial and direct, both NPRMs require the consultation and federalism analysis called for by Executive Order 13132.

* * * * *

⁶⁶ See ATF, New Era of Reform: Modernize (May 12, 2026), <https://www.atf.gov/rules-and-regulations/atf-launches-new-era-reform/modernize> (DOJ/ATF announcement materials describing the package).

⁶⁷ NSSF, NSSF Welcomes ATF Landmark Rulemaking Package (Apr. 29, 2026), <https://www.nssf.org/articles/nssf-welcomes-atf-landmark-rulemaking-package/> (stating that the package resulted from “months of NSSF working closely with the ATF and DOJ”); American Suppressor Association, ASA Statement on Nomination of Robert Cekada for ATF Director (Nov. 17, 2025), <https://americansuppressorassociation.com/news/asa-statement-on-nomination-of-robert-cekada-for-atf-director> (stating that ASA had “worked closely” with then-Deputy Director Cekada “to ensure law-abiding gun owners have a seat at the table in shaping policy”); Nat’l Rifle Ass’n, ATF Announces New Director, Historic Regulatory Overhaul (Apr. 30, 2026), available at <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), available at <https://www.gunowners.org/na040226/>.

⁶⁸ See, e.g., *Brennan v. Dickson*, 45 F.4th 48, 66 (D.C. Cir. 2022) (citation omitted); *United States v. N.S. Food Prods. Corp.*, 568 F.2d 240, 251–52 (2d Cir. 1977).

⁶⁹ 91 Fed. Reg. at 25,196; 91 Fed. Reg. at 25,241.

The undersigned States therefore urge ATF to withdraw the Dual-Use NPRM and the CBW FTZ NPRM, or, at a minimum, postpone any effective date under 5 U.S.C. § 705 pending judicial review.

Sincerely,



Letitia James
Attorney General of New York



Kristin Mayes
Attorney General of Arizona



Rob Bonta
Attorney General of California



Philip J. Weiser
Attorney General of Colorado



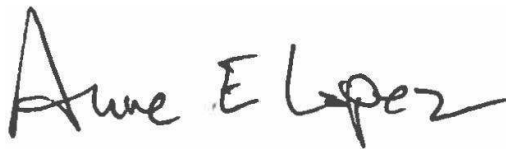
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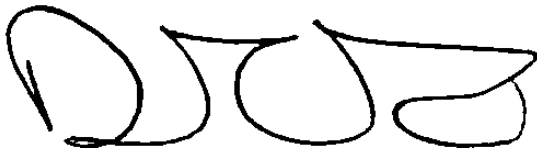
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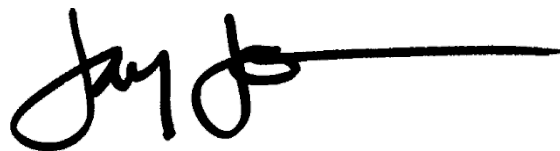
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A handwritten signature in black ink, reading "Nicholas W. Brown". The signature is written in a cursive style with a large initial "N" and a long, sweeping underline.

Nicholas W. Brown
Attorney General of Washington