

STERLING ARSENAL

WORKS & TACTICAL SUPPLY

DECEMBER 5, 2014
COMMENTS AGAINST ATF 41P

Sterling Arsenal is a Federal Firearm Licensed (FFL) Manufacturer and Special Occupational Tax Payer (SOT) engaged in manufacturing and sales of firearms, including firearms regulated under the NFA, to individuals, legal entities, private military contractors, and law enforcement. ATF 41P would implement new and burdensome regulations on NFA firearms and decrease the demand for and sale of legally manufactured silencers, short barrel rifles, and other firearms. More critically, Americans' right to own and possess firearms is protected under the 2nd Amendment of the constitution; 41P is an additional infringement and burden on that right. Sterling Arsenal strongly opposes proposed rule ATF 41P for the following reasons:

First, there is no rationale for increased regulation of NFA firearms. Abundant data shows a lack of crimes committed with NFA firearms and form strong arguments that favor less regulation. The proposed rule would result in overly burdensome regulation on NFA firearms without demonstrating how they pose a greater threat than less regulated classes of firearms.

ATF 41P fails to acknowledge that NFA rules requiring fingerprints and CLEO sign-off for individual persons predate current "Brady Background check" system. The Brady Background check utilizes NCIS and local / state law enforcement databases to prevent prohibitive purchasers from transferring firearms from FFL Dealers. Thorough consideration should be applied to the fact that there is no higher threshold requirement for the purchase or possession of Title 2 (NFA) firearm versus a Title 1 (non-NFA firearm) – i.e. if an individual can lawfully possess or transfer a common handgun; they can also lawfully acquire any transferable NFA firearm. NFA firearm requirements for fingerprints and CLEO sign-off pre-date implementation of the Brady Check system. As such adding the simple requirement that FFL SOT dealers perform Brady background checks on all transferees of NFA firearms (individual and responsible parties acting on behalf of legal entities) instead of requiring fingerprinting and CLEO sign-off would reduce regulatory burdens and the reduce risk of prohibited persons gaining access to NFA firearms. FFL SOT dealers are already required to complete an ATF Form 4473 (but not a Brady Background check) on all NFA firearm transferees, including responsible parties of legal entities.

Second, the proposed rule does nothing to target illegal firearm trafficking -- the significant source of gun-related crimes. Many illegal firearms are trafficked via corrupt law enforcement officers and agencies in the US and abroad; this ruling does nothing to require greater controls on transfers between law enforcement agencies and criminals, such as the illegal transfers under the DOJ Fast Furious operation. The proposed rule seeks instead to place greater burdens on people who are going to great lengths to register their firearms in the NFA registry.

Third, Proposed Rule 41P is unrealistic and not implementable; it identifies beneficiaries (which could include children) of a trust as 'responsible persons' subject to fingerprinting, photographing, and the

CLEO endorsement. Similarly, corporations and limited liability companies and other legal entities of varying size would be significantly burdened being required to have large numbers of individual persons, board members, partners, principals, etc. to obtain fingerprints and CLEO sign-offs whenever the entity acquires even a single NFA firearm asset. The cost analysis provided in the Pending Rule appendix does not take these burdens in to account.

Fourth, the rule ignores legitimate interest of prospective owners of NFA firearms using NFA trusts to avoid illegal transfers (e.g. constructive possession) between family members and intimates, e.g. deployed military personnel and contractors who wish to entrust their firearms to someone for safe-storage; or the farmer and his/her spouse protecting livestock by using a suppressed rifle to stop predators; and family members and associates sharing a hunting camp. The proposed rule instead increases the risks of lawful gun ownership by increasing the proportion of firearms registered to individual natural persons rather than trusts.

Fifth, the proposed rule underestimates the costs and burdens on the public and law enforcement authorities, e.g. a typical NFA Trust may contain four persons deemed 'responsible persons', and each may reside in a different CLEO jurisdiction, requiring signatures of four different CLEOs.

Finally, Rule 41P exacerbates the existing loophole enabling CLEOs to refuse requests for their signatures on forms for NFA firearms. A CLEO recently elected in a suburban Washington, D.C. county made a campaign promise to refuse all requests for her signature for NFA firearms. The proposed rule does not prevent arbitrary denials to persons having the right to own legal firearms.

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