



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Firearms and Explosives Services Division

May 2, 2013

Washington, DC 20226

www.atf.gov

Christopher A. Conte
National Rifle Association
Institute for Legislative Action
11250 Waples Mill Road
Fairfax, Virginia 22030-7400

Re: Federal Register Notice, OMB Number 1140-0018 (November 6, 2012)
(Application for Federal Firearms License, ATF Form 7 (5310.12))

Dear Mr. Conte:

This responds to your letter on behalf of the National Rifle Association (NRA) to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) dated January 7, 2013, commenting on ATF's renewed collection of information on ATF Form 7 under OMB Number 1140-0018. ATF submitted the renewed information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

NRA commented that ATF does not have the legal authority to collect certain information on ATF Form 7, Application for Federal Firearms License, because it does not fall within the "statutory authority for ATF Form 7 ... found in 18 U.S.C. § 923(a)". That section states, in relevant part, that "[t]he application shall be in such form and contain only that information necessary to determine eligibility for licensing *as the Attorney General shall by regulation prescribe...*" (emphasis added).

Contrary to NRA's assertion, ATF has the legal authority to collect this information by regulations prescribed. Specifically, completion of the contested items is required to determine the applicant's eligibility for licensure, and is required by 27 C.F.R. § 478.21(a), which provides:

The Director is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part.

The contested information was necessary at the time of issuance of ATF Form 7, and continues to be necessary. *Cf. Armalite v. Lambert*, 512 F. Supp. 2d 1070, 1081 (N.D. Ohio 2007), *aff'd*, 544 F.3d 644 (6th Cir. 2008) (rejecting a challenge to ATF's authority requiring completion of certain items on ATF Form 4473); *RSM v. Herbert*, No. WMN-05-847, 2006 U.S. Dist. LEXIS 97237 (D.Md 2006), *aff'd*, 466 F.3d 316 (4th Cir. 2006) (ATF has authority, pursuant to 18

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U.S.C. § 926, to promulgate rules necessary to carry out the provisions of Chapter 44, and is accorded great deference to its longstanding interpretations of law); *Nat'l Rifle Ass'n v. Brady*, 914 F.2d 475, 479 (4th Cir. 1990) (ATF had authority to promulgate and implement such regulations as are necessary to carry out the purposes of the Gun Control Act, and is entitled to deference in determining which regulations are necessary).

We trust the foregoing has been responsive to your request.

Sincerely yours,

Stephen B. Albro
Chief, Firearms and Explosives Services Division