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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

STATE OF CALIFORNIA, et al.,

Plaintiffs,

v.

BUREAU OF ALCOHOL, TOBACCO,
FIREARMS AND EXPLOSIVES et al.,

Defendants.

CIVIL CASE NO.: 3:20-CV-06761-EMC

STIPULATION; [PROPOSED] ORDER

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STIPULATION

Subject to the Court’s approval, Plaintiffs and Defendants stipulate as follows:

1. Plaintiffs challenge determinations by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”) that certain receiver blanks are not “firearms” under the Gun Control Act (“GCA”) because the “fire-control cavity areas” are “solid and un-machined.” *See* Compl. ¶¶ 66–77, 86–87, 118–20, 126–31, ECF No. 1.
2. On April 7, 2021, the Administration announced that “The Justice Department, within 30 days, will issue a proposed rule to help stop the proliferation of ‘ghost guns.’”¹ Two days later, “[i]n light of recent developments regarding ATF’s regulation of products at issue in this case,” the Court *sua sponte* “temporarily stayed” proceedings and scheduled a case management conference for May 27, 2021. Order of Temporary Stay of Case, ECF No. 83.
3. On May 7, 2021, ATF issued a notice of proposed rulemaking titled “Definition of ‘Frame or Receiver’ and Identification of Firearms.” *See* Definition of “Frame or Receiver” and Identification of Firearms (proposed May 7, 2021) (to be codified at 27 C.F.R. pts. 478 and 479) (“Proposed Rule”).² As relevant here, the Proposed Rule would add a new regulatory definition for “readily.” *See* Proposed Rule at 36–37; *see also* 18 U.S.C. § 921(a)(3) (defining “firearm” as “any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive”). It would also change the current regulatory definition for “firearms frame or receiver.” *See* Proposed Rule at 24–27; *see also* 18 U.S.C. § 921(a)(3) (defining “firearm” as “the frame or receiver of any such weapon”). The proposed definition of “firearms frame or receiver” would explain when a partially complete frame or receiver becomes an actual frame or receiver under the GCA—specifically, when it crosses the line from an unregulated piece of metal (or other substance) to a regulated frame or receiver. *See* Proposed Rule at 33–35.

¹ White House, *FACT SHEET: Biden-Harris Administration Announces Initial Actions to Address the Gun Violence Public Health Epidemic* (Apr. 7, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/07/fact-sheet-biden-harris-administration-announces-initial-actions-to-address-the-gun-violence-public-health-epidemic/>.

² The Proposed Rule may be accessed here: <https://www.atf.gov/file/154586/download>.

4. In light of the Proposed Rule, and in the interests of judicial economy, the parties have conferred and agreed to jointly request that the case be stayed until ATF issues a final rule. The parties further request that the Court vacate the Case Management Conference currently set for May 27, 2021. Finally, the parties propose that they file a joint status report thirty days after ATF issues the final rule updating the Court on whether further proceedings are necessary and, if so, proposing a schedule for continuing the litigation.

IT IS SO STIPULATED.

Dated: May 20, 2021

/s/ Avi Weitzman

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Dated: May 20, 2021

/s/ R. Matthew Wise

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Counsel for Defendants

[PROPOSED] ORDER

Pursuant to stipulation, IT IS SO ORDERED.

Date:

EDWARD M. CHEN
United States District Judge