or local governmental unit (as defined in § 1.103–1(a)) or a 501(c)(3) organization (as defined in section 150(a)(4))) apply this section to all modifications of the terms of contracts that occur before that date. See section 7805(b)(7).

■ **Par. 6.** Section 1.1271–0 is amended by adding entries for § 1.1275–2(m) to read as follows:

§ 1.12711–0 Original issue discount; effective date; table of contents.

* * * * *

§ 1.12751–2 Special rules relating to debt instruments.

* * * * *

(m) Transition from certain interbank offered rates.

(1) In general.

(2) Single qualified floating rate.

(3) Remote contingency.

(4) Change in circumstances.

(5) Applicability date.

* * * * *

■ **Par. 7.** Section 1.1275–2 is amended by adding paragraph (m) to read as follows:

§ 1.12751 –2 Special rules relating to debt instruments.

* * * * *

(m) *Transition from certain interbank offered rates*—(1) *In general.* This paragraph (m) applies to a variable rate debt instrument (as defined in § 1.1275–5(a)) that provides both for a qualified floating rate that references a discontinued IBOR and for a methodology to change that rate referencing a discontinued IBOR to a different rate in anticipation of the discontinued IBOR becoming unavailable or unreliable. For purposes of this paragraph (m), *discontinued IBOR* has the meaning provided in § 1.1001–6(h)(4). See § 1.1001–6 for additional rules that may apply to a debt instrument that provides for a rate referencing a discontinued IBOR.

(2) *Single qualified floating rate.* If a debt instrument is described in paragraph (m)(1) of this section, the rate referencing a discontinued IBOR and the different rate are treated as a single qualified floating rate for purposes of § 1.1275–5.

(3) *Remote contingency.* If a debt instrument is described in paragraph (m)(1) of this section, the possibility that the discontinued IBOR will become unavailable or unreliable is treated as a remote contingency for purposes of paragraph (h) of this section.

(4) *Change in circumstances.* If a debt instrument is described in paragraph (m)(1) of this section, the fact that the discontinued IBOR has become unavailable or unreliable is not treated as a change in circumstances for purposes of paragraph (h)(6) of this section.

(5) *Applicability date.* Paragraph (m) of this section applies to debt instruments issued on or after March 7, 2022. A taxpayer may choose to apply paragraph (m) of this section to debt instruments issued before March 7, 2022, provided that the taxpayer and all related parties (within the meaning of section 267(b) or section 707(b)(1) or within the meaning of § 1.150–1(b) for a taxpayer that is a State or local governmental unit (as defined in § 1.103–1(a)) or a 501(c)(3) organization (as defined in section 150(a)(4))) apply paragraph (m) of this section to all debt instruments issued before that date. See section 7805(b)(7).

■ **Par. 8.** Section 1.7701(l)–3 is amended by adding a sentence at the end of paragraph (b)(2)(ii) to read as follows:

§ 1.77011 (l)–3 Recharacterizing financing arrangements involving fast-pay stock.

* * * * *

(b) * * *

(2) * * *

(ii) * * * See § 1.1001–6(e) for additional rules that may apply to stock that provides for a rate referencing a discontinued IBOR, as defined in § 1.1001–6(h)(4).

* * * * *

PART 301—PROCEDURE AND ADMINISTRATION

■ **Par. 9.** The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 10.** Section 301.7701–4 is amended by adding a sentence at the end of paragraph (c)(1) to read as follows:

§ 301.7701301–4 Trusts.

* * * * *

(c) * * *

(1) * * * See § 1.1001–6(f) of this chapter for additional rules that may apply to an investment trust that holds one or more contracts that provide for a rate referencing a discontinued IBOR, as defined in § 1.1001–6(h)(4) of this chapter, and for additional rules that may apply to an investment trust with one or more ownership interests that reference a discontinued IBOR.

* * * * *

Douglas W. O'Donnell,

Deputy Commissioner for Services and Enforcement.

Approved: December 19, 2021.

Lily Batchelder,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2021–28452 Filed 12–30–21; 4:15 pm]

BILLING CODE 4830–01–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR Part 478

[Docket No. ATF 24P; AG Order No. 5304–2021]

RIN 1140–AA10

Secure Gun Storage and Definition of ''Antique Firearm''

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice is amending the regulations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (''ATF'') to codify into regulation certain provisions of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999. This rule amends ATF's regulations to account for the existing statutory requirement that applicants for Federal firearms dealer licenses certify that secure gun storage or safety devices will be available at any place where firearms are sold under the license to nonlicensed individuals. This certification is already included in the Application for Federal Firearms License, ATF Form 7/7CR (''Form 7/7CR''). The regulation also requires applicants for manufacturer or importer licenses to complete the certification if the licensee will have premises where firearms are sold to nonlicensees. Moreover, the regulation requires that the secure gun storage or safety devices be compatible with the firearms offered for sale by the licensee. Finally, it conforms the regulatory definitions of certain terms to the statutory language, including the definition of ''antique firearm,'' which is amended to include certain modern muzzle loading firearms.

DATES: This rule is effective February 3, 2022.

FOR FURTHER INFORMATION CONTACT: Vivian Chu, Office of Regulatory Affairs, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives, U.S. Department of Justice, 99 New York Avenue NE, Washington, DC 20226; telephone: (202) 648–7070.

SUPPLEMENTARY INFORMATION:

I. Background

On October 21, 1998, Public Law 105–277 (112 Stat. 2681), the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (''the Act''), was enacted. Among other things, the Act amended the Gun Control Act of 1968, Public Law 90–618 (82 Stat. 1213) (''GCA'') (codified as amended at 18 U.S.C. chapter 44). Some of the GCA amendments made by the Act are as follows: [1]

(1) Secure Gun Storage. The Act amended section 923(d)(1) of title 18, United States Code, to require that, with certain exceptions, applicants for Federal firearms dealer licenses certify the availability of secure gun storage or safety devices at any place where firearms are sold under the license to nonlicensees. 18 U.S.C. 923(d)(1)(G). The certification requirement does not apply where a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee. *Id.*

In addition, the Act amended 18 U.S.C. 923(e) to provide that the Attorney General may revoke, after notice and opportunity for hearing, the license of any Federal firearms licensee that fails to have secure gun storage or safety devices available at any place where firearms are sold under the license to nonlicensees, subject to the same exceptions noted above.

The Act defined the term ''secure gun storage or safety device'' in 18 U.S.C. 921(a)(34) to mean: (1) A device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device; (2) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or (3) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.

The provisions of the Act relating to secure gun storage became effective April 19, 1999.

(2) Definition of Antique Firearm. The Act amended the definition of ''antique firearm'' in the GCA to include certain modern muzzle loading firearms. Specifically, section 115 of the Act amended the definition of ''antique firearm'' in 18 U.S.C. 921(a)(16) to include a weapon that is a muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol; that is designed to use black powder or a black powder substitute; and that cannot use fixed ammunition. The term expressly does not include any weapon that incorporates a firearm frame or receiver; any firearm converted into a muzzle loading weapon; or any muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof. 18 U.S.C. 921(a)(16)(C).

The provisions of the Act relating to antique firearms became effective upon the date of enactment, October 21, 1998.

(3) Miscellaneous Amendments. Prior to amendment by the Act, the term ''rifle'' was defined in the GCA to mean ''a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.'' 18 U.S.C. 921(a)(7) (1994). The Act amended the definition of ''rifle'' by replacing the words ''the explosive in a fixed metallic cartridge'' with ''an explosive.'' *See* 18 U.S.C. 921(a)(7) (2018).

Additionally, prior to amendment by the Act, the term ''shotgun'' was defined in the GCA to mean ''a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.'' 18 U.S.C. 921(a)(5) (1994). The Act amended the definition of ''shotgun'' by replacing the words ''the explosive in a fixed shotgun shell'' with ''an explosive.'' *See* 18 U.S.C. 921(a)(5) (2018).

The provisions of the Act relating to the miscellaneous amendments also became effective upon the date of enactment, October 21, 1998.

II. Proposed Rule

On May 26, 2016, the Department of Justice (''the Department'') published in the **Federal Register** a notice of proposed rulemaking (''NPRM'') to codify into regulation certain provisions of the Act. Commerce in Firearms and Explosives; Secure Gun Storage, Amended Definition of Antique Firearm, and Miscellaneous Amendments, 81 FR 33448 (May 26, 2016). The rule proposed amending ATF's regulations to account for the existing statutory requirement that applicants for Federal firearms dealer licenses certify that secure gun storage or safety devices will be available at any place where firearms are sold under the license to nonlicensed individuals. This certification is already included in ATF Form 7/7CR. The NPRM also proposed requiring applicants for Federal firearms manufacturer or importer licenses to complete the certification if the licensee will have premises where firearms are sold to nonlicensees.

Next, the Department proposed to amend 27 CFR 478.11 by adding a definition for the term ''secure gun storage or safety device'' that tracks the language in the statute, as well as a new section 27 CFR 478.104 that specifies the terms of the certification requirement. Moreover, the proposed regulation required that the secure gun storage or safety device be compatible with the firearms offered for sale by the licensee. 81 FR at 33449. Therefore, applicants under the proposed rule would be required to certify the availability of compatible secure gun storage or safety devices at any place where firearms were sold under the license to nonlicensees.

The NPRM proposed applying the certification requirement to applicants for Federal firearms importer or manufacturer licenses if the licensee has

[1] The Child Safety Lock Act of 2005 (''CSLA''), enacted as part of the Protection of Lawful Commerce in Arms Act, Public Law 109–92 (119 Stat. 2095), amended the GCA by adding a new subsection, 18 U.S.C. 922(z). This subsection requires licensed importers, manufacturers, and dealers to provide secure gun storage or safety devices whenever they sell, deliver, or transfer any handgun to a nonlicensed person. *See* 18 U.S.C. 922(z)(1). The CSLA was implemented primarily in a final rule issued shortly before the NPRM was issued for this rule. *See* Federal Firearms License Proceedings—Hearings, 81 FR 32,230 (May 23, 2016) (amending 27 CFR 478.73, which provides that a notice of suspension or revocation of a license, or the imposition of a civil penalty, may be issued whenever the ATF Director has reason to believe that any licensee has violated § 922(z)(1) by selling, delivering, or transferring any handgun to any person other than a licensee, unless the transferee was provided with a secure gun storage or safety device for that handgun). Although the requirements of the CSLA and the regulation at issue in this rulemaking are in some respects similar, the two requirements are distinct: The CSLA requires that licensed importers, manufacturers, and dealers actually provide a secure gun storage or safety device to any nonlicensee that receives a handgun, whereas the regulation at issue in this rulemaking applies more broadly to the sale of ''firearms'' (not just handguns) to nonlicensees, but requires only that secure gun storage or safety devices be made available (not actually provided).

premises where firearms are sold to nonlicensees. Federal regulations provide that a licensed importer or a licensed manufacturer may engage in business on the licensed premises as a dealer in the same type of firearms authorized by the license to be imported or manufactured. 27 CFR 478.41(b). Accordingly, under the proposed rule, an applicant for a Federal firearms importer or manufacturer license that engaged in business on the licensed premises as a dealer of firearms to nonlicensees was required to complete the certification.

One provision of the Act provides that, ''[n]otwithstanding any other provision of law, evidence regarding compliance or noncompliance [with the secure gun storage or safety device requirement] shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity.'' Public Law 105–277, sec. 119, reprinted in 18 U.S.C. 923 note. In the proposed rule, ATF explained that this section applies to civil liability actions against dealers and other similar actions, and not to proceedings associated with license denials or revocations (or appeals in Federal court from decisions in such proceedings) involving noncompliance with the secure gun storage or safety device requirement of the GCA. 81 FR at 33449. The proposed rule amended 27 CFR 478.73 to clarify that a notice of revocation of a Federal firearms license may be issued whenever the ATF Director has reason to believe that a licensee fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee). *Id.* at 33453.

Finally, the Department proposed to amend 27 CFR 478.11 to reflect the definitions of the terms ''antique firearm,'' ''rifle,'' and ''shotgun'' set forth in the Act. *Id.*

Comments on the notice of proposed rulemaking were to be submitted to ATF on or before August 24, 2016.

III. Comment Analysis and Department Response

In response to the NPRM, with respect to an industry that includes approximately 59,909 federally licensed firearms dealers (including pawnbrokers), 12,673 licensed firearms manufacturers, and 1,054 licensed firearms importers, ATF received only four comments. This small number of responses indicates that a broad majority of the firearms industry accepts codification of behavior that has been statutorily required for more than 20 years.

A. Comments on Impact on Manufacturers and Importers

1. Comments Received

One commenter argued that the proposed rule imposes the certification requirement on all manufacturers and importers that sell firearms to the public, despite the fact that the statute requires only that dealers in firearms meet the certification requirement. Further, according to the commenter, forcing manufacturers and importers to have secure gun storage available and perhaps even to ''use'' such secure gun storage could create a burdensome and expensive requirement. Requiring firearms, many of which might not even be finished, to be stored under lock and key every night would, in the opinion of the commenter, be difficult, time consuming, and cost-prohibitive. Therefore, according to the commenter, the proposed rule violated Federal law by creating new requirements for licensees.

2. Department Response

The Department disagrees with the comment that ATF does not have the statutory authority to require licensed manufacturers and importers to certify that secure gun storage or safety devices will be available at any place in which firearms are sold to nonlicensees. Under 18 U.S.C. 923(a), the license application must be in such form and contain the information necessary to determine eligibility for licensing as the Attorney General may prescribe by regulation. Similarly, under 18 U.S.C. 926(a), the Attorney General has the authority to promulgate any rules that are necessary to implement the provisions of the GCA. ''Because § 926 authorizes the [Attorney General] to promulgate those regulations which are 'necessary,' it almost inevitably confers some measure of discretion to determine what regulations are in fact 'necessary.' '' *Nat'l Rifle Ass'n* v. *Brady,* 914 F.2d 475, 479 (4th Cir. 1990).

Although the language of section 923(d)(1)(G) refers only to applications for license as a dealer, section 923(e), as amended by the Act, more broadly provides that the Attorney General may, after notice and an opportunity for a hearing, ''revoke *any* license issued under this section if *the holder of such license* . . . fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees.'' (Emphasis added.) Section 923(e) thus applies to all licensees that sell firearms to nonlicensees—not just dealer licensees. Hence, because licensed manufacturers and importers may sell their firearms directly to nonlicensees, *see* 27 CFR 478.41(b), ATF has the authority to revoke the licenses of manufacturers or importers if they fail to have secure gun storage or safety devices available for retail transactions. Requiring manufacturers and importers to certify that secure gun storage or safety devices will be available at any place in which firearms are sold to nonlicensees helps ensure that manufacturers and importers are aware of the implicit requirement in section 923(e) that these licensees must make such storage or devices available. This certification has been required of all license applicants except collectors on ATF Form 7/7CR (5300.12/5310.16) for years.

Finally, neither the NPRM nor the final rule requires manufacturers or importers to use secure gun storage or safety devices on their inventory; rather, they need only make such storage or devices available.

B. Comments on Compatibility of Devices

1. Comments Received

One commenter noted that 18 U.S.C. 923 does not explicitly require that secure gun storage or safety devices maintained by Federal firearms dealers be compatible or even be used, only that they be available; therefore, according to the commenter, the proposed rule cannot require it. Further, the commenter noted that ATF has no authority to revoke the license of a dealer that does not lock up its firearms.

2. Department Response

The commenter misinterpreted the proposed rule's application. The proposed rule did not, as the commenter suggested, require federally licensed dealers to use compatible devices on their inventory, nor did the rule require them to lock up and store their firearms inventory. Rather, the NPRM proposed implementing 18 U.S.C. 923(d)(1)(G) by requiring applicants for dealer licenses, or those licensed manufacturers and importers that will also deal firearms to nonlicensed individuals as permitted in 27 CFR 478.41(b), to certify only that compatible secure gun storage or safety devices are available at any place where firearms are sold under the license to nonlicensed individuals.

The Department believes the compatibility language in the rule is

consistent with the text of the statute because it clarifies that the secure gun storage or safety devices made available must be compatible with the firearms offered for sale by the licensee.

Courts have explained that ''the administration and enforcement of a statute call upon the agency charged with its execution to interpret it.'' *Continental Airlines, Inc.* v. *Dep't of Transportation,* 843 F.2d 1444, 1449 (D.C. Cir. 1988). When a court is called upon to review an agency's construction of a statute it administers, the court looks to the framework set forth in *Chevron U.S.A., Inc.* v. *Natural Resources Defense Council, Inc.,* 467 U.S. 837 (1984). The first step of *Chevron* review is to ask ''whether Congress has directly spoken to the precise question at issue.'' *Id.* 842. ''If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress. If, however, the court determines Congress has not directly addressed the precise question at issue . . . the question for the court is whether the agency's answer is based on a permissible construction of the statute.'' *Id.* at 842–43 (footnote omitted). Although the Act defines ''secure gun storage or safety device,'' that definition does not specify whether or with which sorts of firearms the secure gun storage and safety devices must be compatible. The Department believes that this rule comports with the best reading of the statute and permissibly clarifies that such storage and devices must be compatible with the firearms sold at the licensed premises. This specification in the regulation resolves any ambiguity in the statute and fulfills its purpose because customers purchasing firearms should be able to leave the premises with a secure gun storage or safety device that is compatible with the type of firearm they purchased. A contrary rule, under which licensees could comply with the statute by making available exclusively devices that are incompatible with the firearms they sell, would unreasonably thwart Congress's evident purpose in the Act. *See City of Chicago* v. *U.S. Dep't of Treasury, Bureau of Alcohol, Tobacco & Firearms,* 423 F.3d 777, 781 (7th Cir. 2005) (statutes should not be read in a way that ''would thwart Congress' intention'').

C. Comments on Noncompliance Evidence in License Denial or Revocation Procedures

1. Comments Received

In the NPRM, ATF referenced a provision in the Act that states that ''evidence regarding compliance or noncompliance [with the secure gun storage or safety device requirement] shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity.'' *See* Public Law 105–277, sec. 119. ATF explained that, based on basic tenets of statutory construction, it reads the evidentiary limitation as applying only ''to civil liability actions against dealers and other similar actions, and not to proceedings associated with license denials or revocations (or appeals in Federal court from decisions in such proceedings) involving noncompliance with the secure gun storage or safety device requirement'' of the Act. 81 FR at 33449.

Three commenters asserted that this provision of the Act prohibits the use of a dealer's compliance or noncompliance with the secure gun storage or safety device requirement in any administrative proceedings to deny or revoke a Federal firearms license. Two commenters also argued that ATF's interpretation substitutes its judgment for that of Congress, and, by effectively amending legislation, violates the ''Separation of Powers Doctrine.'' These commenters stated that ATF does not have the power to change or ignore statutes. They argued that words have meaning, and that ATF cannot construe statutes to permit something the plain text prohibits or create an exception for ATF's administrative hearings where one does not exist in the law.

2. Department Response

The Department respectfully disagrees. There are at least two canons of statutory interpretation that inform the Department's reading of the evidence provision the commenters relied on. The first relevant canon provides that, ''[w]henever a power is given by statute, everything necessary to make it effectual or requisite to attain the end is implied.'' *Luis* v. *United States,* 136 S. Ct. 1093, 1097 (2016) (Thomas, J., concurring) (quoting 1 J. Kent, Commentaries on American Law 464 (13th ed. 1884)). The second relevant canon provides that a ''court will not merely look to a particular clause in which general words may be used, but will take in connection with it the whole statute . . . and the objects and policy of the law.'' *Stafford* v. *Briggs,* 444 U.S. 527, 535 (1980) (quoting *Brown* v. *Duchesne,* 19 How. 183, 194 (1857)). The evidence provision cannot be read in isolation. Rather, it must be read within the context of the rest of the statute, including the specific grant of authority for the Attorney General to revoke the license of a licensee that does not comply with the Act. Moreover, the Act specifically provides that none of its amendments ''shall be construed . . . as creating a cause of action against any firearms dealer or any other person for any civil liability.'' 18 U.S.C. 923 note. That prohibition on civil liability implies that Congress expected compliance with the secure gun storage or safety device requirement to be enforced not by private individuals in civil actions, but by the Attorney General in administrative proceedings, in accordance with the specific authority granted to the Attorney General to do so in 18 U.S.C. 923(e). The Attorney General could not fulfill this role if, as asserted by the commenters, evidence of noncompliance could not be used in administrative proceedings related to that noncompliance, thus indicating that the evidence provision in the Act does not apply to administrative proceedings regarding compliance with the secure gun storage or safety device requirement. *Cf. United States* v. *Tohono O'Odham Nation,* 563 U.S. 307, 315 (2011) (''Courts should not render statutes nugatory through construction.'').

The Department's interpretation of the evidence provision is further supported by the legislative history. The secure gun storage provisions that were enacted were initially sponsored by Senator Larry Craig as part of S.10, the Violent and Repeat Juvenile Offender Act of 1997, for which a Senate report was produced by the Senate Committee on the Judiciary.[2] The Committee's report stated that ''[t]he penalty for willful violation . . . is revocation of the dealer's license, *after notice and opportunity for hearing is given* pursuant to current law.'' [3] Thus, the Committee evidently expected that noncompliance with the secure gun storage and safety device provisions would be enforced through administrative proceedings, including a hearing. It would accordingly be nonsensical to bar the Attorney General from using evidence of such noncompliance in the same proceedings. Congress, in other words, would not have written the specific amendments giving the Attorney General the ability to revoke or deny a license based on noncompliance if

[2] S. Rep. No. 105–108, at 108 (1997).

[3] *Id.* (emphasis added).

evidence of noncompliance could not be considered at the hearing ATF is required to conduct under the law. Accordingly—in light of the context in which the evidence provision appears, the legislative history underlying the secure gun storage or safety device requirement, and the authority granted in section 923(e)—the Department's position that the evidence provision does not apply to ATF's enforcement hearings or actions is the best interpretation of the law, and is certainly a permissible interpretation of the provision. *See Chevron,* 467 U.S. at 843.

Furthermore, Congress expressly authorized the Attorney General to deny or revoke a license if the licensee or applicant fails to have or certify that it has secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (with the same exceptions noted above). 18 U.S.C. 923(d), (e). To exercise this authority, the Attorney General is required to provide notice to an applicant or licensee and, upon request of the aggrieved party, is authorized to conduct an administrative hearing to make a final determination. 18 U.S.C. 923(e), (f); 27 CFR 771.40–44. The agency's final decision is appealable to a Federal court. 18 U.S.C. 923(f)(3). ATF [4] can also institute criminal proceedings against a licensee for violations of the GCA or the regulations. 18 U.S.C. 923(f)(4). The express statutory grant of authority in section 923 to deny or revoke a license based on evidence of noncompliance supersedes the general language the commenters relied on. *See RadLAX Gateway Hotel, LLC* v. *Amalgamated Bank,* 566 U.S. 639, 645 (2012) (citing *HCSC-Laundry* v. *United States,* 450 U.S. 1, 6 (1981) (per curiam), for the proposition that the specific governs the general, ''particularly when the two [statutes] are interrelated and closely positioned, both in fact being parts of [the same statutory scheme]''); *Busic* v. *United States,* 446 U.S. 398, 406 (1980).

D. Comments on Definitions of ''*Rifle*'' *and* ''*Shotgun*''

1. Comments Received

Comments relating to the definitions of ''rifle'' and ''shotgun'' stated that, to prevent confusion between a modern rifle or shotgun and a muzzleloader or antique firearm, and to preclude future Federal ''over reach'' to classify muzzle loading arms as rifles, the definitions should specifically exclude muzzle loading arms using black powder or black powder substitutes. Additionally, one commenter stated that ''explosive'' is not the correct word for the propellant in a modern firearm and suggested amending the term ''explosive'' in the definitions of ''rifle'' and ''shotgun'' to reference smokeless solid propellants that deflagrate rather than detonate, thereby clarifying that metallic cartridge firearms using smokeless propellants do not fall under the definitions of ''rifle'' or ''shotgun'' due to their lack of use of an explosive that detonates.

2. Department Response

The Department respectfully declines to revise the definitions of ''rifle'' and ''shotgun'' to refer to smokeless solid propellants, rather than an ''explosive,'' because doing so would not be consistent with the statutory definitions set forth in the Act. The current statutory definition for ''antique firearm'' excludes certain muzzle loading firearms using black powder or black powder substitutes from the definition of ''firearm,'' thus making the inclusion of additional language to exclude them unnecessary. This final rule updates the existing regulations to reflect the current language of the statute.

Further, the Department does not agree with the suggested clarification of the term ''explosive'' in the definitions of ''rifle'' and ''shotgun.'' The use of the phrase ''by action of an explosive'' within the definitions of ''rifle'' and ''shotgun'' is appropriate, as it is descriptive of a process and not a classification of the propellant powder. The provisions of the Act relating to antique firearms and definitions of the terms ''rifle'' and ''shotgun'' became effective on the day of enactment, October 21, 1998. This final rule updates the existing regulations to reflect the current language of the statute.

IV. Final Rule

This final rule implements the amendments to the regulations in 27 CFR part 478 that were specified in the NPRM published on May 26, 2016 (81 FR 33448) without change.

V. Statutory and Executive Order Review

A. Executive Orders 12866 and 13563

Executive Order 12866 (Regulatory Planning and Review) directs agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of maintaining flexibility.

The Office of Management and Budget (''OMB'') has determined that, although this final rule is not economically significant, it is a ''significant regulatory action'' under section 3(f)(4) of Executive Order 12866 because this final rule raises novel legal or policy issues arising out of legal mandates. Accordingly, the rule has been reviewed by OMB.

This rule requires that Federal firearms licensees (''FFLs'') make available secure gun storage or safety devices to non-FFLs that purchase firearms. Furthermore, this rule requires that all FFLs must certify that they have secure gun storage or safety devices available if they sell firearms to non-FFLs. This section describes the affected population, costs, and benefits for this rule. In determining the costs and benefits of this rule, ATF has followed OMB guidance for conducting regulatory analyses. *See* OMB, Memorandum to the Heads of Executive Agencies and Establishments, *Re: Regulatory Analysis,* Circular A–4 (Sept. 17, 2003) (''Circular A–4''). According to that guidance, regulations such as this one that largely restate self-enforcing statutory requirements should be analyzed against a baseline that pre-dates the enactment of the relevant statute. Thus, although ATF has implemented and enforced the Act in the years since its passage even in the absence of the regulation at issue in this rulemaking, the costs and benefits of doing so have been attributed to this regulation for the purpose of this analysis.

Table 1 provides the summary of the expected effects that this rule will have on the public. For more details regarding this analysis, please refer to the standalone regulatory analysis (''RA'') located on the docket.

[4] The Attorney General is responsible for enforcing the GCA, as amended. This responsibility includes the authority to promulgate regulations necessary to enforce the provisions of the GCA. *See* 18 U.S.C. 926(a). The Attorney General has delegated the responsibility for administering and enforcing the GCA to the ATF Director, subject to the direction of the Attorney General and Deputy Attorney General. *See* 28 CFR 0.130(a)(1)–(2).

TABLE 1—SUMMARY OF AFFECTED POPULATION, COSTS, AND BENEFITS

Category	Final rule
Applicability	• All FFLs. • Type 1 FFL—Dealer in firearms other than destructive devices. • Type 2 FFL—Pawnbroker in firearms other than destructive devices.
Affected Population	• 130,525 FFLs. • 52,795 Type 1 FFLs. • 7,114 Type 2 FFLs.
Total Costs to Industry, Public, and Government (7% Discount Rate)	$853,187 at 7% annualized.
Savings (7% Discount Rate)	N/A.
Benefits (7% Discount Rate)	N/A.
Benefits non-monetized	• Inhibits unauthorized access to privately owned firearms by individuals such as children, who might suffer accidental injuries. • Inhibits access to privately owned firearms by criminals, who might use them for illicit activities.

1. Need for Federal Regulation

Agencies take regulatory action for various reasons. One reason is to carry out Congress's policy decisions, as expressed in statutes. Here, this rulemaking aims to comply with the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 relating to secure gun storage. Another reason underpinning regulatory action is the failure of the market to compensate for negative externalities caused by commercial activity. A negative externality can be the byproduct of a transaction between two parties that is not accounted for in the transaction. This final rule addresses a negative externality. The negative externality of the sale of firearms is that the firearms might not be stored properly and could be accessed by children who could cause accidents with the firearms or accessed by criminals who would use them for illicit activities. This rule provides nonlicensed firearm owners with the option to have devices that enable them to store their firearms so as to inhibit children or criminals from accessing their firearms.

2. Affected Population

This rulemaking affects two populations. The first population is the number of FFLs required to certify on Form 7/7CR that secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees. The second population is the number of FFLs that need to acquire secure gun storage or safety devices to make available at their place of business.

Entities directly affected by the requirement to certify the availability of secure gun storage or safety devices are all FFLs. Although this rule primarily affects FFLs that sell firearms to nonlicensed persons, this rule affects all FFLs in that all FFL applicants must indicate on the Form 7/7CR application whether the applicants have gun storage or safety devices available for nonlicensees or whether this requirement is not applicable because they are seeking a Type 3 license for collectors.

Because the Act was enacted shortly before 1999, and because ATF has required certification since 1999, ATF estimated the affected population to be all FFLs from 1999 to present. However, FFLs have to certify the availability of secure gun storage or safety devices only when they apply as new FFLs or every three years when they renew their Federal firearms license. Tables 2 and 3 show the numbers of new applications and renewals by FFL type and year. For more information on the methodology used to determine the numbers of new FFLs by Type, please refer to the standalone RA.

TABLE 2—NEW AND RENEWAL APPLICATIONS OF TYPE 1, 2, 3, 6, AND 7 FEDERAL FIREARMS LICENSEES

Year	01—Dealer in firearms	02—Pawnbroker in firearms	03—Collector of curios and relics	06—Manufacturer of ammunition for firearms	07—Manufacturer of firearms
1999	24,977	3,516	19,919	787	574
2000	24,829	3,583	19,919	777	652
2001	24,788	3,572	19,919	757	715
2002	24,660	3,615	19,919	727	800
2003	24,553	3,639	19,919	723	874
2004	24,547	3,579	19,919	711	938
2005	24,494	3,553	19,919	683	1,034
2006	24,406	3,503	19,919	679	1,143
2007	24,266	3,434	19,919	690	1,315
2008	24,148	3,345	19,919	708	1,482
2009	23,763	3,337	19,919	759	1,782
2010	23,284	3,368	19,919	859	2,097
2011	20,956	3,046	22,338	816	2,343
2012	21,259	3,105	21,622	855	3,104
2013	22,274	3,221	13,134	966	3,748
2014	22,049	3,235	6,767	1,033	3,966
2015	20,876	3,029	18,671	967	3,901
2016	22,104	3,146	19,322	957	4,317
2017	21,896	3,043	18,876	873	4,622
2018	20,479	2,799	17,643	776	4,603
2019	20,034	2,726	17,478	709	4,848

TABLE 2—NEW AND RENEWAL APPLICATIONS OF TYPE 1, 2, 3, 6, AND 7 FEDERAL FIREARMS LICENSEES—Continued

Year	01—Dealer in firearms	02—Pawnbroker in firearms	03—Collector of curios and relics	06—Manufacturer of ammunition for firearms	07—Manufacturer of firearms
2020	22,710	3,060	20,150	777	6,076

* **Note:** Numbers may not add for Type 1 FFLs due to adjustments to ensure the numbers of applications in Tables 2 and 3 match total FFLs in this table.

TABLE 3—NEW AND RENEWAL APPLICATIONS OF TYPE 8, 9, 10, AND 11 FEDERAL FIREARMS LICENSEES

Year	08—Importer of firearms	09—Dealer in destructive devices	10—Manufacturer of destructive devices	11—Importer of destructive devices	Total new applications and renewals
1999	265	4	44	26	50,112
2000	275	4	46	26	50,111
2001	283	5	45	28	50,112
2002	303	7	52	31	50,114
2003	307	7	56	35	50,113
2004	315	7	60	37	50,113
2005	317	7	66	40	50,113
2006	327	8	81	47	50,113
2007	338	11	86	52	50,111
2008	344	15	94	57	50,112
2009	365	17	107	64	50,113
2010	375	20	119	71	50,112
2011	349	18	112	69	50,047
2012	355	22	109	71	50,502
2013	411	24	113	76	43,967
2014	451	26	114	80	37,721
2015	428	25	117	82	48,096
2016	429	27	130	86	50,518
2017	430	30	138	90	49,998
2018	413	36	138	88	46,975
2019	413	48	146	94	46,496
2020	489	55	182	116	53,615

* **Note:** Numbers may not add for Type 1 FFLs due to adjustments to ensure the number of applications in Tables 2 and 3 match total FFLs in this table.

The second population directly affected by this rule primarily consists of Type 1 and 2 FFLs that sell firearms to the public. These FFLs must acquire secure gun storage or safety devices to be made available to firearm purchasers in their place of business. Based on the year the Act was enacted, ATF assumed that all Type 1 and 2 FFLs in 1999 had to acquire secure gun storage or safety devices to make available to any potential nonlicensee customers. From 2000 onwards, only new FFLs would need to acquire some form of gun storage or safety devices to make available to their customers. Although this rule affects all FFLs that sell firearms to nonlicensed individuals, no cost was attributed to Type 9, 10, and 11 licensees because they primarily deal, manufacture, and import destructive devices used by domestic and foreign governments rather than selling firearms at the retail level to nonlicensed individuals. Similarly, although Type 7 and 8 licensees are manufacturers and importers that may sell firearms to nonlicensed persons, most of these licensees, even prior to enactment of the Act, have voluntarily included secure gun storage or safety devices for their firearms, and hence would not have needed to separately acquire such storage or devices to make them available to nonlicensees.[5] Of those Type 7 and 8 FFLs that do not provide secure gun storage or safety devices, ATF assumed these licensees primarily sell firearms wholesale to Type 1 FFLs and do not sell to nonlicensed persons.

Based on congressional testimony and subject matter experts' (''SMEs'') experience, most firearm manufacturers now include locks with new purchases of firearms, and, as noted above, have been doing so since before the enactment of the Act.[6] ATF, however, is not certain of the exact date when manufacturers and importers began voluntarily providing locks and, in the interest of not underestimating the costs attributable to this rule, ATF assumed that all Type 1 FFLs in 1999 would need to acquire secure gun storage or safety devices to make available to their customers. ATF then estimated that, as manufacturers and importers continued to provide locks with their firearms, and as this practice became more common, a decreasing number of FFLs needed to acquire secure gun storage or safety devices each year until year 2003. After 2003, ATF maintained a constant rate of 20 percent of FFLs that do not receive safety devices with the firearms they sell to account for any manufacturers and importers that, even today, do not provide safety devices with their firearms. In addition, Type 2 FFLs are pawnshops that acquire previously owned firearms. ATF does not know

[5] *See Hearing before the Subcomm. on the Constitution of the S. Comm. on the Judiciary,* 117th Cong. (2021), 2021 WL 2138600 (discussing the success of Project ChildSafe, through which ''manufacturers have voluntarily included a locking device in every box sold since the late 1980's'' (testimony of Joseph Bartozzi, President and CEO, National Shooting Sports Foundation)); S. Rep. No. 105–108, at 201–02 (''The arguments raised against safety locks ring hollow, especially in light of the recent announcement by eight[] of the Nation's largest handgun manufacturers that they will voluntarily comply with the heart of Senator Kohl's amendment by packaging a child safety lock with every handgun they sell.'').

[6] *See supra* note 5.

whether the firearms acquired by Type 2 FFLs have secure locks or not. Therefore, ATF assumed that all new Type 2 FFLs need to acquire secure gun storage or safety devices to satisfy the requirements of the Act.

Because Type 2 FFLs primarily deal with secondhand firearms and not new purchases, ATF assumed that, in 1999, all Type 2 FFLs acquired secure gun storage or safety devices and, from 2000 onward, only new Type 2 FFLs needed to acquire a means of securing firearms. Therefore, ATF assumed that pawnbrokers from 2000 to 2020 consisted only of new Type 2 FFLs.

Table 4 provides the estimated number of Type 1 and 2 FFLs that needed to acquire secure gun storage or safety devices and make them available at their place of business for potential nonlicensed customers. For more detailed information on obtaining the population of FFLs needing to acquire secure gun storage or safety devices to make available, please refer to the standalone RA.

TABLE 4—FFL TYPES 1 AND 2 THAT NEEDED TO PURCHASE SECURE GUN STORAGE OR SAFETY DEVICES

Year	New type 1 FFL	Rate of FFLs that do not receive locks from manufacturers (%)	Type 1 FFL	Type 2 FFL needing
1999	71,290	100	71,290	10,035
2000	8,677	80	6,942	1,252
2001	8,663	60	5,198	1,248
2002	8,618	40	3,447	1,263
2003	8,581	20	1,716	1,272
2004	8,579	20	1,716	1,251
2005	8,560	20	1,712	1,242
2006	8,529	20	1,706	1,224
2007	8,481	20	1,696	1,200
2008	8,439	20	1,688	1,169
2009	8,305	20	1,661	1,166
2010	8,137	20	1,627	1,177
2011	7,768	20	1,554	854
2012	9,034	20	1,807	971
2013	10,177	20	2,035	1,063
2014	7,874	20	1,575	823
2015	7,088	20	1,418	730
2016	7,552	20	1,510	762
2017	6,599	20	1,320	645
2018	6,314	20	1,263	603
2019	5,667	20	1,133	532
2020	*8,442*	20	1,688	772

3. Costs

This analysis considers the rule's direct (or industry) costs, indirect costs, and government costs. Industry costs are the costs to FFLs that need to certify the availability of secure gun storage or safety devices and the costs to FFLs that need to acquire secure gun storage or safety devices to make available to the public. Indirect costs are those costs associated with organizations and manufacturers providing gun locks or safety devices. Government costs are enforcement costs to ensure that the affected FFLs have been and are continuing to comply with the statute.

In determining direct, industry costs, ATF used the average wage rate associated with certain job titles listed on Form 7/7CR by FFL type. ATF used a loaded wage rate of 1.42 to include fringe benefits such as insurance as part of the overall compensation.[7] Because FFLs are segmented by industry type, ATF used a sample from each industry type to determine an average wage rate by each FFL type. For FFLs completing Form 7CR, ATF assigned a leisure wage rate of $16.52 because FFLs that complete Form 7CR are Type 3 FFLs—*i.e.,* collectors who do not apply for a license as part of an occupation.[8] Although Type 3 FFL collectors are not required to make available secure gun storage or safety devices, they are still required to answer the question about availability on Form 7CR by marking ''N/A.'' Therefore, costs for that action were counted as an industry cost of this rule. For more information on the wages used for each sample, please refer the standalone RA. Table 5 provides the average loaded wage rate by FFL type.

TABLE 5—AVERAGE LOADED WAGE RATE BY FFL TYPE

Types 1 and 2	$82.06
Type 3	16.52
Type 6	58.91
Type 7	62.93
Type 8	76.13
Type 9	103.44
Type 10	87.86
Type 11	109.30

[7] Bureau of Labor Statistics, Series Report, *https://data.bls.gov/cgi-bin/srgate.* Data was generated for 2020 using series CMU2010000000000D, CMU2010000000000P and CMU2020000000000D, CMU2020000000000P. Average total compensation was $35.87. Average cost per hour worked was $25.18. Loaded wage rate 1.42 = $35.87/$25.18.

[8] As explained more fully in the accompanying RA, the leisure wage rate was estimated using the calculation described in the Department of Transportation's guidance on the valuation of travel time. *See* Dep't of Transportation, Revised Departmental Guidance on Valuation of Travel Time in Economic Analysis 19 (Sept. 27, 2016), *https://www.transportation.gov/sites/dot.gov/files/docs/2016%20Revised%20Value%20of%20Travel%20Time%20Guidance.pdf.*

The time needed for an FFL to certify on Form 7/7CR that it has secure gun storage or safety devices (or to mark ''N/A'') was estimated at 0.1 minute (0.0017 hours). ATF started with the average loaded wage rate by type of license, multiplied the wage rate by the estimated number of new and renewal FFLs per type from Tables 2 and 3, and multiplied that result by the hour burden to determine the annual cost to certify. Tables 6 and 7 provide the annual costs to certify by FFL type from 1999 to the present.

TABLE 6—COST TO CERTIFY BY FFL TYPES 1, 2, 3, 6, 7, AND 8

Year	Types 1 and 2	Type 3	Type 6	Type 7	Type 8
1999	$3,897	$548	$77	$60	$34
2000	3,886	548	76	68	35
2001	3,879	548	74	75	36
2002	3,867	548	71	84	38
2003	3,856	548	71	92	39
2004	3,847	548	70	98	40
2005	3,836	548	67	108	40
2006	3,817	548	67	120	41
2007	3,788	548	68	138	43
2008	3,760	548	70	155	44
2009	3,706	548	75	187	46
2010	3,645	548	84	220	48
2011	3,283	615	80	246	44
2012	3,332	595	84	326	45
2013	3,487	362	95	393	52
2014	3,458	186	101	416	57
2015	3,269	514	95	409	54
2016	3,453	532	94	453	54
2017	3,411	520	86	485	55
2018	3,184	486	76	483	52
2019	3,113	481	70	508	52
2020	3,524	555	76	637	62

TABLE 7—COST TO CERTIFY BY FFL TYPES 9, 10, AND 11

Year	Type 9	Type 10	Type 11	Total
1999	$1	$6	$5	$4,564
2000	1	7	5	4,562
2001	1	7	5	4,561
2002	1	8	6	4,560
2003	1	8	6	4,558
2004	1	9	7	4,556
2005	1	10	7	4,554
2006	1	12	9	4,551
2007	2	13	9	4,545
2008	3	14	10	4,540
2009	3	16	12	4,529
2010	3	17	13	4,515
2011	3	16	13	4,300
2012	4	16	13	4,415
2013	4	17	14	4,423
2014	4	17	15	4,255
2015	4	17	15	4,378
2016	5	19	16	4,626
2017	5	20	16	4,597
2018	6	20	16	4,323
2019	8	21	17	4,271
2020	9	27	21	4,912

For purposes of this analysis, ATF estimated that Type 1 and 2 FFLs that must comply with the Act would have purchased at least two safety devices at an average price of $7.39 per safety device and tape ($2.36) to notate the owner of the gun. Combined, the average price to make available secure gun storage or safety devices for customers is $17.14 per store. For sources of costs to make available secure gun storage or safety devices, refer to section 3.1.2 of the standalone RA.

For an annual direct, industry cost of certifying and making available secure gun storage or safety devices, refer to Table 8. That table provides the annual cost of certifying and making available secure gun storage or safety devices from 1999 to 2020.

TABLE 8—YEAR BY YEAR DIRECT, INDUSTRY COST

Year	Undiscounted industry costs	Discounted cost	
		7%	3%
1999	$1,398,539	$6,196,088	$2,679,745
2000	147,582	611,072	274,546
2001	117,089	453,096	211,475
2002	86,808	313,942	152,218
2003	56,753	191,821	96,618
2004	56,368	178,057	93,168
2005	56,157	165,784	90,115
2006	55,727	153,753	86,821
2007	55,132	142,161	83,393
2008	54,445	131,204	79,954
2009	53,922	121,442	76,879
2010	53,517	112,645	74,080
2011	45,572	89,646	61,244
2012	52,034	95,663	67,893
2013	57,778	99,274	73,192
2014	45,742	73,451	56,256
2015	41,188	61,813	49,181
2016	43,561	61,097	50,499
2017	38,282	50,179	43,086
2018	36,298	44,466	39,664
2019	32,817	37,572	34,815
2020	47,075	50,370	48,487
Total	2,632,384	9,434,596	4,523,330
Annualized	.....	852,942	283,827

In addition to direct, industry costs for Type 1 and 2 FFLs to make available secure gun storage or safety devices, the government incurred costs to enforce secure gun storage and safety device requirements on FFLs. Based on ATF's database, ATF found two violations in 2019 and six violations in 2020, making the average number of violations four. Based on input from SMEs, ATF determined that Industry Operations Investigators (''IOI'') undertaking inspections related to the secure gun storage and safety device requirement range from a GS–9 to GS–13, making the average IOI a GS–10, step 5. The hourly wage rate for a GS–10, step 5 is $27.56.[9] In order to account for fringe benefits, ATF attributed a load rate of 1.41, making the loaded, hourly wage rate for an IOI $38.86.[10] [11] The SMEs estimated that it would take an average of 20 minutes (0.33 hours) to have a conversation with the FFL in question and compile a report or warning regarding the violation, making the government cost $26 in 2019 and $78 in 2020. Because ATF does not have any information regarding inspections for previous years, ATF used the average of four violations per year as the government cost for enforcement between the years 1999 and 2018. The average cost of enforcement was estimated to be $52.

ATF accounts for indirect costs of this rule although they are not considered part of the total cost of the rule. Other organizations, such as Project ChildSafe, provide gun locks free to the public, which ends up being a savings for the populations affected by this rule. Because these costs are voluntarily incurred, they are considered indirect costs. Based on information provided by Project ChildSafe, which primarily obtains its funding through other sources, this organization has provided approximately 38 million gun locks to the public and provides approximately 1.8 million gun lock kits annually.[12] Furthermore, Project ChildSafe estimates that manufacturers have included approximately 70 million locks with a purchase of a firearm, which they estimate is valued at $140 million.[13] These are indirect costs that ATF does not consider as part of the total costs of this final rule.

Other indirect costs include firearm manufacturers who voluntarily include safety devices with each purchase of a new firearm. While manufacturers are not required to provide gun locks with their firearms due to this rule, it is possible that manufacturers have incorporated the cost of these gun locks into the final purchasing price of the firearm and is therefore already accounted for. It is for these reasons that ATF does not consider these indirect costs as costs attributed to this rule.

ATF accounted for the direct, industry costs of this rule along with the government enforcement costs attributed to this rule. Table 9 provides the total costs for this rule.

[9] Office of Personnel Management, SALARY TABLE 2021–GS (Jan. 2021), *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/GS_h.pdf.*

[10] Federal benefits account for 41 percent of total compensation. Congressional Budget Office, Comparing the Compensation of Federal and Private-Sector Employees, 2011 to 2015, at 14 (Apr. 2017), *https://www.cbo.gov/system/files/115th-congress-2017-2018/reports/52637-federalprivatepay.pdf.*

[11] $38.86 loaded wage rate = $27.56 hourly wage rate * 1.41 load rate.

[12] Project ChildSafe, Project ChildSafe by the Numbers, *https://www.projectchildsafe.org/sites/default/files/NSSF_PCS_Infographic_PCSByTheNumbers_Jan2019_0.pdf* (last accessed Dec. 17, 2021).

[13] *Id.*

TABLE 9—TOTAL DIRECT, INDUSTRY AND GOVERNMENT COSTS OF THIS RULE

Year	Undiscounted total costs	Discounted cost	
		7%	3%
1999	$1,398,590	$6,196,318	$2,679,844
2000	147,634	611,287	274,642
2001	117,140	453,296	211,569
2002	86,859	314,130	152,309
2003	56,805	191,996	96,706
2004	56,420	178,221	93,254
2005	56,209	165,937	90,198
2006	55,779	153,896	86,902
2007	55,184	142,294	83,471
2008	54,497	131,329	80,030
2009	53,973	121,558	76,953
2010	53,569	112,754	74,152
2011	45,623	89,748	61,314
2012	52,086	95,758	67,960
2013	57,830	99,363	73,257
2014	45,793	73,534	56,320
2015	41,240	61,890	49,243
2016	43,613	61,170	50,559
2017	38,333	50,247	43,145
2018	36,350	44,530	39,720
2019	32,843	37,602	34,843
2020	47,153	50,454	48,567
Total	2,633,524	9,437,311	4,524,959
Annualized	.....	853,187	283,929

Overall, ATF estimated that, in accordance with the standards for regulatory analysis described in OMB Circular A–4, the total cost attributable to this rule from 1999 to 2020 was $2.6 million undiscounted, or annualized at $853,187 and $283,929 at 7 percent and 3 percent, respectively.

4. Benefits

The benefit of this rule is making available secure gun storage or safety devices for owners of firearms who otherwise do not have such storage or safety devices available to them. Making secure gun storage or safety devices available inhibits unauthorized access to privately owned firearms for individuals such as children, who might accidently discharge them, and inhibits access by criminals, who might use them for illicit activities.

B. Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132 (Federalism), the Attorney General has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

C. Executive Order 12988

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform).

D. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601–12, the Attorney General certifies that this final rule will not have a significant economic impact on a substantial number of small entities. The Department has considered whether this final rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of fewer than 50,000.

ATF has determined that, in order for the costs associated with this rule to impact a small entity's revenue by even one percent, the entity would need to make $1,728 or less in annual revenue. For the costs to have a 10 percent effect on revenue, a small entity would need to make $173 or less in revenue. ATF has determined that it is unlikely that a small entity would make such minimal amounts in revenue and continue to operate. Therefore, the Attorney General certifies under 5 U.S.C. 605(b) that this final rule would not have a significant economic impact on a substantial number of small entities.

E. Unfunded Mandates Reform Act of 1995

This rule will not result in the aggregate expenditure by State, local, and Tribal governments, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

F. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (''PRA''), 44 U.S.C. 3501–21, agencies are required to submit for OMB review and approval any reporting requirements inherent in a rule. The collection of information contained in this final rule is a collection of information that has been reviewed and approved by OMB in accordance with the requirements of the PRA, and it has been assigned an OMB Control Number.

Title: Application for Federal Firearms License—ATF Form 7 (5310.12)/7CR (5310.16).

OMB Control Number: 1140–0018.

Summary of the Collection of Information: This collection of information is used by the public when applying for a Federal firearms license

(''FFL''); this form is used to apply for all FFL types.

Need for Information: The information requested on the form is used to determine the eligibility of the applicant to obtain an FFL, and the identity and eligibility of Responsible Persons.

Proposed Use of Information: The information contained will be used to determine the applicant's eligibility to receive a license.

Description of the Respondents: All Federal firearms licensees.

Number of Respondents: 47,088.

Frequency of Response: Once every 3 years.

Burden of Response: For this rule, 0.0017 hours. Total 1 hour.

Estimate of Total Annual Burden: For this rule, 80 hours. Total burden 47,088 hours.

G. Congressional Review Act

Pursuant to the Congressional Review Act, 5 U.S.C. 801–08, OMB's Office of Information and Regulatory Affairs designated this rule as not a ''major rule,'' as defined by 5 U.S.C. 804(2). This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

Disclosure

Copies of this rule and the comments received in response to the proposed rule will be available for public inspection through the Federal eRulemaking portal, *www.regulations.gov* (search for RIN 1140–AA10), or by appointment during normal business hours at the ATF Reading Room, Room 1E–062, 99 New York Avenue NE, Washington, DC 20226; telephone: (202) 648–8740.

List of Subjects in 27 CFR Part 478

Administrative practice and procedure, Arms and munitions, Exports, Freight, Imports, Intergovernmental relations, Law enforcement officers, Military personnel, Penalties, Reporting and recordkeeping requirements, Research, Seizures and forfeitures, Transportation.

Authority and Issuance

Accordingly, for the reasons discussed in the preamble, 27 CFR part 478 is amended as follows:

PART 478—COMMERCE IN FIREARMS AND AMMUNITION

■ 1. The authority citation for part 478 is revised to read as follows:

Authority: 5 U.S.C. 552(a); 18 U.S.C. 847, 921–931; 44 U.S.C. 3504(h).

■ 2. Amend § 478.11 as follows:
■ a. Revise the definition of ''Antique firearm'';
■ b. Remove the words ''the explosive in a fixed metallic cartridge'' in the definition of ''Rifle'' and add in their place ''an explosive'';
■ c, Add a definition for ''Secure gun storage or safety device'' in alphabetical order; and
■ d. Remove the words ''the explosive in a fixed shotgun shell'' in the definition of ''Shotgun'' and add in their place ''an explosive''.

The revision and addition read as follows:

§ 478.11 Meaning of terms.

* * * * *

Antique firearm. (1) Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898;

(2) Any replica of any firearm described in paragraph (a) of this definition if such replica:

(i) Is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

(ii) Uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade; or

(3) Any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol that is designed to use black powder, or a black powder substitute, and that cannot use fixed ammunition. For purposes of this paragraph (3), the term ''antique firearm'' does not include any weapon that incorporates a firearm frame or receiver, any firearm that is converted into a muzzle loading weapon, or any muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.

* * * * *

Secure gun storage or safety device. (1) A device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

(2) A device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

(3) A safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.

* * * * *

■ 3. Amend § 478.73 by adding a sentence after the first sentence in paragraph (a) to read as follows:

§ 478.73 Notice of revocation, suspension, or imposition of civil fine.

(a) * * * In addition, a notice of revocation of the license, on ATF Form 4500, may be issued whenever the Director has reason to believe that a licensee fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee). * * *

* * * * *

■ 4. Add § 478.104 to subpart F to read as follows:

§ 478.104 Secure gun storage or safety device.

(a) Any person who applies to be a licensed firearms dealer must certify on ATF Form 7 (5310.12), Application for Federal Firearms License, that compatible secure gun storage or safety devices will be available at any place where firearms are sold under the license to nonlicensed individuals (subject to the exception that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty, loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered in violation of the requirement to make available such a device).

(b) Any person who applies to be a licensed firearms importer or a licensed manufacturer and will be engaged in business on the licensed premises as a dealer in the same type of firearms authorized by the license to be imported or manufactured must make the certification required under paragraph (a) of this section.

(c) Each licensee described in this section must have compatible secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees. However, such licensee shall

not be considered to be in violation of this requirement if a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee.

Dated: December 23, 2021.

Merrick B. Garland,

Attorney General.

[FR Doc. 2021–28398 Filed 1–3–22; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R01–RCRA–2020–0175; FRL 8892–01–R1]

Massachusetts: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Massachusetts has applied to the United States Environmental Protection Agency (EPA) for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA), as amended. The EPA has reviewed Massachusetts' application, and has determined that these revisions satisfy all requirements needed to qualify for final authorization. Therefore, we are taking direct final action to authorize the State's changes. In the ''Proposed Rules'' section of this issue of the **Federal Register,** the EPA is also publishing a separate document that serves as the proposal to authorize these revisions. Unless the EPA receives written comments that oppose this authorization during the comment period, the decision to authorize Massachusetts' revisions to its hazardous waste program will take effect.

DATES: This final authorization is effective on March 7, 2022, unless the EPA receives adverse written comments by February 3, 2022. If the EPA receives any such comment, the EPA will publish a timely withdrawal of this direct final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–RCRA–2020–0175, at *https://www.regulations.gov/.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Sara Kinslow, RCRA Waste Management, UST, and Pesticides Section; Land, Chemicals, and Redevelopment Division; U.S. EPA Region 1, 5 Post Office Square, Suite 100 (Mail code 07–1), Boston, MA 02109–3912; phone: 617–918–1648; email: *kinslow.sara@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. Why are revisions to State programs necessary?

States that have received final authorization from the EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, states must change their programs and ask the EPA to authorize the changes. Changes to state programs may be necessary when Federal or state statutory or regulatory authority is modified or when certain other changes occur. Most commonly, states must change their programs because of changes to the EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273, and 279.

New Federal requirements and prohibitions imposed by Federal regulations that the EPA promulgates pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) take effect in authorized states at the same time that they take effect in unauthorized states. Thus, the EPA will implement those requirements and prohibitions in Massachusetts, including the issuance of new permits implementing those requirements, until Massachusetts is granted authorization to do so.

B. What decisions has the EPA made in this rule?

On August 13, 2021, Massachusetts submitted a complete program revision application seeking authorization of revisions to its hazardous waste program. The EPA concludes that Massachusetts' application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA, as set forth in RCRA Section 3006(b), 42 U.S.C 6926(b), and 40 CFR part 271. Therefore, the EPA grants final authorization to Massachusetts to operate its hazardous waste program with the revisions described in its authorization application, and as listed below in Section G of this document.

The Massachusetts Department of Environmental Protection (MassDEP) has responsibility for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its application, subject to the limitations of HSWA, as discussed above.

C. What is the effect of today's authorization decision?

This decision serves to authorize Massachusetts for the revisions to its authorized hazardous waste program described in its authorization application. These changes will become part of the authorized State hazardous waste program and will therefore be Federally enforceable. Massachusetts will continue to have primary enforcement authority and responsibility for its State hazardous waste program. The EPA would maintain its authorities under RCRA sections 3007, 3008, 3013, and 7003, including its authority to:

- Conduct inspections, and require monitoring, tests, analyses and reports;
- Enforce RCRA requirements, including authorized State program requirements, and suspend or revoke permits; and
- Take enforcement actions regardless of whether the State has taken its own actions.

This action will not impose additional requirements on the regulated community because the regulations for which the EPA is authorizing Massachusetts are already effective under state law and are not changed by today's action.