



**DEPARTMENT OF JUSTICE**

Billing Code: 4410-FY-P

**Bureau of Alcohol, Tobacco, Firearms, and Explosives**

**[OMB Number 1140-0020]**

**Agency Information Collection Activities; Proposed collection:** Emergency Request for Approval of Collection of Information under Review Firearms Transaction Record, Part 1, Over-the-Counter

**ACTION: Emergency 60 day notice**

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The Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the emergency review procedures of the Paperwork Reduction Act of 1995 (“the Act”). OMB approval will be requested by January 10, 2012. If granted, the emergency approval will only be valid for 180 days.

Emergency review is being requested in accordance with the Act (44 U.S.C. § 3507(j)), because if normal clearance procedures are followed, significant public confusion is reasonably likely to result. The Department believes that in the absence of emergency clearance, there will be widespread confusion among Federal firearms licensees, as well as among aliens lawfully present in the United States who wish to purchase a firearm, about a process that if not performed correctly can result in the imposition of civil or

criminal sanctions. This public harm can be avoided by emergency review. *See* 44 U.S.C. § 3507(j)(1)(B)(i). The Department is making conforming changes to the information collection instrument (ATF Form 4473, Firearms Transaction Record Part I – Over-the-Counter) so that the information collected is consistent with the requirements of law. The Department has recently concluded that two existing applications of the Gun Control Act (GCA) by ATF impose restrictions upon the lawful receipt and possession of firearms by aliens present in the United States that are not supported by the GCA. In particular, ATF regulations that extend the reach of 18 U.S.C. § 922(g)(5)(B) to prohibit the possession of firearms by all nonimmigrant aliens (unless they qualify for one of the exceptions contained in 18 U.S.C. § 922(y)(2)) are unwarranted in existing law, and may only extend to nonimmigrant aliens who have been admitted to the United States under a nonimmigrant visa. Moreover, the Department has also concluded that under the terms of the GCA, aliens lawfully present in the United States may not be subject to state residency requirements that are different from those that apply to U.S. citizens. Accordingly, ATF Form 4473 is being revised to distinguish between nonimmigrant aliens admitted to the United States under a nonimmigrant visa and those who were admitted without a visa, and to strike an instruction on the form requiring aliens to establish residence in a State continuously for a period of at least 90 days prior to the date they propose to acquire a firearm from a Federal firearms licensee. Immediate revisions to Form 4473 are necessary to conform with the law. Publication of this notice will acquaint licensees and aliens with the Department’s legal positions. Delaying implementation of the new interpretation during a three to six month notice and comment

period will generate many questions about which position licensees should follow. Immediate implementation is therefore required.

The proposed changes are required by the GCA. Accordingly, this notice does not seek comments from the public concerning the proposed information collection.

**Summary of Collection:**

(1) *Type of information collection:* Revision of a previously approved collection.

(2) *The title of the form/collection:* Firearms Transaction Record, Part 1, Over-the-Counter.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 4473 (5300.9) Part 1, Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. Other: Business or other for-profit.

**Need for Collection**

The form is used to determine the eligibility, under the Gun Control Act, of a person to receive a firearm from a Federal firearm licensee and to establish the identity of the transferee. It is also used in law enforcement investigations/inspections to trace

firearms and confirm that licensees are complying with their recordkeeping obligations under the GCA.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Based on calendar year 2010 figures, ATF estimates that 14,409,616 respondents will respond to the collection each year and that the total amount of time to read the instructions and complete the form on average is 30 minutes. ATF estimates that the average amount of time it takes to read and complete the form will not be affected by the changes it is proposing here. ATF also notes, however, that previous estimates of number of respondents (112,073) who complete the form each year have been inaccurate.

(6) *An estimate of the total burden (in hours) associated with the collection:* ATF estimates 7,204,808 annual total burden hours associated with this collection. ATF notes that previous estimates of annual burden hours (56,037) have been inaccurate because they underestimated the number of respondents. The burden per respondent has not changed.

If additional information is required contact: Jerri Murray at [http://www.DOJ.PRA@usdoj.gov](mailto:http://www.DOJ.PRA@usdoj.gov), Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Two Constitution Square, 145 N Street, NE., Room 2E-508, Washington, DC 20530.

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United States Department of Justice

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