Congress of the United States
Washington, DC 20515

March 18, 2022

Mr. Marvin Richardson
Acting Director
Bureau of Alcohol, Tobacco, Firearms, and Explosives
99 New York Avenue N.E.
Washington, DC 20226

Dear Acting Director Richardson:

The Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) continues the Biden Administration's assault on Americans' Second Amendment rights. We have heard from concerned constituents that the ATF is attempting to restrict the ability of law-abiding Americans to make their own silencers. This ATF attempt to expand the definition of a silencer—like the ATF's other regulatory actions—is contrary to years of ATF precedent and beyond the scope of the agency's authority under federal law. We demand that you immediately stop this effort to curtail fundamental Second Amendment rights.

The Second Amendment to the Constitution guarantees to all Americans the right to keep and bear arms.[1] Relevant federal firearm laws, including the National Firearms Act (NFA) nor the Gun Control Act (GCA), do not prohibit a law-abiding American from constructing a firearm, including the ability to construct silencers.[2] On its website, the ATF explains:

> Firearms may be lawfully made by persons who do not hold a manufacturer's license under the Gun Control Act [GCA] provided they are not for sale or distribution and the maker is not prohibited from receiving or possessing firearms.[3]

The long-held policy of ATF has been to require any individual making his or her own silencer to first file a Form 1 application, pay the $200 fee, and receive approval from ATF.[4] Form 1 is the ATF's "Application to Make and Register a Firearm."[5]

We have learned that the ATF has begun denying Form 1 requests from law-abiding citizens seeking to make silencers for their personal use. These individuals sought to follow the law by filing Form 1 requests, and they often did so carefully following published ATF guidance. The individuals sought approval to make silencers from individually sourced raw

---

[1] U.S. Const. amend. II.
[2] 26 U.S.C. § 5845 (defining "firearm" to include "silencer").
[3] U.S. Dep't of Justice, Bur. of Alcohol, Tobacco, Firearms, and Explosives, Top 10 Frequently Asked Questions and Answers, https://www.atf.gov/resource-center/docs/0501-firearms-top-10-qaspdf/download.
[4] U.S. Dep't of Justice, Bur. of Alcohol, Tobacco, Firearms, and Explosives, How can I make and register an NFA firearm? https://www.atf.gov/firearms/qa/how-can-i-make-and-register-nfa-firearm.
[5] U.S. Dep't. of Justice, Bur. of Alcohol, Tobacco, Firearms, & Explosives, Firearms Forms, Application to Make and Register a Firearm. https://www.atf.gov/firearms/docs/form/form-1-application-make-and-register-firearm-atf-form-53201/download.

materials, components, or kits that included items that are manufactured for other non-firearm purposes, such as flashlight tubes or fuel filters. In denying the Form 1 requests, the ATF informed these individuals that they were in violation of the NFA because they had not received prior approval to own the materials in question, which the ATF claims to meet the legal definition of a silencer. Because of the ATF's actions, these law-abiding citizens are now concerned that they could be in violation of a law that carries punishments of up to 10 years in prison and $250,000 in fines.[6]

We have also learned from constituents that once the ATF receives a Form 1 application to manufacture a silencer, the agency requires the applicant to send in photographs of the parts he or she will use and a description of the assembly process. The ATF tells the applicant that without this information, it will disapprove the application and refund the $200 fee. The ATF's requirement—which is nowhere in statute or existing processes—potentially opens these otherwise law-abiding citizens to self-incrimination by admitting that they possess the raw materials that ATF now defines as a "silencer" and demonstrates their constructive intent to violate the law.

The ATF's continued assault of the Second Amendment threatens millions of law-abiding American firearm owners. The ATF has overstepped its authority by changing the definition of what constitutes a silencer from the definition as passed by Congress. The American public deserves to know the ATF now believes that the mere possession of otherwise legal items are now considered to be violations of federal law.

To better understand ATF's basis for making these Form 1 denials, we request that you provide the following information:

1. Please explain why the ATF is denying Form 1 applications for the manufacture of silencers using raw materials, components, or kits.

2. Please explain whether these denials reflect a change in policy in how the ATF regulates self-made silencers.

3. Please explain what the ATF has done to inform the American people of its position regarding a Form 1 application and devices it believes are silencers as opposed to individually sourced raw materials, components, or kits, so that law abiding Americans can attempt to comply with the law.

4. Please explain how the ATF evaluates whether a Form 1 application for a silencer is going to be used for individually sourced raw materials, components, or kits that, in ATF's view, is already legally a silencer.

5. Please explain why the ATF has repeatedly approved Form 1 applications for silencers made from individually sourced raw materials, components or kits if the

[6] *See* 18 U.S.C. § 3571(b) & (c).

agency's policy is that these individually sourced raw materials, components or kits are considered silencers.

6. Please explain how the ATF intends to handle approved Form 1 applications that occurred before February 28, 2022, for silencers made from individually sourced raw materials, components or kits.

7. Please explain how the ATF plans to make tax-free registration available for applicants who in good faith attempted to comply with federal law. If ATF does not plan to make tax-free registration available for applicants who in good faith attempted to comply with the federal law, please explain why.

8. Please produce all documents and communications, including but not limited to ATF legal opinions, referring or relating to the ATF's definition of a silencer or what constitutes individually sourced raw materials, components, or kits.

We ask that you provide this information as soon as possible but no later than 5:00 p.m. on April 1, 2022.

If you have any questions about these requests, please contact House Judiciary Committee staff at (202) 225-6906. Thank you for your prompt attention to this matter.

Sincerely,

Andy Biggs
Ranking Member
Subcommittee on Crime, Terrorism, and Homeland Security
Committee on the Judiciary

Jim Jordan
Ranking Member
Committee on the Judiciary

Elise M. Stefanik
Chairwoman
Republican Conference

Steve Chabot
Member of Congress

Louie Gohmert
Member of Congress

Darrell Issa
Member of Congress

Ken Buck
Member of Congress

Matt Gaetz
Member of Congress

Mike Johnson
Member of Congress

Tom McClintock
Member of Congress

W. Gregory Steube
Member of Congress

Tom Tiffany
Member of Congress

Thomas Massie
Member of Congress

Chip Roy
Member of Congress

Dan Bishop
Member of Congress

Michelle Fischbach
Member of Congress

Victoria Spartz
Member of Congress

Scott Fitzgerald
Member of Congress

Cliff Bentz
Member of Congress

Burgess Owens
Member of Congress

Michael Cloud
Member of Congress

Paul A. Gosar, D.D.S.
Member of Congress

Mary E. Miller
Member of Congress

Richard Hudson
Member of Congress

Gregory F. Murphy, M.D.
Member of Congress

Daniel Webster
Member of Congress

Doug Lamborn
Member of Congress

Robert Wittman
Member of Congress

Bill Posey
Member of Congress

Guy Reschenthaler
Member of Congress

Markwayne Mullin
Member of Congress

Jeff Duncan
Member of Congress

Ted Budd
Member of Congress

Diana Harshbarger
Member of Congress

Rodney Davis
Member of Congress

Alex X. Mooney
Member of Congress

Barry Loudermilk
Member of Congress

Bob Gibbs
Member of Congress

Joe Wilson
Member of Congress

Yvette Herrell
Member of Congress

Jeff Van Drew
Member of Congress

Scott Perry
Member of Congress

Madison Cawthorn
Member of Congress

August Pfluger
Member of Congress

Mike Simpson
Member of Congress

Patrick McHenry
Member of Congress

Carol D. Miller
Member of Congress

Dan Crenshaw
Member of Congress

Jim Banks
Member of Congress

Kelly Armstrong
Member of Congress

Greg Pence
Member of Congress

Jake LaTurner
Member of Congress

Ronny L. Jackson, M.D.
Member of Congress

Jodey C. Arrington
Member of Congress

Andrew S. Clyde
Member of Congress

Ashley Hinson
Member of Congress

Mo Brooks
Member of Congress

Russ Fulcher
Member of Congress

Doug LaMalfa
Member of Congress

Kat Cammack
Member of Congress

Clay Higgins
Member of Congress

Ralph Norman
Member of Congress

Rick W. Allen
Member of Congress

David B. McKinley P.E.
Member of Congress

Marjorie Taylor Greene
Member of Congress

John Rose
Member of Congress

Troy Balderson
Member of Congress

Bill Johnson
Member of Congress

Randy K. Weber
Member of Congress

Pete Sessions
Member of Congress

Lance Gooden
Member of Congress

Fred Keller
Member of Congress

Troy E. Nehls
Member of Congress

Gus M. Bilirakis
Member of Congress

Lauren Boebert
Member of Congress

Jack Bergman
Member of Congress

Jackie Walorski
Member of Congress

Austin Scott
Member of Congress

John R. Moolenaar
Member of Congress

Rick Crawford
Member of Congress

Mike Bost
Member of Congress

Brad R. Wenstrup
Member of Congress

Jody Hice
Member of Congress

Tim Burchett
Member of Congress

Adrian Smith
Member of Congress

Debbie Lesko
Member of Congress

James R. Baird
Member of Congress

Glenn Grothman
Member of Congress

Vicky Hartzler
Member of Congress

David P. Joyce
Member of Congress

Tom Emmer
Member of Congress

Dusty Johnson
Member of Congress

Glenn "GT" Thompson
Member of Congress

Brian Babin, D.D.S.
Member of Congress

Barry Moore
Member of Congress

Randy Feenstra
Member of Congress

Tracey Mann
Member of Congress

Beth Van Duyne
Member of Congress

Tim Walberg
Member of Congress

C. Scott Franklin
Member of Congress

William R. Timmons, IV
Member of Congress

Gary Palmer
Member of Congress

Jerry L. Carl
Member of Congress

Mark E. Green, M.D.
Member of Congress

Trey Hollingsworth
Member of Congress

H. Morgan Griffith
Member of Congress

Blaine Luetkemeyer
Member of Congress

Jaime Herrera Beutler
Member of Congress

Earl L. "Buddy" Carter
Member of Congress

Sam Graves
Member of Congress

Michael T. McCaul
Member of Congress

Peter Meijer
Member of Congress

French Hill
Member of Congress

Scott DesJarlais, M.D.
Member of Congress

Michael C. Burgess, M.D.
Member of Congress

Brian Mast
Member of Congress

Warren Davidson
Member of Congress

Claudia Tenney
Member of Congress

Mike Kelly
Member of Congress

David G. Valadao
Member of Congress

David Rouzer
Member of Congress

Jake Ellzey
Member of Congress

John R. Carter
Member of Congress

Ben Cline
Member of Congress

John R. Curtis
Member of Congress

Lee Zeldin
Member of Congress

Billy Long
Member of Congress

Pete Stauber
Member of Congress

A. Drew Ferguson IV
Member of Congress

Roger Williams
Member of Congress

Bryan Steil
Member of Congress

Andy Harris, M.D.
Member of Congress

Don Young
Member of Congress

Steven M. Palazzo
Member of Congress

David Schweikert
Member of Congress

Darin LaHood
Member of Congress

David Kustoff
Member of Congress

Andy Barr
Member of Congress

Garret Graves
Member of Congress

Blake D. Moore
Member of Congress

Tom Cole
Member of Congress

John Joyce, M.D.
Member of Congress