

effect, if any, does this have on the continuing need for the Rule?

(3) What benefits has the Rule provided to purchasers of the products or services affected by the Rule?

(4) Has the Rule imposed costs on purchasers?

(5) What changes, if any, should be made to the Rule to increase the benefits of the Rule to purchasers? How would these changes affect the costs the Rule imposes on firms subject to its requirements? How would these changes affect the benefits to purchasers?

(6) What significant burdens or costs, including costs of compliance, has the Rule imposed on businesses, whether large or small, subject to its requirements? Has the Rule provided benefits to such businesses? If so, what benefits?

(7) What changes, if any, should be made to the Rule to reduce the burdens or costs imposed on firms subject to its requirements? How would these changes affect the benefits provided by the Rule?

(8) Does the Rule overlap or conflict with other federal, state, or local laws or regulations?

(9) Since the Rule was issued, what effects, if any, have changes in relevant television technology, such as the 16:9 aspect ratio for high definition television displays, marketing methods, such as online sales, or economic conditions had on the Rule?

#### List of Subjects in 16 CFR Part 410

Advertising, Picture tubes, Television sets, Trade practices.

**Authority:** 15 U.S.C. 41–58.

By direction of the Commission.

**Donald S. Clark,**  
Secretary.

[FR Doc. 05–6960 Filed 4–6–05; 8:45 am]

**BILLING CODE 6750–01–P**

## DEPARTMENT OF JUSTICE

### Bureau of Alcohol, Tobacco, Firearms, and Explosives

#### 27 CFR Part 479

[Docket No. ATF 7P; AG Order No. 2761–2005]

RIN 1140–AA23

#### Machine Guns, Destructive Devices, and Certain Other Firearms; Amended Definition of “Pistol” (2003R–33P)

**AGENCY:** Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), Department of Justice.

#### **ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Department of Justice is proposing to amend the regulations relating to machine guns, destructive devices, and certain other firearms regulated under the National Firearms Act (NFA) for the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to clarify the definition of the term “pistol” and to define more clearly exceptions to the “pistol” definition. The added language is necessary to clarify that certain weapons, including any weapon disguised to look like an item other than a firearm or any gun that fires more than one shot without manual reloading by a single function of the trigger, are not pistols and are classified as “any other weapon” under the NFA.

**DATES:** Comments must be submitted on or before May 9, 2005.

**ADDRESSES:** Send written comments to: James P. Ficaretta, Program Manager; Room 5250; Bureau of Alcohol, Tobacco, Firearms, and Explosives; P.O. Box 50221; Washington, DC 20091–0221; *ATTN: ATF 7P*. Written comments must include your mailing address and be signed, and may be of any length.

Comments may also be submitted electronically to ATF at [nprm@atf.gov](mailto:nprm@atf.gov) or to <http://www.regulations.gov> by using the electronic comment form provided on that site. You may also view an electronic version of this proposed rule at the <http://www.regulations.gov> site. Comments submitted electronically must contain your name, mailing address and, if submitted by e-mail, your e-mail address. They must also reference this document docket number, as noted above, and be legible when printed on 8½” x 11” paper. ATF will treat comments submitted electronically as originals and ATF will not acknowledge receipt of comments submitted electronically. See the Public Participation section at the end of the **SUPPLEMENTARY INFORMATION** section for requirements for submitting written comments by facsimile.

#### **FOR FURTHER INFORMATION CONTACT:**

James P. Ficaretta; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; United States Department of Justice; 650 Massachusetts Avenue, NW., Washington, DC 20226; telephone (202) 927–8203 (this is not a toll-free number).

#### **SUPPLEMENTARY INFORMATION:**

#### **Background**

The regulations in title 27, Code of Federal Regulations (CFR), part 479 implement the provisions of the National Firearms Act (NFA), 26 U.S.C. 5801 *et seq.* Part 479 contains the procedural and substantive requirements relative to the importation, manufacture, making, exportation, transfer, taxing, identification and registration of, and the dealing in, machine guns, destructive devices, and certain other firearms. All NFA firearms that are not in possession or control of the United States government must be registered. Possession of an unregistered NFA firearm is a violation of Federal law and subjects the possessor to criminal prosecution and the seizure and forfeiture of the firearm.

For purposes of the NFA, the term “firearm” includes “any other weapon,” which in turn is defined in the law (26 U.S.C. 5845(e)) and its implementing regulation at 27 CFR 479.11 as follows:

Any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such term shall not include a pistol or a revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.

As indicated, the definition of “any other weapon” specifically excludes pistols having rifled bores.

The term “pistol” is defined in 27 CFR 479.11 to mean:

A weapon originally designed, made, and intended to fire a projectile (bullet) from one or more barrels when held in one hand, and having (a) a chamber(s) as an integral part(s) of, or permanently aligned with, the bore(s); and (b) a short stock designed to be gripped by one hand and at an angle to and extending below the line of the bore(s).

A weapon that meets the definition of “pistol” with a rifled bore falls outside the definition of “any other weapon” and is therefore not classified as an NFA weapon.

This notice seeks to amend the regulation that defines “pistol” to restore language that was inadvertently removed in 1988 and insert language that more clearly defines exceptions to the “pistol” definition. The language added to the regulation is necessary to clarify that certain weapons, including weapons disguised to look like items

other than firearms, are not pistols and are classified as “any other weapon” under the NFA and subject to that Act’s requirements.

The current definition of “pistol” in section 479.11 dates back to amendments made in 1988, 53 FR 10480 (Mar. 31, 1988). Prior to amendment, the term was defined to read as follows:

A weapon originally designed, made, and intended to fire a small projectile (bullet) from one or more barrels when held in one hand, and having (a) a chamber(s) as an integral part(s) of, or permanently aligned with, the bore(s); and (b) a short stock designed to be gripped by one hand and at an angle to and extending below the line of the bore(s). The term shall not include any gadget device, any gun altered or converted to resemble a pistol, any gun that fires more than one shot, without manual reloading, by a single function of the trigger, or any small portable gun such as: Nazi belt buckle pistol, glove pistol, or a one-hand stock gun designed to fire fixed shotgun ammunition.

27 CFR 179.11 (1986). As explained in the preamble to the 1988 amendments, 53 FR 10482, the definition was changed pursuant to comments received during the rulemaking process by deleting the word “small” before the word “projectile.” In addition, due to an administrative oversight, the last part of the definition was deleted. The language inadvertently deleted stated ATF’s long-standing position that certain weapons are not pistols, including any gun disguised to look like an item other than a firearm, any gun altered or converted to resemble a pistol, any gun that fires more than one shot, without manual reloading, by a single function of the trigger, or any small portable gun. Such weapons were classified as “any other weapon” under the NFA and subject to regulation under the NFA.

### Proposed Regulation

The Department believes that the NFA definition of the term “pistol” should be revised to more accurately reflect the Department’s position concerning the weapons subject to regulation under the “any other weapon” category of the NFA. The term “fixed” has been added to paragraph (a)(2) of the regulatory definition to clarify that weapons with a short stock permanently affixed at an angle to the bore can be classified as “pistols.”

In addition, the regulation will now include language which makes it clear that certain weapons that are particularly concealable and difficult to readily identify as firearms are regulated under the NFA. This will allow the Department to regulate certain weapons that pose significant public safety and security risks in this post 9/11 era. The types of weapons covered by this

language include, but are not limited to, belt buckle guns, penguns, wallet guns, gadget devices, and devices commonly known as pager guns. These weapons are particularly hazardous, as they may easily pass through airport or other security posts or metal detectors without being recognized as firearms. Furthermore, such highly concealable weapons can be particularly appealing to prohibited persons, terrorists, or others who may misuse firearms because such weapons can be carried and even used without detection. By regulating these specific types of weapons pursuant to the NFA, the Department can more directly address these heightened security concerns and protect the public from the dangers posed by hidden weaponry.

Accordingly, the proposed definition of “pistol” in section 479.11 would read as follows:

(a) A weapon originally designed, made, and intended to fire a projectile (bullet) from one or more barrels when held in one hand, and having—

(1) A chamber(s) as an integral part(s) of, or permanently aligned with, the bore(s); and  
(2) A short fixed stock designed to be gripped by one hand and at an angle to and extending below the line of the bore(s).

(b) The term shall not include any weapon disguised to look like an item other than a firearm, such as a pengun, wallet gun, belt buckle gun, pager gun or gadget device, or any gun that fires more than one shot, without manual reloading, by a single function of the trigger.

Omitted from the proposed regulation is the language: “any gun altered or converted to resemble a pistol.” This language mirrors the statutory provisions in 26 U.S.C. 5845(a)(2) and (4) that refer to weapons made from a shotgun or rifle. The NFA adequately reflects the Department’s consistent position that a rifle or shotgun, altered to function as a smaller, pistol-like weapon, maintains its classification as a rifle or shotgun and will not be classified as a pistol. Therefore, the addition of this language into the proposed regulation is unnecessary.

Proposed omissions should not be read as an intention to regulate a narrower category of “any other weapons” than those previously classified by ATF under the NFA and implementing regulations.

If adopted as a final rule, the proposed amendment to the definition of “pistol” will be applied to previous and future classifications of firearms disguised to look like an item other than a firearm. If a firearm previously classified as a pistol is found to be an “any other weapon” pursuant to the proposed definition, manufacturers,

current owners, and those persons who wish to purchase such a weapon would be subject to the restrictions and regulations imposed by the NFA, including background checks, registration and making/transfer tax.

### Administrative Matters

#### *Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. The Attorney General has reviewed this proposed rule and, by approving it, certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. The proposed rule merely restores language in the definition of the term “pistol” that was inadvertently removed due to an administrative oversight.

#### *Unfunded Mandates Reform Act of 1995*

This proposed rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, 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 were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### *Small Business Regulatory Enforcement Fairness Act of 1996*

This proposed rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Act of 1996, 5 U.S.C. 804. This proposed rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

#### *Executive Order 12866*

This proposed rule has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. The Department has determined that this proposed rule is a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory

Planning and Review. Accordingly, this proposed rule has been submitted to the Office of Management and Budget for review.

#### *Executive Order 13132*

This proposed rule will not have substantial direct effects on the States, on the relationship between the national 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, the Department of Justice has determined that this proposed rule does not have sufficient federalism implications to warrant a federalism summary impact statement.

#### *Executive Order 12988*

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

#### *Paperwork Reduction Act of 1995*

This proposed rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

#### *Public Participation*

ATF is requesting comments on the proposed regulations from all interested persons. ATF is also specifically requesting comments on the clarity of this proposed rule and how it could be made easier to understand.

Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

ATF will not recognize any material in comments as confidential. Comments may be disclosed to the public. Any material that the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

#### A. Submitting Comments by Fax

You may submit written comments by facsimile transmission to (202) 927-0506. Facsimile comments must:

- Be legible;
  - Include your mailing address;
  - Reference this document number;
  - Be 8½" x 11" in size;
  - Contain a legible written signature;
- and
- Be not more than five pages long.

ATF will not acknowledge receipt of facsimile transmissions. ATF will treat facsimile transmissions as originals.

#### B. Request for Hearing

Any interested person who desires an opportunity to comment orally at a public hearing should submit his or her request, in writing, to the Director of ATF within the 30-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing is necessary.

#### C. Disclosure

Copies of this proposed rule and the comments received will be available for public inspection by appointment during normal business hours at: ATF Reference Library, Room 6480, 650 Massachusetts Avenue, NW., Washington, DC 20226, telephone (202) 927-7890.

#### *Regulation Identification Number*

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in the **Federal Register** in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

#### *Drafting Information*

The author of this document is James P. Ficaretta; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives.

#### **List of Subjects in 27 CFR Part 479**

Administrative practice and procedure, Arms and munitions, Authority delegations, Customs duties and inspection, Exports, Imports, Military personnel, Penalties, Reporting and recordkeeping requirements, Research, Seizures and forfeitures, and Transportation.

#### **Authority and Issuance**

Accordingly, for the reasons discussed in the preamble, 27 CFR part 479 is proposed to be amended as follows:

#### **PART 479—MACHINE GUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER FIREARMS**

1. The authority citation for 27 CFR part 479 continues to read as follows:

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

2. Section 479.11 is amended by revising the definition of the term "Pistol" to read as follows:

#### **§ 479.11 Meaning of terms.**

\* \* \* \* \*

*Pistol.* (a) A weapon originally designed, made, and intended to fire a projectile (bullet) from one or more barrels when held in one hand, and having—

(1) A chamber(s) as an integral part(s) of, or permanently aligned with, the bore(s); and

(2) A short fixed stock designed to be gripped by one hand and at an angle to and extending below the line of the bore(s).

(b) The term shall not include any weapon disguised to look like an item other than a firearm, such as a penguin, wallet gun, belt buckle gun, pager gun or gadget device, or any gun that fires more than one shot, without manual reloading, by a single function of the trigger.

\* \* \* \* \*

Dated: March 8, 2005.

**Alberto R. Gonzales,**  
*Attorney General.*

[FR Doc. 05-6932 Filed 4-6-05; 8:45 am]

**BILLING CODE 4410-FY-P**

## **DEPARTMENT OF THE INTERIOR**

### **Office of Surface Mining Reclamation and Enforcement**

#### **30 CFR Parts 701 and 774**

#### **RIN 1029-AC49**

#### **Transfer, Assignment, or Sale of Permit Rights**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** In response to a request, we are extending the comment period for the proposed rule published in the **Federal Register** on January 26, 2005, concerning the transfer, assignment, or sale of permit rights under the provisions of the Surface Mining Control and Reclamation Act of 1977.

**DATES:** *Written comments:* We will accept written comments on the proposed rule until 4:30 p.m. eastern time, on April 15, 2005.

**ADDRESSES:** You may submit comments, identified by docket number 1029-AC49, by any of the following methods:

- E-mail: [osmregs@osmre.gov](mailto:osmregs@osmre.gov).
- Include docket number 1029-AC49 in the subject line of the message.