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Via Regulations.gov

ATF Rulemaking Comments
Mail Stop 6N-518, Office of Regulatory Affairs
Enforcement Programs and Services
Bureau of Alcohol, Tobacco, Firearms, and Explosives
99 New York Ave. NE
Washington, DC 20226
ATTN: RIN 1140-AB05

Re: Public Comment in Support of the Notice of Proposed Rulemaking, Revising Non-Over-the-Counter Firearms Transaction Requirements, Docket No. ATF-2026-0266; ATF 2025R-26P; RIN 1140-AB05.

To the Bureau of Alcohol, Tobacco, Firearms, and Explosives:

This comment is submitted by GrabAGun Digital Holdings Inc., a federally licensed firearms online and in-person retailer located in Coppell, Texas. We have been in business for more than 16 years and have sold nearly one and a half million firearms. The Second Amendment is in our blood.

We believe that it is our American duty to help everyone, from the first-time buyer to long-time enthusiasts, exercise their important civil rights that are protected by the Second Amendment to the United States Constitution, and to assist them in understanding the law and legally securing firearms and accessories in an affordable manner. As part of that mission, we operate in strict compliance with state and federal firearms laws.

Congress enacted a federal statutory system on the regulation of firearms and the gun trade which has changed little over many decades. While the Gun Control Act and the Brady Act have done much to keep guns out of the wrong hands, the Gun Control Act has yet to be modernized for adapting to 21st Century technology. Most of the modernization efforts that can be accommodated by regulation or innovation in information management, including those undertaken by ATF, have been promoted or supported by the trade and these have contributed significantly to public safety and positive customer experiences without infringing on Second Amendment rights.

Congress realized in 1968 that portions of the American public that relied on remote delivery of goods and services could not readily adapt to the new firearms framework, and provided a secure equivalent alternative to in person appearances to acquire a firearm. ATF had already modernized this procedure to some extent for some types of firearms transfers, such as in ATF Procedure 2020-1, and now proposes to do what the 1968 law has always permitted: a safe, secure and robust procedure for firearms transfers in general. GrabAGun supports the proposed rule to permit federal firearms licensees ("FFLs") to complete non-over-the-counter ("NOTC") transfers that are subject to a background check through the National Instant Criminal Background Check System ("NICS"), using remote identity verification that meets federal standards.[1]

GrabAGun views the new rule as a logical evolution of what the law already permits, and serving as an equivalent and robust compliment in terms of public safety to the procedure for in person appearances to acquire a firearm. While NICS Over-the-counter transactions have served the industry well for decades and unquestionably prevent unlawful transactions, no one should suggest the OTC process is infallible. The proposed rule should not be evaluated against an idealized vision of OTC sales, but against the real-world strengths and limitations of today's system. Modern identity assurance, credential validation, biometric verification, auditable records, and secure delivery controls introduce safeguards that do not exist in many traditional transactions while preserving the dealer's independent authority to question, delay, or decline any transfer. The objective is not to replace dealer judgment, but to strengthen and enhance a statutorily authorized procedure with tools that fully meet public safety objectives.

In sum, ATF should finalize the proposed rule. As an online retailer, this rule would allow GrabAGun to serve customers who need or strongly prefer the alternative of going to a retailer in person. The rule helps law-abiding citizens gain safe, lawful, and affordable access to firearms for self-defense, hunting, and the shooting sports. The proposal is simply a safe and secure modernization of what Congress provided for in the original statutory structure.

As an alternative to a brief in-person transaction with a customer, the rule provides a layered, auditable identity verification process that is arguably more reliable. Without disturbing existing federal background check requirements, the proposed rule modernizes and streamlines the buying process for every lawful purchaser who prefers or needs to use the alternative process, replacing needless trips and counter time with the same kind of secure online transaction Americans already use for banking and taxes. And it opens lawful access to the millions of Americans whom the current in-person requirement disadvantages: rural residents, people with disabilities, and women whose safety depends on arming themselves privately.

This comment addresses the following topics and issues:

1. The proposed rule aligns the regulation with the statute Congress wrote.
2. Verification under the NIST standard is more reliable than a visual check at the counter.

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[1]Revising Non-Over-the-Counter Firearms Transaction Requirements, 91 Fed. Reg. 25,216 (proposed May 8, 2026) (to be codified at 27 C.F.R. pt. 478).

3. Every existing background check remains, and meaningful several safeguards are added.
4. The rule change can help reduce the high error rate in NICS background checks.
5. The fraud and delivery objections are answered by the proposed rule's own controls and by delivery safeguards.
6. The rule strengthens straw-purchase enforcement.
7. The rule serves law-abiding Americans in their exercise of a constitutional right.
8. The competition objections ask ATF to protect competitors, not consumers.
9. The public campaign against the proposed rule misdescribes it.
10. Responses to ATF's specific requests for comment.

1. The proposed rule aligns the regulation with the statute Congress wrote.

Congress authorized NOTC sales in the Gun Control Act of 1968. The statute permits a licensee to sell a firearm to a person who does not appear in person at the business premises, subject to a sworn statement, notice to the chief law enforcement officer ("CLEO") of the buyer's locality, and a statutory delivery delay.[2] Nothing in § 922(c) limits that option to background-check-exempt transfers, and nothing in the Brady Act's § 922(t) requires the licensee to verify identity only in person.[3] Those limitations live only in ATF's own regulation at 27 C.F.R. § 478.96. An agency should not keep a restriction that Congress never enacted, especially when technology now allows for enhanced compliance with every statutory command. The proposed rule corrects the regulation to match the statute. That is reason enough to finalize it.

Finalizing the proposed rule also avoids costly litigation. After *Loper Bright Enterprises v. Raimondo*, courts read statutes independently rather than deferring to an agency's interpretation, and a regulation that narrows an authorization Congress wrote invites a successful challenge.[4] But an agency should not wait to be sued into obedience. "[A]n agency literally has no power to act . . . unless and until Congress confers power upon it."[5] A regulation more restrictive than its statute is unlawful the day it issues, and citizens should never have to litigate to reclaim ground Congress never ceded.[6] Aligning

[2] 18 U.S.C. § 922(c); *see* 91 Fed. Reg. at 25,217 (describing the sworn statement, CLEO notice, and seven-day delay following the CLEO response).
[3] 91 Fed. Reg. at 25,217–18.
[4] *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412 (2024) (overruling *Chevron* deference).
[5] *La. Pub. Serv. Comm'n v. FCC*, 476 U.S. 355, 374 (1986).
[6] See 5 U.S.C. § 706(2)(C) (directing courts to "hold unlawful and set aside" agency action "in excess of statutory jurisdiction, authority, or limitations"); *Bowen v. Georgetown Univ. Hosp.*, 488 U.S. 204, 208 (1988) ("It is axiomatic that an administrative agency's power to promulgate legislative regulations is limited to the authority delegated by Congress.").

§ 478.96 with § 922(c) now honors the statute, respects the separation of powers, and spares the public and the agency alike from the litigation challenges the current mismatch invites.

The proposed rule also builds on and improves upon an existing proven practice. The same § 922(c) NOTC framework has moved National Firearms Act items, primarily suppressors, directly to buyers' doors for more than a decade under ATF's own rulings, first by variance and then industry-wide.[7] Nearly six million suppressors are now registered in the National Firearms Registration and Transfer Record, and ATF's NFA Division processed more than 1.3 million forms in 2024 alone. Although precise direct-shipment totals are not published, the industry's largest suppressor dealer ships to buyers' doors in all forty-two states where suppressors are lawful and reports the capacity to ship thousands of silencers daily.[8]

2. Verification under the NIST standard is more reliable than a visual check at the counter.

ATF reached the central factual conclusion itself. The proposed standards "would more reliably verify a person's identity than the current procedures for over-the-counter sales, which rely solely on a visual inspection of customer-presented documents."[9] The evidence supports that conclusion. Human beings are poor at matching an unfamiliar face to a photograph. In a peer-reviewed study, trained passport-issuing officers falsely accepted fraudulent photo identification 14 percent of the time, and they performed no better than untrained students.[10] Those are professionals whose entire job is document examination.

The law has recognized the same human limitations for six decades. As the Supreme Court put it, "[t]he vagaries of eyewitness identification are well-known; the annals of criminal law are rife with instances of mistaken identification."[11] By contrast, the leading algorithms evaluated in the National Institute of Standards and Technology's Face Recognition Vendor Test achieve one-to-one verification error rates that are a small

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[7]ATF Proc. 2013-2 (July 10, 2013), superseded by ATF Proc. 2020-1 (Sept. 3, 2020); *see also* Silencer Cent., *How Silencer Central Pioneered Ship-To-Your-Front-Door Service* (Mar. 11, 2025), https://www.silencercentral.com/blog/how-silencer-central-pioneered-ship-to-your-front-door-service/ (describing direct-to-door NOTC shipping under § 922(c) since ATF approved the first variance in 2012, now operating in all 42 states where suppressors are legal).

[8]*Over 1 Million NFA Forms Processed So Far This Year, 6 Million Suppressors on File*, Guns.com (Apr. 26, 2026), https://www.guns.com/news/2026/04/26/over-1-million-nfa-forms-processed-6-million-suppressors (reporting ATF NFA Division data: 1,373,305 forms processed in 2024); American Suppressor Ass'n data (5,998,065 suppressors registered in the NFRTR as of April 10, 2026), as reported in the same article. On direct-to-door shipping: Silencer Central, How Silencer Central Pioneered Ship-To-Your-Front-Door Service, https://www.silencercentral.com/blog/how-silencer-central-pioneered-ship-to-your-front-door-service/ (largest suppressor dealer by volume; shipping to doors in 42 states with capacity to "ship thousands of silencers daily").

[9]91 Fed. Reg. at 25,219.

[10]David White et al., *Passport Officers' Errors in Face Matching*, 9 PLoS ONE e103510 (2014).

[11]*United States v. Wade*, 388 U.S. 218, 228 (1967).

fraction of one percent on identity-document-quality images.[12] A rule that supplements the human visual inspection with document validation and machine comparison answers a weakness courts have acknowledged since at least 1967.[13]

Everything a counter clerk checks, the proposed process checks better, and it checks more. Consider the layers: first, the buyer submits a Form 4473 and a true copy of a government photo identification document; next, the licensee inspects the buyer's actual identification via video and compares the document to the person, just as it is done at the counter;[14] finally, the buyer must then separately verify their identity through a credential service provider ("CSP") whose process an independent third party has assessed against NIST Identity Assurance Level 2 ("IAL2"), using a live facial comparison or automated biometric comparison with liveness detection,[15] IAL2 requires validation of the identity evidence itself against authoritative sources, something no clerk can do by eye.

A counter sale involves a brief visual inspection of the identity document and the person presenting it. A remote sale under this proposed rule involves that same human comparison by the licensee, plus document validation, plus a facial comparison binding the live buyer to the validated document, plus liveness detection (the automated check that the camera is seeing a live human being rather than a photograph, a screen replay, or a mask), plus, for returning subscribers of the CSP, two-factor authentication. The counter's disadvantage is sharpest on the inspection itself. Most states give retailers no way to confirm that a state-issued identification is authentic and current, so at the counter the clerk's own eye is the safeguard. No current regulation even requires that clerk to be trained to spot a forgery. Fake identification documents, meanwhile, keep getting cheaper and more convincing as generative tools spread. CSP validation meets that threat directly and gives the licensee a tool the counter sale does not provide. Opponents want to keep this technology out of firearms sales, but it is the best answer we have to the fraud they claim to worry about. The federal government already trusts this exact architecture. The Internal Revenue Service uses IAL2 remote proofing for taxpayer accounts, and the Department of Homeland Security permits remote verification of I-9 employment eligibility documents.[16] There is no reason why this more robust identity verification process should not be an option for FFLs.

[12] Nat'l Inst. of Standards & Tech., Face Recognition Technology Evaluation (FRTE) 1:1 Verification (formerly FRVT), https://pages.nist.gov/frvt/html/frvt11.html (continuously updated leaderboard measuring false non-match rates at a false match rate of one in one million; leading algorithms err on a small fraction of one percent of identity-document-quality comparisons).
[13] *See Wade*, 388 U.S. at 228.
[14] 91 Fed. Reg. at 25,228 (proposed § 478.96(c)(3)).
[15] *Id.* (proposed § 478.96(c)(3)(i)–(ii)).
[16] 91 Fed. Reg. at 25,218–19; Optional Alternative 1 to the Physical Document Examination Associated with Employment Eligibility Verification (Form I-9), 88 Fed. Reg. 47,749 (July 25, 2023).

We would suggest one refinement to the proposed rule that would make this superior process more convenient to consumers without weakening it. ATF should permit a licensee, at the licensee's election, to conduct the inspection that proposed § 478.96(c)(3) requires by reviewing a recorded video that the transferee has made for that transfer, rather than only by a synchronous video conference.[17] Customers would be offered the option to record a video at any hour or to have their identification verified in a live video during hours when an employee is available. The licensee could review the recording itself, or engage a third party to review it alongside the CSP. A specialized third party may deploy trained behavioral-analytics systems that flag signs of coercion or deception, going beyond what any single licensee could develop on its own. Offered as a service alongside the CSP, that review would make the recorded-video option more robust and further reduce the risk of a straw purchase. In every case the licensee would still perform the identity verification the statute requires; the analytics would be an added layer of security, not a substitute for the licensee's own inspection.

The statute permits this. Section 922(t)(1)(D) requires the transferor to verify the transferee's identity "by examining a valid identification document."[18] It says nothing about where the examination occurs, and ATF has already concluded that the examination therefore need not occur in person. The statute is equally silent about when the examination occurs, so long as it precedes the transfer. A licensee who reviews a recording in which the buyer displays the physical identification document, turns it to show its security features, and shows his or her own face examines that document and compares it to the person as fully as a licensee on a live call.

Nor would the proposed refinement sacrifice security, because the anti-spoofing work is not the licensee's layer. Before the transfer may proceed, the CSP has validated the identification document itself and has bound it to the live buyer through facial comparison with live capture and liveness detection, under a process an independent third party has assessed against the NIST standards.[19] The licensee's inspection is a second human check layered on top of that certified verification, and any third-party behavioral analytics described above would add yet another. Requiring the licensee's check to occur in real time adds scheduling burdens for thousands of small licensees and millions of buyers, yet adds no marginal security: an imposter fails the CSP's liveness-detected binding whether the licensee's inspection was live or recorded.

Reasonable safeguards would come with the proposed refinement. The recording should be made for the specific transfer, show the physical document and the transferee's face, and be retained with the Form 4473. And the licensee should remain free to require a live conference, or to decline the transfer, whenever a recording leaves any doubt. To implement the proposed refinement, GrabAGun recommends revising the first two

[17] 91 Fed. Reg. at 25,228 (proposed § 478.96(c)(3)).
[18] 18 U.S.C. § 922(t)(1)(D).
[19] 91 Fed. Reg. at 25,228 (proposed § 478.96(c)(3)(ii)).

sentences of § 478.96(c)(3) as follows, with the proposed additions in italics: “In such cases, licensees must, prior to every transfer, conduct a video conference with the transferee *or review a recorded video submission that the transferee has made for that transfer*. During the conference *or the review of the recording*, licensees must inspect the transferee’s actual photo identification document and compare it with the transferee’s appearance in conformance with § 478.124(c).”

3. Every existing background check remains, and several meaningful safeguards are added.

Opponents describe this proposed rule as a weakening of background checks. The text of the proposed rule forecloses that claim. Every NOTC transfer under proposed § 478.96(c) still requires a completed Form 4473, a NICS background check initiated by the licensee, and a delay in shipment until NICS responds or the statutory investigatory period ends.[20] The transfer also remains subject to the recordkeeping and CLEO notification provisions of § 922(c), including the sworn statement for the purchaser and the statutory delivery delay.[21] Stack the requirements side by side and the conclusion is unavoidable. A remote sale under this rule passes through more checkpoints than any over-the-counter sale in America: the same form, the same NICS check, plus a sworn statement under penalty of law, plus notice to local law enforcement, plus certified identity verification to a federal standard. The rule leaves the Brady Act intact and routes lawful commerce through a narrower gate.

The proposed rule also grows the checked share of the market. Federal law requires a background check only when a licensee transfers the firearm; a private intrastate sale between residents ordinarily involves no federal check and no federal record at all.[22] Today the private sale is the convenient path: no trip to an FFL, no paperwork, no background check. This rule flips the incentive. It makes the fully checked FFL sale almost as convenient as the unchecked private one, so the buyer who follows the path of least resistance can now follow it through a Form 4473 and a NICS check.

If policymakers believe NICS background checks reduce crime, they should design the regulatory system to encourage people to use licensed dealers rather than private alternatives that avoid background checks. By reducing unnecessary time, travel, inconvenience, and expense, this proposal makes the NICS-checked channel more attractive without mandating additional background checks. Other benefits to an NOTC transaction include assurance that the firearm was not stolen and the elimination of fraudulent sales where money is exchanged but the firearm is not. People respond to incentives, and lowering transaction costs and reducing risk should increase the share of

[20] 91 Fed. Reg. at 25,228 (proposed § 478.96(c)(4)).
[21] 91 Fed. Reg. at 25,220; 18 U.S.C. § 922(c)(1)–(3).
[22] 18 U.S.C. § 922(t)(1) (imposing the background-check requirement on transfers by licensed importers, manufacturers, and dealers).

lawful transfers that receive background checks. These incentives will also help poorer individuals, who are more likely to be victims of crime and benefit more from owning guns.

4. The rule change can help reduce the high error rate in NICS background checks.

These new biometric methods of identification could dramatically reduce the errors in the current NICS background check system. In 2023, the most recent year reported, the National Instant Criminal Background Check System denied 116,587 attempted purchases, yet those denials produced only 14 federal indictments and five convictions.[23] These numbers are nothing new. In 2022, there were 131,865 denials, 18 indicted, and three convictions.[24] As John R. Lott Jr. has observed, prosecutions are scarce even though these cases are extremely easy to prove: the buyer signs a sworn form, presents government-issued identification, and is almost always recorded on video at the counter.[25]

The problem is that the vast majority of these denials are false positives: mistakes. A denial that stops a felon serves the statute. A denial that stops a buyer whose name and birthday merely resemble a felon's is simply an error. "This incredibly high rate of false positives imposes a real burden on the most vulnerable people," said Reagan Dunn, the first national coordinator for Project Safe Neighborhoods, a Justice Department program started in 2001 to ensure gun laws are enforced.[26] The mirror-image concern—that a prohibited person might instead use a counterfeit identification document to pass verification—is addressed in Part 5, which explains why the proposed rule screens fraudulent documents more rigorously than an over-the-counter sale does.

Disadvantaged minorities face the highest rate of background check mistakes.[27] Indeed, concerns about these mistakes motivated the U.S. House of Representatives this year to unanimously pass the NICS Data Reporting Act of 2026 (HR 2267) in both the House Judiciary Committee and the full House.[28] As explained by the bill's author, "Presently, NICS results in too many false denials, and I believe it creates a racial disparity. By showing this with data that's already collected, but not currently reported, I

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[23] Fed. Bureau of Investigation, *National Instant Criminal Background Check System (NICS) Denials Report* 11–12 (Oct. 2, 2024), https://www.justice.gov/media/1375616/dl.
[24] Fed. Bureau of Investigation, *National Instant Criminal Background Check System (NICS) Denials Report* (Mar. 2024), https://www.justice.gov/ovw/media/1347496/dl.
[25] John R. Lott Jr., *Gun Background Checks Are Failing the Wrong People*, RealClearPolitics (May 11, 2026), https://www.realclearpolitics.com/articles/2026/05/11/gun_background_checks_are_failing_the_wrong_people_154110.html.
[26] John R. Lott Jr., Opinion, *Background Checks Are Not the Answer to Gun Violence*, N.Y. Times (Feb. 12, 2018), https://www.nytimes.com/2018/02/12/opinion/politics/background-checks-gun-violence.html.
[27] Lott, *supra* note 23.
[28] NICS Data Reporting Act of 2026, H.R. 2267, 119th Cong. (as passed by House, May 12, 2026), https://www.congress.gov/bill/119th-congress/house-bill/2267.

hope to generate bipartisan interest in making NICS less prone to false denials so Americans of all backgrounds are not deprived of their right to keep and bear arms."[29]

The extraordinarily small number of indictments and convictions relative to the number of denials suggests that many denials do not involve prosecutable attempts by prohibited persons. To the extent those denials stem from mistaken identity or inaccurate identifying information, stronger biometric NIST-compliant identity verification should reduce some of those errors while preserving the NICS background check. This could help reduce the error rate in the current system that disproportionately impacts law-abiding minorities.

5. The fraud and delivery objections are answered by the proposed rule's own controls and by delivery safeguards.

Some commenters and those advocating for stricter gun control warn that a stolen or borrowed identification will defeat remote verification. The proposed rule, however, is engineered against precisely that attack. A borrowed license fails the binding requirement, because the imposter's live facial capture will not match the photograph on the validated document, whether a live CSP representative or an algorithm makes the comparison, and liveness detection defeats a held-up photo, artificial intelligence deepfakes, or a replayed video.[30] A counterfeit license fails at an earlier step, because the IAL2 process requires the CSP to validate the document's security features and confirm it is authentic and current before any comparison occurs, a check the unaided counter inspection does not perform. The imposter must also defeat the licensee's own video inspection and, if claiming an existing subscriber account with the provider, the two-factor authentication requirement. Compare these checks and verifications to the current over-the-counter transaction, where the same borrowed license need only survive a brief review by a clerk who, the research shows, will wrongly accept a fraudulent photo roughly one time in seven.[31]

Delivery concerns are real but manageable, and they are managed today. Firearms already move by common carrier every day between licensees, and suppressors already move from licensees to front doors. Opponents who predict that direct delivery will become a trafficking pipeline have never explained why years of direct-shipped NFA firearms produced no such pipeline. Even so, GrabAGun supports, and

[29] Press Release, Rep. Thomas Massie, *Rep. Massie's NICS Data Reporting Act Passes House* (May 12, 2026), https://massie.house.gov/news/documentsingle.aspx?DocumentID=395836.
[30] 91 Fed. Reg. at 25,228 (proposed § 478.96(c)(3)(ii)) (requiring the CSP's binding process to employ a live physical facial comparison by a CSP representative or an automated biometric facial comparison using a live capture of the transferee's facial image and liveness detection); *see id.* (proposed § 478.96(c)(3)) (requiring a video conference with the transferee before every transfer). For validation of the document itself, see *id.* at 25,219 (IAL2 process validates that a photo identification document is authentic and current); *id.* (standards meeting IAL2 and AAL2 "would more reliably verify a person's identity than the current procedures for over-the-counter sales, which rely solely on a visual inspection of customer-presented documents").
[31] White et al., *supra* note 10.

urges ATF to encourage, the delivery controls that responsible retailers will adopt on their own: shipment only to the address verified during identity proofing, adult-signature-required delivery with no driver release, no redirection or third-party pickup, and immediate reporting of any lost or stolen shipment on ATF Form 3310.11.[32] The major carriers already impose several of these controls by policy. GrabAGun recommends that ATF describe these delivery practices in the final rule as recommended best practices.

Concerns that carriers might deliver firearms to the wrong individual can be further mitigated by requiring the recipient to present identification matching the verified purchaser before accepting delivery.

Some commenters fear a different gap: that a remote sale will let a buyer evade his own state's stricter purchase laws. Federal law closes that gap. A licensee may not sell or deliver a firearm when the purchase or possession would violate any state law or published ordinance that applies where the buyer takes delivery, so every state waiting period, permit-to-purchase requirement, and delivery condition applies to a remote sale exactly as it applies at the counter.[33] The rule establishes a federal floor for identity verification while leaving every state requirement intact.

6. The rule strengthens straw-purchase enforcement.

The centerpiece of the opposition to the proposed rule is that it will increase straw purchases. However, commenters raising this objection wrongly assume that over-the-counter interactions are fully effective at detecting straw purchases. ATF's "Don't lie for the other guy" anti-straw purchasing campaign in collaboration with the National Shooting Sports Foundation has been highly effective at training dealers and their employees to detect and deter potential straw purchases as a first line of defense. But Congress never intended FFLs to be the only line of defense. A straw purchase is a federal felony because the buyer lies on the Form 4473.[34] That felony liability applies identically to remote transfers. What changes under this rule is the evidence.

Today, a straw-purchase prosecution often turns on a clerk's memory of a face. Under the proposed rule, the file the licensee must retain for every transfer contains the Form 4473, a true copy of the buyer's photo identification, the CSP's verification of that identity, the sworn statement, the CLEO notice with evidence of its receipt, and the

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[32]See ATF Form 3310.11 (Federal Firearms Licensee Theft/Loss Report). UPS's published policy requires adult-signature, direct-delivery-only service for every firearm package and bars rerouting and third-party pickup; FedEx requires a signature-on-delivery option under its firearms compliance agreements. UPS, How to Ship Firearms, https://www.ups.com/us/en/support/shipping-support/shipping-special-care-regulated-items/prohibited-items/firearms; FedEx, How to Ship Firearms, https://www.fedex.com/en-us/shipping/how-to-ship-firearms.html.
[33]18 U.S.C. § 922(b)(2) (prohibiting a licensee from selling or delivering a firearm to any person in any State where the purchase or possession would violate any State law or published ordinance applicable at the place of sale, delivery, or other disposition, unless the licensee knows or has reasonable cause to believe that the purchase or possession would not violate that law or ordinance).
[34]*Abramski v. United States,* 573 U.S. 169 (2014); 18 U.S.C. § 922(a)(6).

carrier's delivery record to a verified address.[35] Each layer is a new exhibit. ATF's chief counsel made the point directly: those who fear remote sales hold "an idealized view of what an in-store purchase is."[36] The empirical face-matching literature referenced above confirms his skepticism.

7. The rule serves law-abiding Americans in their exercise of a constitutional right.

The Supreme Court has held that the Second Amendment protects an individual right, and that "the inherent right of self-defense has been central to the Second Amendment right."[37] The Court has further held that this right is not "a second-class right, subject to an entirely different body of rules than the other Bill of Rights guarantees," and it has enforced that principle against regulatory schemes that burden ordinary, law-abiding citizens.[38] Under *Bruen*, when a regulation reaches conduct covered by the Second Amendment's plain text, the government must justify the regulation. It must demonstrate that the regulation is consistent with the Nation's historical tradition of firearm regulation.[39] Restrictions on the sale and delivery of firearms implicate that plain text. Constitutional rights "implicitly protect those closely related acts necessary to their exercise," and the acquisition of a firearm is such an act.[40] No one would accept a rule that books or other constitutionally protected items may be obtained only by personal appearance at a distant storefront during business hours. A regulatory restriction that Congress never enacted should not impose that burden on the one right the Constitution insists "shall not be infringed."

The Second Amendment Foundation ("SAF") has submitted an important comment on this docket that develops these principles in detail, and GrabAGun endorses SAF's analysis.[41] SAF demonstrates that the current regulation's in-person requirement has no historical analogue. The first federal restriction on mail-ordering firearms, the Nonmailable Firearms Act, did not arrive until 1927. Under *Bruen*, regulations of that vintage come far too late to shed light on the Second Amendment's meaning.[42] And in January of this year, the Department of Justice's Office of Legal Counsel concluded that

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[35] *See* proposed 27 C.F.R. §§ 478.96(c)(2), 478.124(c)(5)(iii), (i), 91 Fed. Reg. at 25,228; 18 U.S.C. § 922(c) (sworn statement and notification records retained under § 923(g)); 91 Fed. Reg. at 25,226–27 (licensees who offer remote sales "would continue to use Form 4473 and retain it and any associated documents collected as part of the transaction").

[36] Guns Could Be Shipped Directly to Homes Under Major Rule Change, LiveNOW from FOX (last visited July 10, 2026) (quoting ATF Chief Counsel Robert Leider), https://www.livenowfox.com/news/atf-rule-guns-could-be-shipped-directly-homes.

[37] *District of Columbia v. Heller*, 554 U.S. 570, 628 (2008).

[38] *McDonald v. City of Chicago*, 561 U.S. 742, 780 (2010) (plurality opinion); *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 70 (2022).

[39] *Bruen*, 597 U.S. at 24.

[40] *Luis v. United States*, 578 U.S. 5, 26 (2016) (Thomas, J., concurring in the judgment); *see also Ortega v. Grisham*, 148 F.4th 1134, 1143 n.3 (10th Cir. 2025).

[41] Comment of Second Amendment Foundation, Docket No. ATF-2026-0266-ms9-rep4-qnfi (posted July 31, 2026).

[42] 18 U.S.C. § 1715; *see Bruen*, 597 U.S. at 66 n.28 (declining to credit twentieth-century evidence that contradicts earlier evidence of the Second Amendment's meaning).

the 1927 Act is itself unconstitutional because its "purpose and burden find no analogue in this Nation's history and tradition of firearm regulation."[43] SAF also shows that the actual historical record cuts against the current rule. From the Reconstruction Era through the turn of the century, Americans routinely ordered revolvers, rifles, and shotguns through advertisements that appeared in newspapers and periodicals such as *Harper's Weekly* and through the Sears catalog, and they had those firearms shipped directly to their homes. As SAF puts it, the "Amazon of Guns" existed well over a century ago.[44] Mail order was "the prevailing way Americans bought" firearms before the twentieth century. The current regulation departs from that tradition by permitting NOTC transfers only when the buyer is exempt from a NICS check. The proposed rule brings the acquisition of arms back into line with our historical tradition and, as SAF concludes, corrects an existing Second Amendment violation.

The burden of the existing regulation is not evenly spread. It falls on the rural buyer who must travel to a faraway dealer and on the more than one in four American adults living with a disability. It falls on women, who made up more than a third of the 5.4 million Americans who bought a firearm for the first time in 2021. It falls on low-income Americans who cannot afford to take time off work to visit a gun shop during business hours. And it falls hardest on women leaving abusive partners, for whom a public trip to a gun store is itself a safety risk.[45]

Precision about timing matters here too. The sworn statement, CLEO notice, and statutory delivery delay of § 922(c) remain, so a remote purchase is not a same-day purchase, and the proposed rule offers nothing to the buyer who wants a firearm this afternoon. Its largest beneficiary is the buyer for whom the trip itself is the obstacle. That built-in statutory interval is also the answer to the impulse-purchase objection raised against this rule. The record already makes this case in a better voice than ours: a commenter on this docket, a woman who owns a firearm for protection, presses the same deterred-purchase analysis from experience.[46] ATF quantifies the benefit at roughly $103.7 million per year and $1.04 billion over ten years, resting on nearly four million hours of saved travel and processing time.[47] That figure is conservative. It counts only

[43]Office of Legal Counsel, U.S. Dep't of Justice, *Constitutionality of 18 U.S.C. § 1715*, 50 Op. O.L.C. __, slip op. at 15 (Jan. 15, 2026), https://www.justice.gov/olc/media/1424001/dl.
[44]Comment of Second Amendment Foundation, *supra* note 39, at 4-6 (collecting nineteenth-century advertisements from *Harper's Weekly* and the 1902 Sears, Roebuck catalog offering firearms for shipment directly to buyers' homes).
[45]Ctrs. for Disease Control & Prevention, Disability Impacts All of Us (reporting that more than one in four U.S. adults, over 70 million people, live with a disability), https://www.cdc.gov/disability-and-health/articles-documents/disability-impacts-all-of-us-infographic.html; Nat'l Press Release, Nat'l Shooting Sports Found., NSSF Retailer Surveys Indicate 5.4 Million First-Time Gun Buyers in 2021 (Jan. 2022), https://www.nssf.org/articles/nssf-retailer-surveys-indicate-5-4-million-first-time-gun-buyers-in-2021/ (more than a third of 2021's first-time buyers were women).
[46]Comment of American Sports Management Inc., Docket No. ATF-2026-0266-0335 (posted July 7, 2026) (arguing that ATF's benefits analysis omits lawful purchases deterred by the in-person mandate, a burden that falls hardest on women without transportation and women leaving abusive partners).
[47]91 Fed. Reg. at 25,222–23.

the buyers who complete purchases today and omits the lawful purchases that never happen because travelling to an FFL's licensed premises makes it too expensive or logistically difficult for them. The rule's largest benefit is enabling those deterred, lawful acquisitions, and ATF should say so in the final rule's analysis.

8. The competition objections ask ATF to protect competitors, not consumers.

Some dealers oppose the proposed rule because remote sales threaten transfer-fee revenue. That is an argument for shielding incumbents from competition, and federal policy has long rejected it. The governing principle in American competition law is the protection of "competition, not competitors."[48] The deregulatory savings here flow to consumers. Every licensed dealer, pawnbroker, manufacturer, and importer may use the new process, and all 45,605 retail dealers may adopt remote sales on equal terms. And the proposed rule's same-state limitation means the customers at issue are, by definition, already within each dealer's home-state market.[49] Small and home-based licensees potentially gain the most.

A rural-based dealer can now serve the entire state without asking customers to drive long distances. Several small licensees said exactly that in comments on this docket. Basic economics predicts that lower transaction costs and wider dealer choice will reduce prices for the consumer and expand service. Freezing a regulatory restriction to preserve one revenue line for one business model would invert the Regulatory Flexibility Act's purpose,[50] and it would tax every consumer in the country to do it.

9. The public campaign against the proposed rule misdescribes it.

ATF should weigh the opposition's claims against the proposed rule's text, because the two do not match. The primary critique made publicly by Everytown for Gun Safety ("Everytown") describes the proposal as evidence of an agency "captured" by industry and as one of the ATF's "most troubling proposals."[51] Yet Everytown never engages the proposed rule's actual verification requirements, and it never mentions that ATF's savings estimate measures benefits to consumers rather than to industry. The joint Giffords Law Center ("Giffords"), Brady: United Against Gun Violence ("Brady"), and Everytown announcement goes further - it describes the proposals as "allowing online

[48] *Brunswick Corp. v. Pueblo Bowl-O-Mat, Inc.*, 429 U.S. 477, 488 (1977) (quoting *Brown Shoe Co. v. United States*, 370 U.S. 294, 320 (1962)).

[49] 91 Fed. Reg. at 25,224–26. For the breadth of eligible licensees, see 18 U.S.C. § 922(c) and 91 Fed. Reg. at 25,228 (proposed § 478.96(c), extending the process to "[l]icensed importers, manufacturers, or dealers"). Based on data from its Federal Firearms Licensing Center, ATF reports 45,605 active dealer FFLs (Type 01 licenses) as of December 23, 2025, and states that the proposed rule would allow all of them to "capitalize on a larger statewide market" even though remote transactions remain "limited to those within the same state." *Id.* at 25,224–25.

[50] Regulatory Flexibility Act, 5 U.S.C. §§ 601–612 (directing agencies to fit regulatory and informational requirements to the scale of the businesses they regulate); *see* 91 Fed. Reg. at 25,225 (quoting Pub. L. No. 96-354, § 2(b), 94 Stat. 1164 (1980)).

[51] Greg Lickenbrock, *ATF Rules Reflect an Agency Captured by the Gun Industry*, The Smoking Gun (May 12, 2026), https://smokinggun.org/atf-rules-reflect-an-agency-captured-by-the-gun-industry/.

gun sales to be delivered by mail without in-person verification," and it warns of an "Amazon of guns" with "minimal human interaction."[52] The rule requires exactly the opposite and as pointed out in Parts 2, 3, 4 and 6 above, actually strengthen and enhance the verification process. It mandates a video conference between the licensee and the buyer for every transfer, followed by certified identity proofing that includes facial comparison with live capture and liveness detection.[53] Our recorded-video option proposed in Part 2 would not change that answer: a human licensee would still review the buyer and the buyer's document before every transfer, the licensee could always insist on a live conference, and the CSP's live-capture verification would remain untouched. The transaction contains more mandated human interaction and more verification than the over-the-counter sale it supplements.

Beneath the misdescriptions lies a mistaken premise: that the clerk's review at the counter is the benchmark of identity verification and any machine is a step down. The evidence shows otherwise. The unaided human eye is the weakest link in the present system. As Part 2 details, trained passport-issuing officers wrongly accepted fraudulent photo identification 14 percent of the time, while the leading algorithms in NIST's face-verification testing err on a small fraction of one percent of identity-document-quality comparisons.[54] Automated identity verification under the proposed rule therefore does not loosen the check on who is buying the firearm. It tightens that check, and the rule still retains the licensee's own review of every buyer.

The alarm is also familiar. For two centuries, machines that remove human error from risky tasks have driven the economy and the society around it forward, and each arrived to the same objection. Early passengers feared the airplane, yet after a century of instrumentation and automation the death rate per passenger mile on airlines runs more than a thousand times below that of the passenger car.[55] The assembly line was condemned for displacing craftsmen, but it made the automobile affordable to the workers who assembled it. The automatic elevator, the dial telephone, and the automated teller machine each provoked predictions of danger and displacement, and each became so ordinary that the fear is now hard to recall. GrabAGun has spent its sixteen years on the adopting side of that history, bringing modern online-retail technology to firearms commerce. It has done so in service of the mission stated at the outset of this comment: promoting the lawful, safe, and affordable exercise of the rights the Second Amendment protects. The proposed rule invites the industry as a whole to take the same step with

[52] Press Release, GIFFORDS, National Gun Violence Prevention Groups File Formal Comments to Dangerous ATF Rule Rollbacks (July 8, 2026), https://giffords.org/memo/national-gun-violence-prevention-groups-file-formal-comments-to-dangerous-atf-rule-rollbacks/.

[53] 91 Fed. Reg. at 25,228 (proposed § 478.96(c)(3), (c)(3)(ii)).

[54] See supra Part 2 (discussing David White et al., Passport Officers' Errors in Face Matching, 9 PLoS ONE e103510 (2014), and the National Institute of Standards and Technology's one-to-one face-verification testing).

[55] Nat'l Safety Council, Deaths by Transportation Mode, Injury Facts, https://injuryfacts.nsc.org/home-and-community/safety-topics/deaths-by-transportation-mode/ (reporting that the passenger-vehicle death rate per 100 million passenger miles over the last ten years was 1,200 times higher than the rate for scheduled airlines).

identity verification, pairing the human review the rule retains with automation that removes the human error described above.

Finally, a Giffords spokesperson asserts that no internet seller can ever know whether a buyer is funneling firearms to others. The same is true of every over-the-counter sale ever made, which is why Congress made the straw purchase itself the crime. The objection proves nothing about this rule, because it is not aimed at this rule. These organizations exist to restrict the exercise of the rights the Second Amendment guarantees, and they oppose every measure that allows law-abiding citizens to acquire firearms, regardless of safeguards. These are objections to the Second Amendment itself, repackaged as objections to this rule. ATF may discount them for exactly that reason.

10. Responses to ATF's specific requests for comment.

ATF made six express requests for comment: on the clarity of the proposed rule; on its costs, benefits, and the methodology for calculating them; on likely demand for remote sales; on CSP pricing; on industry adoption rates; and on the impact to small entities. The first two are answered throughout this comment: the proposed rule is clear as drafted (Part 2's recorded-video proposal is a substantive refinement, not a clarity objection), and Part 7 supplies the methodological correction, because the benefits analysis omits deterred purchases. Part 8 addresses small entities.

On the remaining three, GrabAGun, as one of the nation's largest online firearm retailers, offers four observations.[56] First, ATF's assumption that half of buyers would use remote purchase is reasonable and likely conservative over a ten-year horizon, given the migration of retail generally toward online ordering and delivery. Second, ATF's illustrative $7 per-transaction verification fee is plausible at launch, and competition among certified providers should drive verification costs lower. The NPRM's regulatory-alternatives discussion flags the related supply-side risk. In its second alternative, ATF considered relaxing the requirement that an independent third party certify each verification provider, because few firms now dominate that certified market and the requirement could leave FFLs with little choice among vendors. ATF kept the standards, and it chose correctly. Finalizing the proposed rule is itself the cure for the thin market: a codified national standard gives providers a durable reason to seek certification, and new entrants will widen FFL choice and discipline prices.

Third, adoption will exceed the 10 to 15 percent estimate among online-capable dealers of every size, because the proposed rule lets any dealer sell to every lawful buyer in its state and ship the firearm, instead of selling only to buyers willing to travel to the physical location of the FFL. Reaching those customers costs a dealer little more than a website and a per-sale verification fee. ATF conceded that it "does not know how many CSPs would enter this market and their pricing, nor does it have an accurate model for

[56] 91 Fed. Reg. at 25,222, 25,224–27.

market demand and anticipated adoption."[57] We agree and believe that underscores why ATF should move to finalize this proposed rule rather than waiting: reliable adoption and pricing data cannot exist until the remote channel itself exists, and the certified-provider market will mature only under a codified standard.

Fourth, the proposed rule should open a new service market that would speed the adoption ATF cannot yet model. Because proposed § 478.96(c) would let a licensee verify a buyer remotely and ship the firearm by mail to any lawful buyer in the licensee's own state, every dealer gains a reason to sell remotely, including the smallest retailer. Each remote sale requires identity verification through a certified CSP, but a small dealer need not build that capability alone. The rule invites companies to supply certified online verification as a turnkey service for smaller FFLs, bundling IAL2-compliant identity proofing, the videoconference workflow, and the associated recordkeeping into a per-transaction or subscription offering. A provider serving thousands of small licensees can spread its certification, compliance, and technology costs across a high transaction volume. Those economies of scale would compound the competitive pressure described in the second observation above, pushing per-verification pricing below ATF's illustrative $7 figure faster than either force alone.[58] The same service layer also reinforces Part 8's answer to the initial regulatory flexibility analysis, which worried that small dealers might lose ground to larger in-state retailers.[59] With verification available as an affordable service, a single-counter dealer can reach every lawful buyer in its state as readily as a large chain can. These four observations, drawn from sixteen years of online firearm retailing, are offered to help close the data gap ATF identified.

Finally, GrabAGun asks ATF to clarify, and correct if warranted, one figure. The Congressional Review Act discussion states that the proposed rule's economic impact "would consist of $236 million in annual deregulatory savings" and describes $2.36 billion in ten-year savings, while the regulatory impact analysis and the Executive Order 14192 discussion state $103.7 million (rounded to $104 million) per year and $1.04 billion over ten years. The two passages describe the same rule in nearly identical sentences, so the difference appears to be a drafting error rather than a different calculation. If so, the final rule should correct it; if not, the final rule should explain the basis for the larger figures.[60]

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[57] 91 Fed. Reg. at 25,224.

[58] 91 Fed. Reg. at 25,224 (discussing potential CSP pricing, the illustrative $7 per-transaction fee, and the unknown number of future market entrants).

[59] 91 Fed. Reg. at 25,225 (initial regulatory flexibility analysis noting that small dealers "might be indirectly and negatively affected by this proposed rule due to potentially increased competition from the minority of larger retailers in their respective states" and requesting comment on the impact to small entities); see also id. at 25,226 (raising the same competition concern under the Small Business Regulatory Enforcement Fairness Act).

[60] *Compare* 91 Fed. Reg. at 25,222–23 ($103.7 million per year; $1.04 billion over ten years) with *id.* at 25,227 (Congressional Review Act discussion stating $236 million and $2.36 billion); *see also id.* at 25,225 (Executive Order 14192 discussion stating $104 million and $1.04 billion).

11. Conclusion.

The existing statute has authorized NOTC transfers since its passage in 1968. Technology has evolved and provided the ability to verify a purchaser's identity more reliably than the in-person counter review the current regulation mandates. Every background check remains. Every statutory requirement remains, and new established and vetted certified verification layers are added. The fraud and delivery objections are met by the proposed rule's own controls and by the anticipated industry-imposed delivery conditions. Objections based on straw-purchase concerns are just objections to the sale itself, and the remote process leaves the stronger evidentiary record. The beneficiaries are law-abiding citizens exercising a constitutional right, including the rural, the poor, the disabled, and women who can lawfully arm themselves only if they can do so privately and safely. The objections, examined against the text, protect either incumbents' fees or a policy preference against firearm sales generally. Neither is a lawful basis to retain a restriction Congress never enacted. GrabAGun respectfully urges ATF to finalize the proposed rule, with the recorded-video refinement proposed in Part 2.

Respectfully submitted,

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