

Congress of the United States

Washington, DC 20515

October 16, 2025

The Honorable Daniel Driscoll
Acting Director
Bureau of Alcohol, Tobacco, Firearms, and Explosives
99 New York Avenue, NE
Washington, DC 20226

Dear Acting Director Driscoll,

On September 30, 2025, Senate Democrats voted against H.R. 5371, the *Continuing Appropriations and Extensions Act, 2026* which would have funded the federal government through November 21, 2025. Instead of funding the government to benefit American citizens, Democratic senators chose to pursue taxpayer-funded health insurance for illegal aliens. Meanwhile, Congressional Republicans would have kept the government open to pay our troops, our federal workforce, and to prevent disruptions in government benefits.

As a result of this Democrat-led shutdown, ATF, like most federal agencies, is operating at a reduced workforce. And while Democrats continue to fight for benefits for illegal aliens, the constitutional rights of Americans are being infringed as a result.¹

That is because, under federal law, Second Amendment rights cannot be fully exercised without the involvement of the federal government. This clearly is not what the Framers intended, but it is this country's unfortunate reality.

As you know, National Firearms Act ("NFA") application examiners are among the ATF employees currently furloughed during this shutdown.² This means that Americans are currently unable to acquire widely popular NFA-regulated firearms and safety equipment, such as short-barreled rifles and silencers, because no one at ATF will approve their applications at this time. Indeed, the Department of Justice FY2026 Contingency Plan for operations does not list those officials as critical employees whose activities will continue during periods of government shutdown.³ Instead, the Contingency Plan outlines the following categories of activities that will continue to operate during a lapse in appropriations:

1. Those funded by a source that has not lapsed, such as permanent indefinite appropriations and carryover of no-year funds appropriated in a prior year;
2. Those for which there is an express authority to continue during an appropriations lapse;
3. Those for which authority to continue during an appropriations lapse arises by

¹ <https://bearingarms.com/camedwards/2025/10/02/schumer-shutdown-halts-processing-of-nfa-applications-n1230127>

² <https://x.com/GunOwners/status/1973473672796185042>

³ <https://www.justice.gov/jmd/media/1377216/dl?inline>.

necessary implication;

4. Those related to the discharge of the President's constitutional duties and powers; and
5. Those related to "emergencies involving the safety of human life or the protection of property," *i.e.*, where there is a reasonable likelihood that the safety of human life or the protection of property would be compromised, in some significant degree, by delay in the performance of the function in question.⁴

Indeed, NFA application approvals are related to the discharge of the President's constitutional duties and powers. The President of the United States is charged with protecting and defending the Constitution of the United States, and this includes the Second Amendment. To be sure, the National Firearms Act unquestionably violates the Second Amendment. But in enacting this statutory scheme, Congress tasked the Executive Branch with issuing application determinations. The President therefore has a constitutional imperative to ensure that Americans can exercise their Second Amendment rights even during periods of government shutdown. Otherwise, constitutionally enumerated rights rise and fall with congressional appropriations.

Furthermore, ATF's current policy of furloughing NFA examiners may compromise human life and the protection of property. Just as it has now, ATF stopped processing NFA applications during the October 2013, January 2018, and 2018-2019 winter government shutdowns. During these periods of indefinite delay, ATF deprived Americans of access to regulated arms. The inability to acquire firearms necessarily infringes Americans' ability to protect themselves, their loved ones, and their property.

But, as Acting ATF Director, you have significant authority to propose or classify which ATF positions are designated as "excepted" during a lapse in appropriations, subject to DOJ's contingency plan, OMB and OPM guidance, and the legal constraints on what may lawfully continue during a shutdown. Please respond to us within the next 10 days with your plan to:

1. Protect Americans' Second Amendment Rights to NFA-regulated firearms during a period of government shutdown;
2. Issue a determination to designate NFA examiners as excepted during a government shutdown; and
3. Articulate what plan you have in place to prevent these indefinite Second Amendment- related delays from recurring in the future.

Sincerely,

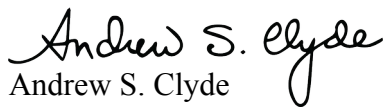


Ben Cline
Member of Congress

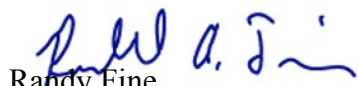


Mary E. Miller
Member of Congress

⁴ <https://www.justice.gov/jmd/media/1377216/dl?inline>


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Member of Congress


Michael Cloud
Member of Congress


Randy Fine
Member of Congress

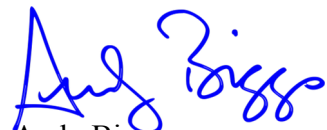

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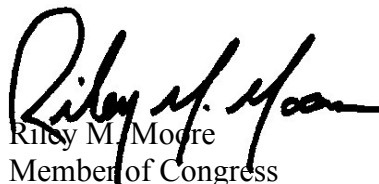
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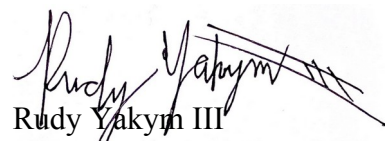
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Troy Downing
Member of Congress



Rudy Yakym III
Member of Congress

CC: Robert Cekada, ATF Deputy Director
Robert Lieder, ATF Chief Counsel