

Summary of Final Rule 2021R-05F

On April 11, 2022, the Attorney General signed ATF final rule, *Definition of “Frame or Receiver” and Identification of Firearms*, amending ATF’s regulations by removing and replacing the regulatory definitions of “firearm frame or receiver” and “frame or receiver” using examples and diagrams to clearly convey what is a “frame or receiver,” amending the definitions of “firearm” and “gunsmith,” providing definitions of terms such as “complete weapon,” “complete muffler or silencer device,” “privately made firearm” and “readily,” and amending regulations on marking and recordkeeping. The following is a summary of the final rule, but is not intended to be relied on when complying with the requirements of the final rule:

Definition of “Frame or Receiver”

- Addresses technological advancements and judicial developments since the regulatory definitions were originally set forth in 1968 and 1971.
- Identifies only one part of a firearm to be the “frame” or “receiver” that requires a serial number. It is the part that provides housing or a structure for one specific, primary fire control component of weapons that expel a projectile; or one specific, primary internal sound reduction component of firearm mufflers or silencers. This final rule revises the proposed definition of “frame or receiver” so that a “frame” is applicable to a handgun, and variants thereof, and a “receiver” is applicable to a rifle, shotgun, or projectile weapon other than a handgun, and variants thereof. Moreover, “frame or receiver” will be defined to describe only a single part that provides housing or a structure for one specific, primary fire control component of weapons that expel a projectile, or one specific, primary internal sound reduction component of firearm mufflers or silencers. The final rule also defines the meaning of “variants” and “variants thereof.” The final rule provides detailed examples along with pictures identifying the frame or receiver of a variety of common models under the updated definition. The final rule also exempts from the new definitions and marking requirements existing split frame or receiver designs in which a part was previously classified by ATF as the firearm “frame or receiver” and provides examples and pictures of select exempted frames or receivers, such as AR-15/M-16 variant firearms. The only exception to “grandfathering” will be for partially complete, disassembled, or nonfunctional frames or receivers, including weapon or frame or receiver parts kits, that ATF did not classify as firearm “frames or receivers” as defined prior to this rule.
- Definition of a “frame or receiver” includes a partially complete, disassembled, or nonfunctional frame or receiver that has reached a stage in manufacture where it may quickly and easily (“readily”) be made to function as a “frame or receiver” and expressly excludes a block of metal, liquid polymers and other raw materials or a frame or receiver that has been destroyed. The final rule also specifies, with more clarity and examples than the NPRM, how these terms apply to multi-piece frames or receivers (*i.e.*, those that may be disassembled into multiple modular subparts), to firearm mufflers and silencers, to partially complete, disassembled, or nonfunctional frames or receivers, including frame or receiver parts kits, and to frames or receivers that are destroyed. The final rule also provides detailed examples of when such items are considered readily completed, assembled, restored, or otherwise “converted” to function as a frame or receiver. At the same time, the final rule makes clear that articles that have not yet reached a stage of manufacture where they are clearly

identifiable as an unfinished component of a frame or receiver (*e.g.*, unformed blocks of metal, liquid polymers, or other raw materials) are not frames or receivers.

- Grandfathers in existing classifications of frames or receivers (to include split frames or receivers) and allows them to be marked in accordance with the existing requirements.
- Partially complete, disassembled, or nonfunctional frames or receivers, including parts kits, that ATF did not classify as “frames or receivers” prior to the rule will not be grandfathered in under the final rule and will need to be re-evaluated. The final rule adopts the proposed clarification of the term “firearm” to include weapon (*e.g.*, pistol, revolver, rifle, or shotgun) parts kits that are designed to or may readily be completed, assembled, restored, or otherwise converted to expel a projectile by the action of an explosive. This rule also finalizes, with minor changes, the proposed definition of “privately made firearm.” It amends the regulations to require that all firearms privately manufactured or “made” by nonlicensees without identifying markings that are taken into inventory by licensees be identified (or marked) and recorded so that they may be traced by law enforcement through their records if they are later involved in crime. As with the NPRM, the final rule does not mandate unlicensed persons to mark their own PMFs for personal use, or when they occasionally acquire them for a personal collection or sell or transfer them from a personal collection to unlicensed in-State residents consistent with Federal, State, and local law.
- Licensed manufacturers or importers are required to abide by the new marking requirements only for new firearm designs.

Other Related Definitions

- Amends the definition of:
 - “firearm” to clarify when a firearm parts kit is considered a “firearm,” and
 - “gunsmith” to clarify the meaning of that term and to explain that gunsmiths may be licensed as dealers (without being a manufacturer) solely to mark firearms for unlicensed persons.
 - Includes those engaged in the business of identifying firearms for nonlicensees, increasing access to professional marking services for privately made firearms (PMFs).
 - FFL dealers (in addition to FFL manufacturers and importers) may adjust or repair and return the firearms, including PMFs, without taking them into inventory, if returned to the person from whom the firearm was received on the same day.
 - Non-FFLs may mark PMFs for a licensee if done under the licensee’s direct supervision.
 - FFLs may adopt existing serial numbers, including adopting the unique identification number previously placed on a PMF by a nonlicensee, under certain conditions.
 - In addition, the rule finalizes the proposed amendments to the term “gunsmith” to include persons who engage in the business of identifying firearms for nonlicensees, thus ensuring greater access to professional marking services for PMFs. The final rule clarifies the gunsmithing rules proposed in the NPRM by stating the following: (1) licensed firearms dealers (in addition to licensed manufacturers and importers) may conduct same-day adjustments or repairs of all firearms, including PMFs, without taking them into inventory, provided they are returned to the person from whom they were received; (2) nonlicensees may mark PMFs for a licensee under the licensee’s direct supervision; and (3) licensees may adopt an existing unique identification number previously placed on a PMF by a nonlicensee under certain conditions.
- Provides definitions for:
 - “complete weapon,”
 - “complete muffler or silencer device,”

- “privately made firearm (PMF),” and
- “readily.”

Importer and Manufacturer Marking Requirements and Records

- For new firearm designs, manufacturers must mark the frame or receiver of such weapon with either the serial number and their name and city and state or their name and the serial number beginning with the abbreviated federal firearms license number. Classifications of frames or receivers that are grandfathered in under the final rule will continue to be allowed to be marked in accordance with its existing requirements. The rule requires persons who engage in the business of dealing in weapon and frame or receiver parts kits defined as firearms to be licensed, mark the frames or receivers within such kits with serial numbers and other marks of identification, and maintain records of their acquisition and disposition.
- Complete non-National Firearms Act weapons, and frames or receivers of such weapons intended to be distributed separately, must be marked within seven days from completion of the entire manufacturing process for the weapon, device, or part, as the case may be, or prior to disposition, whichever is sooner.
- Complete National Firearms Act weapons and devices, and machineguns and muffler or silencer parts must be marked no later than close of the next business day following the date the entire manufacturing process has ended for the weapon or device, or prior to disposition, whichever is sooner.
- The records of manufacture/acquisition and disposition by manufacturers and importers must be consolidated into one book similar to dealers. The rule codifies, in part, ATF Ruling 2016-3, Consolidation of Required Records for Manufacturers and ATF Ruling 2011-1, Importers Consolidated Records, that allow licensed manufacturers and importers to consolidate their records of acquisition and disposition without obtaining a variance.

Privately Made Firearms (PMFs)

- Federal firearms licensees (FFLs) that choose to take into inventory PMFs are required to mark and record PMFs within 7 days of the firearm being acquired by a licensee, or before disposition, whichever first occurs.
- If FFLs have PMFs in their inventory, they will have until 60 days after the rule becomes effective to mark them. FFLs would have the option to mark their existing PMFs themselves, contract with another FFL, such as a gunsmith, or directly oversee a non-FFL who can perform such engraving services on PMFs. Alternatively, FFLs may deliver or send PMFs to ATF for disposal, or destroy them in accordance with ATF guidance.
- There is no requirement in the rule for FFLs to accept a PMF into inventory, and they have the option to ask the PMF maker or owner to have the firearm marked by another licensee before accepting it into inventory or the FFL can bring the PMF to another FFL or unlicensed engraver to mark the PMF with their license information, provided they directly oversee the serialization.

Record Retention

- FFLs must retain their Firearms Transaction Records, Forms 4473, and acquisition and disposition records until they discontinue their business or licensed activity. The rule also allows for paper records older than 20 years to be stored at a separate warehouse or electronically in accordance with a forthcoming ATF Ruling. The separate warehouse is considered part of the licensed premises and subject to inspection.

**DEPARTMENT OF JUSTICE Bureau of Alcohol, Tobacco, Firearms, and Explosives 27 CFR Parts 447, 478, and 479
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