

April 29, 2022

Gary M. Restaino
Acting Director
Bureau of Alcohol, Tobacco, Firearms and Explosives
U.S. Department of Justice
99 New York Avenue, NE
Washington, DC 20226

Dear Acting Director Restaino:

In June of 2021, I sent ATF a letter expressing concerns about two rules your office proposed that would impose substantial burdens on law-abiding firearm owners: Proposed Rule 2021R-05, *Definition of “Frame or Receiver” and Identification of Firearms*, and Proposed Rule 2021R-08, *Factoring Criteria for Firearms With Attached “Stabilizing Braces.”* I asked that ATF respond to my letter by providing additional information. Yet almost a year later, ATF still has offered no response.

That is unacceptable. Americans and their representative in Congress have a right to know what ATF is planning. The first Proposed Rule, which has now evolved into Final Rule 2021R-05F, will unsettle longstanding expectations for Americans everywhere and take steps toward a national gun registry by requiring gun dealers to maintain gun owner and transaction information forever. The second, if promulgated, would upend established practices by reclassifying millions of pistols and AR-15-style firearms as “short-barreled rifles”—thus subjecting them to the rigid controls of the National Firearms Act and making it a federal felony to possess them without going through a byzantine waiver process. Thousands upon thousands of Americans’ rights are at stake: the Proposed Rule itself anticipates “affect[ing] upwards of 1.4 million individuals.”

Given the stakes involved, ATF’s nearly year-long delay in responding is unacceptable and has all the appearances of an attempt by a bureaucracy to evade democratic oversight. Please provide my office with responses to the following questions no later than May 22, 2022:

1. In the past, firearms product manufacturers have been repeatedly informed that many of the products they sell, including “receiver blanks” that have not yet been fully machined, are not considered “firearms” by ATF. Accordingly, significant reliance interests have vested. Will ATF continue to honor those prior determinations, including those pertaining to products currently on the market?
2. What steps does ATF intend to take to ensure that any new information that may be retained by FFL dealers pursuant to Final Rule 2021R-05F is not subsequently used for the targeting of lawful gun owners by federal authorities or other politically-motivated purposes?

3. What, if any, new measures does ATF anticipate taking to enforce the terms of Proposed Rule 2021R-08 against private gun owners?
4. Proposed Rule 2021R-08 states that it “will not have substantial direct effects on the States, the relationship between the Federal Government and the States, or the distribution of power and responsibilities among the various levels of government.” This claim stands in tension with the fact that numerous states and other jurisdictions have passed Second Amendment sanctuary laws in response to perceived federal overreach. Why were these many laws not considered relevant to a federalism analysis in the course of developing Proposed Rule 2021R-08?
5. What measures, if any, does ATF intend to take to attempt to enforce the terms of Proposed Rule 2021R-08 in jurisdictions subject to Second Amendment sanctuary laws?
6. What is ATF’s explanation for its failure to timely respond to a letter from four Senators dated June 21, 2021?

Thank you for your attention to this matter. I look forward to your prompt response.

Sincerely,

A handwritten signature in black ink, appearing to read "Josh Hawley". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

Josh Hawley
United States Senator