



## U.S. Department of Justice

Bureau of Alcohol, Tobacco,  
Firearms and Explosives

Office of Assistant Director

Washington, DC 20226

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November 14, 2022

### VIA EMAIL

Mr. Joseph B. Nye  
OMB Desk Officer  
Office of Information and Regulatory Affairs  
New Executive Office Building  
Washington, DC 20530

Dear Mr. Nye:

As the Assistant Director, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), I am requesting an emergency review and approval of the **attached** Firearms Transaction Record/Registro de Transacción de Armas de Fuego (ATF Form 4473) (OMB 1140-0020) pursuant to the requirements of the Paperwork Reduction Act (PRA). This letter requests emergency approval of the ATF Form 4473 by November 14, 2022, in accordance with 44 U.S.C. § 3507 and 5 C.F.R. § 1320.13, which permits such expedited approvals when a collection is needed prior to the expiration of time periods established by the PRA, is essential to the mission of the agency, would cause **public harm** if normal clearance procedures are followed, and an **unanticipated event** has occurred and the use of normal clearance procedures will prevent or disrupt the collection of information related to the event. *See* 44 U.S.C. §§ 3507(j)(1) and (2).

This emergency processing is essential because compliance with normal clearance procedures could cause public harm if the normal clearance process is followed, in that: Federal firearms licensees (FFLs) must comply with statutory requirements that went into effect on June 25, 2022, and that will be implemented within the Federal Bureau of Investigation (FBI)'s National Instant Criminal Background Check System (NICS) on November 14, 2022. FFLs will not be able to provide the required information and will be placed at risk of violating the statutory changes if the form is not updated to coincide with the NICS changes; in addition, public safety will be at risk due to prospective firearms sales to statutorily prohibited persons if the requisite information is not gathered via the revised form, and NICS background checks will not be able to be fully conducted.

### **ATF Form 4473 is essential to the ATF, FBI, and NICS public safety missions**

Prospective firearm buyers complete the Form 4473, and the FFL relays that information to the FBI's NICS electronically or by phone. NICS staff perform a

background check on the buyer. That background check verifies the buyer is not prohibited from purchasing or possessing a firearm. As a result, it is critical that the form remain updated to include instructions, questions, and spaces for the specific information the purchasers are required to provide and to remind licensees and prospective purchasers of legal obligations and requirements. It also serves as a deterrent to prohibited purchases by identifying penalties, including criminal ones, for violating the requirements.

The Bipartisan Safer Communities Act (the Act) was signed into law and became effective on June 25, 2022. Among the changes enacted by the Act were a requirement for FFLs to note when a purchaser is under the age of 21 and to meet additional background check steps and timelines for mental health adjudication checks before an FFL may sell to certain purchasers. The Act also included new requirements that FFLs stop a transaction if they have any reason to believe the person is prohibited to receive or possess a firearm, prohibits a licensee from transferring a firearm to a person who intends to use the firearm in trafficking or who is impermissibly acquiring it for another person, and establishes new criminal penalties for such purchases. The Act also changed the scope of individuals prohibited from receiving a firearm due to domestic abuse convictions to include ‘boyfriends,’ and changed the scope of entities who must have a license to purchase firearms for resale. The provisions increase public safety by better identifying people who present a high danger or risk of misuse if they own a firearm, preventing sale to them and for trafficking purposes, and deterring certain subterfuge purchases that enable people who are prohibited or who intend to engage in prohibited actions to receive firearms.

These statutory and regulatory requirements are not reflected on the existing Form 4473. This creates a risk to public safety. The Form 4473 helps to prevent firearms from being sold to people Congress has determined are too dangerous and helps to deter crimes committed with ‘ghost guns’ that cannot be traced.

NICS has now updated its system and will begin implementing the changes indicated above beginning November 14, 2022. The Form 4473 has been updated and translated into an updated Spanish version. As a result, it is urgent that the updated form be provided to licensees as soon as possible to protect public safety. The majority of changes to the form directly implement the statutory and regulatory items outlined above; the remaining changes to the form are minor administrative items, such as renumbering.

### **Measures taken to consult with stakeholder agencies and receive public input**

The ATF Form 4473 was last approved by OMB in May 2020 and underwent the full clearance process at that time. Members of the public provided significant input and comments on the form during the 2019-2020 public notice and comment process, and ATF responded to those comments, including making all appropriate changes to the form. It thus minimizes burden on the public as much as possible. The current changes are narrowly drafted to make the changes necessary to implement the new statutory requirements and a regulatory change (details below) so that the FFLs are able to provide the necessary information, protect themselves, and be compliant with the NICS to protect

public safety as well. The form thus remains essentially as approved in 2020. ATF has worked with the FBI and NICS, the agency stakeholders, in making these revisions, so they have been fully consulted.

**Expedited approval provides a temporary measure to allow public safety-related background checks to be processed**

ATF's request for expedited approval should be granted because it is a temporary measure to allow firearms public safety background checks to be processed and other statutorily required information to be collected so that FFLs are in compliance and the public is protected, while the ATF Form 4473 undergoes the normal clearance procedures. If additional comments are received during the PRA clearance process, the ATF Form 4473 can be amended. We are therefore requesting temporary emergency approval of the revised ATF Form 4473, including waiving both notice periods and faster OIRA review.

Thank you for your prompt consideration of this request. Please contact Andrew Lange, Division Chief, Office of Regulatory Affairs, at 202-648-70224, if you have any questions or need additional information.

Sincerely,

Matthew P. Varisco  
Assistant Director  
Enforcement Programs and Services