

This responds to the comments you submitted to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) regarding ATF's revised collection of information on the ATF Form 4473 under OMB Number 1140-0020 (March 19, 2020). ATF submitted the revised information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act.

You commented that the proposed ATF Form 4473 recording of the description of the firearm to be transferred in Section A on the same page as the transferee's identifying information in Section B would reduce efforts necessary: (1) to transfer the forms to a facility owned or controlled by the United States; or (2) to establish a system or registration of firearms, firearms owners, firearms transactions, or firearm dispositions, in violation of the Firearm Owners' Protection Act at 18 U.S.C. §§ 923(g) and 926. ATF disagrees, and addresses your comments as follows.

### **Alleged Creation of a Firearm Registry**

In response to your general comments, ATF strongly disagrees that moving the firearms information from the second page of Form 4473, to the first page, will allow ATF to establish or maintain a centralized firearm registry. ATF Form 4473 is a firearms transaction record that is completed and maintained by federal firearms licensees at their licensed business premises. While ATF has the authority to inspect those records under certain circumstances, they belong to licensees while they are in business.

Moreover, federal law has long prohibited ATF from consolidating or centralizing licensee records. Since 1979, congressional appropriations have prohibited ATF from using any funds or salaries for the consolidation or centralization of records of acquisition and disposition of firearms maintained by Federal firearms licensees. *See* Treasury, Postal Service, and General Government Appropriations Act, 1980, Pub. L. No. 96-74, 93 Stat. 559, 560 (1979). This annual restriction became permanent in 2011. *See*; Pub. L. No. 112-55, 125 Stat. 609 (11/18/11). Additionally, the provision of the Firearm Owners' Protection Act that you cite, 18 U.S.C. § 926, expressly prohibits ATF from prescribing rules or regulations establishing any system of registration of firearms, firearms owners, or firearms transactions or dispositions. Thus, ATF is restricted by law from using Forms 4473 to create such a registry.

### **Separation of Purchaser from Firearm and Dealer Information**

In support of your comment, you state that since the National Instant Criminal Background Check System (NICS) was launched, this information has been separated by several pages on the ATF Form 4473. You claim that this separation caused no burden on, inefficiency of, or drop in productivity for individuals completing the form and in no way dismissed the effectiveness of the form's role in the firearm transfer process.

When the ATF Form 4473 was created in December 1968, the purchaser and firearm information were maintained on the same page. This format was not changed until October 1998, when the firearm information was pushed onto a second page. This separation was made, not because ATF was concerned about creating a firearm registry, but to implement the permanent

requirements of the Brady Handgun Violence Protection Act. Specifically, in October 1998, to incorporate NICS information, ATF added items for licensees to record the NICS transaction number and responses, and the exception to NICS for NFA transfers. This pushed the firearm information, Section D, onto a second page. Also, for decades, the ATF Form 4473 (LV, or Low Volume) solicited firearm information (description, type, model, caliber or gauge, and serial number) on the same page as the transferee-buyer's information until it was discontinued on October 3, 2014. *See* 79 Fed. Reg. 45091 (Aug. 4, 2014) (Notice). Likewise, the ATF Form 4473 (Part II--Non-Over-The-Counter), in use from 1969 until 2013, contained the firearm description on the same page as the transferee's information.

ATF disagrees that this separation “in no way diminished the effectiveness of the ATF Form 4473's role in the firearm transfer process.” ATF has been informed by licensees that many, if not most, record the firearm description in current Section D at the beginning of the transaction because that is how they conduct firearm transactions – by first examining, verifying, and recording the firearm to be transferred. In fact, the first Form 4473 issued in December 1968 began with Section A containing the description of the firearm.

We trust the foregoing has been responsive to your comments.