



August 6, 2026

By electronic submission to <https://www.regulations.gov>.

ATF Rulemaking Comments
Mail Stop 6N-518, Office of Regulatory Affairs
Enforcement Programs and Services
Bureau of Alcohol, Tobacco, Firearms and Explosives
99 New York Ave. NE
Washington, DC 20226

Re: Docket No. ATF-2026-0001; RIN 1140-AA82
Comment on Proposed Rule on “Revising Firearms Transaction Record,
‘Form 4473’”

To Whom It May Concern:

Everytown for Gun Safety Support Fund¹ (“Everytown”) submits this comment in response to the notice of proposed rulemaking (“NPRM”) issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) that amends Department of Justice regulations governing ATF Form 5300.9, Firearms Transaction Record (“Form 4473”). This comment complements and expands upon the comment Everytown submitted in response to ATF’s information collection request regarding Form 4473,² and we ask that our comment response to this NPRM be treated as incorporating the points made in our comment on the information collection request and vice versa.

Periodic updates to government forms, when carefully tailored, can be helpful to improve the collection and utilization of information. But ATF’s new proposed changes to Form 4473 and its associated regulations go too far and would significantly undermine the information collection, customer and federal firearm licensee (“FFL”) education, and law enforcement purposes that the form was created to serve. **ATF’s proposed Form 4473 and regulation changes would increase the likelihood that prohibited persons will be able to obtain firearms, reduce oversight and accountability for FFLs who fail to properly vet their customers, make firearms purchasers less aware of legal restrictions on purchases, make it harder to prosecute straw purchasers and purchasers who lie on the form, and undermine**

¹ Everytown for Gun Safety Support Fund is the education, research and litigation arm of Everytown for Gun Safety, the largest gun violence prevention organization in the country with nearly 11 million supporters and more than 700,000 donors. The Everytown Support Fund seeks to improve our understanding of the causes of gun violence and help to reduce it by conducting groundbreaking original research, developing evidence-based policies, communicating this knowledge to the American public, and advancing gun safety and gun violence prevention in communities and the courts.

² See Everytown comment submitted July 7, 2026 to FIPB@atf.gov regarding OMB 1140-0020, Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Previously Approved Collection; Firearms Transaction Record-ATF Form 5300.9 and 5300.9A (“Form 4473”).

the ability to successfully trace crime guns.

Most troublingly, ATF’s proposal to double the length of the validity period for Forms 4473 and National Instant Criminal Background Check System (“NICS”) checks will increase the risk that buyers who have recently become prohibited for serious reasons, such as domestic violence restraining orders or felony charges, will be able to purchase guns from FFLs. As ATF explicitly acknowledges, “In such a case, a prohibited person who obtains a firearm under the proposed rule and, hypothetically, uses that firearm to inflict mass casualties, would have been prevented under the current baseline requirement to renew the background check.”³ This is a shocking admission. In other words, the risk of mass-casualty shooting events will be higher because of ATF’s proposed changes to Form 4473 and its associated regulations than it is today. It is deeply disturbing that ATF would proceed with its proposed rule and form changes under such circumstances.

ATF’s proposed revisions to Form 4473 and to its governing regulations are part of a wave of regulatory proposals ATF has put forward in 2026 that would facilitate more firearm sales to more people, remove safeguards against sales to prohibited persons, and diminish accountability for those involved in transfers that violate the law. ATF’s proposals frequently seek to accommodate industry requests and to prioritize industry interests above public safety concerns. To be blunt, the proposed rule puts industry profits ahead of the front-line members of law enforcement, who are often tasked with investigating, solving, and prosecuting firearms criminal cases. Those are the wrong priorities for a law enforcement agency like ATF. Both individually and in combination, the regulatory changes ATF has proposed this year put our communities at greater risk.

For the reasons discussed in this comment and in our response to the information collection request, we strongly urge ATF to withdraw both this NPRM and ATF’s proposed revisions to Form 4473. ATF should only pursue changes to Form 4473 if the changes protect and preserve the ability to keep guns out of the hands of prohibited purchasers, deter and prosecute illicit transfers and gun trafficking, promote effective crime gun tracing, ensure responsible FFL behavior and accountability, and keep our communities safe. Unfortunately, the proposed revisions ATF has put forward in this NPRM undermine those goals, and they should be withdrawn.

I. ATF improperly issued multiple concurrent NPRMs amending the same regulatory provisions, which undermines the integrity of this rulemaking process.

As an initial matter, we note that ATF has concurrently published in the Federal Register two NPRMs that amend the same regulatory provisions: this NPRM and an NPRM revising non-over-the-counter (“NOTC”) transaction requirements.⁴ This NPRM makes a set of proposed changes to regulations at 27 C.F.R. § 478.96 and 27 C.F.R. § 478.124(c), and even though those are proposals that have not been adopted, they are treated in the NOTC NPRM as if they have already been adopted. The NOTC NPRM then proposes additional changes to the same provisions — again assuming that the proposed changes from this NPRM have been fully adopted. This is an irregular process that will likely prove misleading and wasteful. Commenters

³ 91 Fed. Reg. 25439 (emphasis added).

⁴ 91 Fed. Reg. 25216.

responding to this NPRM may not be aware of the full set of changes that ATF plans to make to the regulatory provisions they are commenting on, and commenters responding to the NOTC NPRM are being asked to comment on proposed changes to baseline versions of these regulations that have not actually been adopted, may never be adopted in that form, and can only be found by searching through other NPRMs. As a result, commenters may end up submitting, and ATF will have to review, comments that do not reflect and respond to ATF's full set of proposed regulatory changes. We elaborate on these concerns in our comment responding to the NOTC NPRM.

ATF should withdraw any and all concurrently issued NPRMs that propose to amend the same regulatory provisions and instead, for each regulatory provision that ATF proposes to amend, issue a single NPRM that contains all of the proposed changes to that provision. To do otherwise undermines the integrity of the regulatory process, compromises the ability of commenters to accurately view and comment on the changes ATF proposes, and masks key substantive impacts of the combined proposed changes that are not specifically addressed in either NPRM. It is insufficient for ATF to claim, as it does in Footnote 8 of this NPRM, that "ATF expects to publish final rules on both [NPRMs] at about the same time."⁵ Further, while ATF maintains on its website an eRegulations page⁶ showing how regulations would be changed by upcoming proposed rules, the NPRMs posted in the Federal Register do not make commenters aware of this website. The regulatory process must not mislead the public by treating proposed changes as already adopted, must not deny commenters the opportunity to see in each NPRM the full set of changes ATF proposes to make to a regulatory provision, and must not allow agencies to sidestep discussion of proposed rules' substantive impacts by hiding those impacts within the intersection of multiple NPRM provisions.

II. The proposed rule's doubling of the Form 4473 and background check validity time limit will enable prohibited persons to buy guns and use them to cause harm.

Perhaps the most alarming change proposed in the NPRM is the doubling of the validity period for Forms 4473 and for NICS background checks from one month to two months. Currently, when a potential purchaser seeks to buy a gun from an FFL, the customer and FFL fill out a Form 4473 and a NICS check is conducted. If the transaction is not completed within a 30-day period, a new Form 4473 must be filled out and a new NICS check must be conducted prior to the transfer. This current 30-day time limit allows a reasonable time period for sales to be finalized while safeguarding against the risk that the purchaser's status as a lawful purchaser may change in the time period since the background check was run. For example, after 30 days the purchaser may have become prohibited due to a felony indictment or a domestic violence restraining order or on mental health grounds. The current system represents a commonsense public safety measure that helps keep guns from being sold to those prohibited from buying them while providing sufficient time for a sales transaction to be completed.

ATF now proposes to revise 27 C.F.R. § 478.102(c) to double the validity period for the Form 4473 and NICS background check from 30 days to two months. ATF appears to be making this change primarily to provide leniency for FFLs who violate the 30-day limit. As ATF noted in the NPRM, 1,050 FFL violations of 27 C.F.R. § 478.102(c)'s 30-day limit were discovered

⁵ 91 Fed. Reg. 25436, fn 8.

⁶ See <https://regulations.atf.gov/upcoming-regulation-changes#>

through inspections over a five-year period, contributing to the revocation of 95 FFL licenses and the issuance of 237 FFL warnings.⁷ At one point in the NPRM, ATF states that 78 percent of these violations occurred between one month and two months after the NICS check, which would appear to indicate that ATF's inspections discovered at least 819 firearms across five years that had been sold based on an expired NICS check between 31 days and two months.⁸ Later in the NPRM, ATF states that it identified an average of 132 violations per year of FFLs transferring a firearm to a person after 30 days from the initial NICS check.⁹

Whichever statistic is more accurate, ATF dismissively describes these incidents as mere “technical violation(s)”¹⁰ and urges the extension to a two-month limit as a way to “avoid[] unnecessary regulatory violations while preserving public safety.”¹¹ But these violations risk placing firearms in the hands of prohibited persons who may be dangerous. In those situations, ATF would then be compelled to expend costs and face serious risks to retrieve firearms from those prohibited persons. Such risks should not be downplayed or dismissed. Furthermore, ATF can always exercise discretion in how it addresses a violation of this provision in compliance inspections, for example by providing leniency for first-time violations, rather than upending the current 30-day deadline and creating a new public safety risk just to minimize the possibility of a compliance inspection violation by a small number of FFLs.

Based on information that ATF discloses in the NPRM, the public safety risks of doubling the Form 4473 and NICS check validity period clearly outweigh whatever benefits ATF might perceive from relieving FFLs that fail to follow the 30-day limit of the consequences of their violations. As ATF itself concedes, “there is a risk that a person could become prohibited between the first and second months after the background check”.¹² ATF explains that “[a] longer validity period might increase the chance that a buyer could become prohibited (e.g., felony charge, restraining order, mental health commitment) after the initial check is complete but before the transfer occurs.”¹³ ATF goes on to admit that “[i]n such a case, a prohibited person who obtains a firearm under the proposed rule and, hypothetically, uses that firearm to inflict mass casualties, would have been prevented under the current baseline requirement to renew the background check.”¹⁴ That hypothetical scenario is exactly what the current 30-day limit is in place to help prevent.

ATF tries to minimize the impact of this hypothetical scenario by saying ATF “believes the number of such persons is negligible,” but admits that it “does not have any data on persons who might fall into this situation.”¹⁵ This lack of data on the potential mass-casualty risk of the proposed rule change, and ATF's apparent disinterest in pursuing such data, are not reassuring. ATF does say that it calculates that as many as 1,797 delayed denial purchasers over a five-year period would become able to obtain a firearm from an FFL under the proposed rule between 31

⁷ 91 Fed. Reg. 25434.

⁸ *Id.*

⁹ 91 Fed. Reg. 25439.

¹⁰ 91 Fed. Reg. 25434.

¹¹ 91 Fed. Reg. 25435.

¹² *Id.*

¹³ 91 Fed. Reg. 25439.

¹⁴ *Id.*, emphasis added.

¹⁵ *Id.*

and 60 days after the NICS check but before the denial result from NICS arrives.¹⁶ But that means ATF estimates that the proposed rule would result in “approximately 360” instances per year where a prohibited purchaser who receives a delayed denial between 31 and 60 days after the NICS check could nonetheless obtain the firearm within that 31- to 60-day window before the denial arrives.¹⁷ In other words, the proposed rule would directly result in someone who is not legally able to obtain a firearm obtaining a gun approximately once a day in our country. Under this rule, ATF and partner law enforcement agencies would then need to undertake the cost and risk of retrieving the firearm from those prohibited purchasers to safeguard against them using the firearm to commit criminal violence or a mass shooting.¹⁸ The harms that can flow from prohibited persons becoming armed, and the risks to ATF personnel who have to conduct risky firearm retrievals, are not negligible.

Even based on the sparse data ATF presents, this proposed regulatory change clearly makes our communities less safe. Further, it provides little comfort that ATF states it will rely upon state laws and private businesses’ policies to “offset” the risks of ATF’s time limit extension.¹⁹ ATF notes that certain states “extend the time investigators have to complete background checks, ensuring that fewer firearms are transferred without a completed background check,” even as ATF’s proposed change goes in the opposite direction.²⁰ ATF should be leading the way when it comes to ensuring that fewer firearms are transferred without a completed background check, not relying on others to offset the risks created by ATF’s own actions.²¹ States can – and do – pass firearm safety laws to build upon the federal baseline laws that ATF enforces, but when ATF proposes regulatory changes that weaken those federal laws in a manner that risks more potential mass shootings, there is no guarantee that states will be able to make changes to cover those risks. ATF also fails to articulate any benefit of this proposed rule that outweighs this significant public safety risk, pointing only to how the proposed change would protect a small number of FFLs from their inability to follow a simple regulatory requirement. Accordingly, ATF must rescind the proposed doubling of the validity period.

III. ATF’s proposal would reorder, consolidate, and change Form 4473 questions in ways that will diminish FFLs’ ability to properly vet customers and make it harder to prosecute purchasers for lying or straw purchasing.

ATF’s NPRM and revised Form 4473 would make a number of changes to the questions asked on the Form 4473, claiming that the changes would “streamline and reduce requirements and limitations involved with completing Forms 4473.”²² However, a number of these changes would have a detrimental impact on FFLs’ ability to properly vet prospective purchasers and on

¹⁶ 91 Fed. Reg. 25440.

¹⁷ *Id.*

¹⁸ Of mass shootings that involved four or more people killed between 2016 and 2022, one in four mass shootings involved shooters who were legally prohibited from possessing firearms when the shooting occurred. *See* Everytown, “Mass Shootings in the United States,” updated March 2023, *available at* <https://everytownresearch.org/mass-shootings-in-america/>.

¹⁹ 91 Fed. Reg. 25440.

²⁰ *Id.*

²¹ There is also no comfort provided by ATF pointing out that its proposed two-month validity period for a Form 4473 and accompanying NICS check is shorter than the Brady Act’s alternative permit provision, given the gaping loopholes that already exist in that alternative permit system (which would be exacerbated by ATF’s proposed rule to weaken safeguards in that system.) *See* 91 Fed. Reg. 25435; 91 Fed. Reg. 24436.

²² 91 Fed. Reg. 25439.

the government's ability to hold purchasers and FFLs accountable when they fail to follow the law.²³

A. ATF's proposed redesigning of Form 4473 to put the questions filled out by the purchaser on a separate page from the firearm description questions filled out by the FFL risks making transaction records less accurate and complicating prosecutions for straw purchasing.

Currently, the first page of Form 4473 directs the FFL to complete information about the firearm in Questions 1 through 8, immediately before the customer fills in biographical information and information demonstrating eligibility to purchase the gun. This sequencing of questions was intentional; in 2020, ATF revised the Form 4473 and moved questions for the FFL regarding the description of the firearm being purchased to the beginning of the form. This was partly in response to concerns that when the firearm description section was listed on a separate page of the form from the customer questions, it was more difficult to prove that straw purchasers lied when they answered on the form that they were the actual buyer of the firearm.

Gun industry stakeholders also expressed approval that the 2020 revision moved firearm information questions to the top of the first page on the form. For example, Gun University, described by Larry Keane, Senior Vice President and General Counsel of the National Shooting Sports Foundation, as "a site dedicated to firearm education and regulation compliance,"²⁴ noted that "the change of the firearm information location is a good change for three reasons."²⁵ First, it avoided having the wrong firearm listed only for that error to be discovered after the form is approved.²⁶ Second, "it [made] it easier for the FFL to confirm the firearm type for the purchaser."²⁷ And, third, if a transaction is stopped, "the FFL doesn't need to try to remember what firearm(s) were being transferred because the information will have been filled out before the customer starts."²⁸

However, ATF now proposes to undo this useful 2020 reform by redesigning Form 4473 to move the FFL firearm description questions to page 3 "to allow transferees to fill out one page while licensees complete a separate page."²⁹ This raises an additional concern. FFLs are trained to watch a purchaser when the purchaser fills out their portion of the Form 4473 to look for red flags with the sale, such as a purchaser who appears nervous when answering questions, is unsure of how to answer basic personal identification questions, or asks for guidance from a person accompanying them on the transaction. Director Cekada has repeatedly stated that FFLs are the first line of defense in ensuring prohibited people do not obtain firearms and suspicious

²³ Some of these changes ATF seeks to accomplish through regulatory changes proposed in this NPRM while other form changes are described in this NPRM but would be executed as part of form revisions under OMB control number 1140-0020. *See* 91 Fed. Reg. 25448. We discuss changes made through both avenues in this comment letter.

²⁴ Larry Keane, "Firearm Industry Expert, Veteran Testifies Against ATF Overreach," NSSF News, March 16, 2023, available at <https://www.nssf.org/articles/firearm-industry-expert-veteran-testifies-against-atf-overreach/>.

²⁵ Ryan Cleckner, "ATF's New 4473 - Changes, Requirements, Pre-Order Available," Gun University, available at <https://gununiversity.com/atf-4473/>.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ 91 Fed. Reg. 25441.

transactions are stopped.³⁰ The revised form will encourage FFLs to redirect their attention from the purchaser and instead complete their portion of the form at the same time. The effect of this change is to increase the speed of the transaction at the expense of diligence and oversight by responsible FFLs.

ATF describes the impact of this restructuring as “saving time,” but the real impact will be hindering FFL efforts to ensure that the correct firearms are listed on a customer’s form, complicating prosecutors’ efforts to prove that a straw purchaser was not the actual buyer of a firearm described on a separate page, and eliminating an opportunity for the FFL to observe signs of suspicious sales that may arise while the purchaser is filling out the form.³¹ As a law enforcement agency whose mission is to protect the public from violent gun crime, ATF should not push for regulatory changes that sacrifice important public safety safeguards for the sake of minimal time savings in business transactions. ATF should rescind this proposed redesign and retain the current Form 4473 layout where the FFL fills out firearm description questions at the top of page 1 immediately before the customer fills out information.

B. ATF’s proposal to replace “yes” or “no” customer questions with statements that can be affirmed by initialing and ATF’s proposed consolidation of prohibitor categories into the same initialed statement would weaken FFLs’ ability to properly vet customers and complicate efforts to prosecute purchasers for lying or straw purchasing.

Currently, Form 4473 requires the customer to answer “yes” or “no” to questions about each of the federal categories under 18 U.S.C. §§ 922(g) and (n) that prohibit a person from firearm possession. This design was deliberate and carefully thought through. FFLs are expected to pay close attention to the customer’s answers to the prohibiting questions because, under 18 U.S.C. § 922(d), it is unlawful for FFLs to sell firearms to a person knowing or having reasonable cause to believe that the person falls into one of the prohibiting categories. A “yes” response by a customer to a question about a prohibiting category provides reasonable cause for the FFL to deny the sale. These prohibiting questions act as a layer of vetting in addition to NICS background checks, which is important as the NICS databases do not always contain all prohibiting records.³² In their current form, these individual questions also focus customers’ attention on each category of prohibitor, as they must answer “yes” or “no” to each one, helping deter prospective purchasers who are prohibited persons from trying to purchase a firearm in the first place. Importantly, these individual questions also help with the prosecution of prohibited persons who “lie and try” to purchase firearms by clearly showing where the person lied, and with prosecutions of irresponsible FFLs who sell firearms to those who answer “yes.”

Additionally, the current “yes” or “no” questions on Form 4473 have helped responsible FFLs protect themselves against selling weapons to prospective customers who are prohibited persons, because the questions identify them as such in real time at the point of sale. For

³⁰ See, e.g., Robert Cekada, Responses to Questions for the Record, S. Comm. on the Judiciary Hearing (Feb. 2026), response to Senator Durbin Question 3a, 13d, available at https://www.judiciary.senate.gov/imo/media/doc/3502d997-daa5-f550-7914-e7d18cc5b59b/2026-02-04_OFR-Responses_Cekada.pdf.

³¹ 91 Fed. Reg. 25441.

³² ATF acknowledges in a separate NPRM that “[t]he NICS system is itself imperfect; even after an exhaustive search of records, NICS is unable to resolve about 3 to 5 percent of background checks each year.” 91 Fed. Reg. 24438-9.

instance, three months before the mass shooting in Lewiston, Maine, in October 2023, that killed 18 people and wounded 13 more, the gunman tried to purchase a silencer for a rifle at an FFL. According to the FFL, “He came in and filled out the form, he checked off a box that incriminated himself saying that he was in an institution. . . . Our staff . . . said, ‘I’m sorry . . . we cannot give you this . . . [A]t this point in time, we cannot release this silencer to you because of the answers that you’ve given us.’”³³

ATF now proposes to replace these “yes” or “no” prohibitor questions with a new Question 2 that allows customers to write their initials in response to statements. This format is less clear for FFL vetting and prosecutorial purposes than “yes” or “no” answers. Further, the goal of making sure customers recognize and acknowledge each prohibitor category is further diminished because ATF proposes to consolidate many of the separate questions for each category of prohibitor into one joint statement in Question 2.d of the revised form that can be initialed. Not only do these changes make it less likely that customers will review and focus on correctly responding to each of the prohibitor category questions, but the changes also make it more difficult for prosecutors to prove that a prohibited person intentionally lied on the form. For example, the person may claim that they did not see their prohibiting category in the consolidated question before adding their initials.

Additionally, ATF’s revised form replaces current Question 21.a — which specifically explains that the customer cannot be sold a firearm if they are acquiring the firearm on behalf of another person — with a short bullet point within the consolidated Question 2.d that asks the customer to initial that “I have not engaged in a ‘straw purchase’ as that term is defined in the instructions.” This reference to straw purchasing in the revised form, with its accompanying definition on a separate page, does not tell the full story. As ATF acknowledges in another recent NRPM it has issued regarding the definition of straw purchase,³⁴ there are “two types of straw purchasing.”³⁵ There is “straw purchasing by making a material misstatement” with respect to who is the actual buyer of the firearm, and there is “straw purchasing by purchasing for a prohibited person.”³⁶ The first type of straw purchasing, i.e., making a material misstatement about who is the actual buyer, has long been prohibited by 18 U.S.C. § 922(a)(6) and § 924(a)(1)(A), and the second type of straw purchasing, i.e., buying on behalf of a prohibited person, is prohibited by 18 U.S.C. § 932 as added by the Bipartisan Safer Communities Act of 2022 (“BSCA”).

Customers should be clearly informed by Form 4473 that both types of straw purchasing are illegal. However, the revised form does not provide sufficient clarity for the buyer because it removes the explanation in Question 21.a that it is impermissible to buy a gun on behalf of another, replaces that explanation with a brief reference to straw purchasing, and relegates that definition of straw purchasing — which only mentions the second type of straw purchasing — onto a separate definitions page that the purchaser is not required to initial and may not even see during the transaction. In reality, many - if not most - customers will never read the separate definition page as proposed by the rule.

³³ Sasha Pezenik and Josh Margolin, “Alleged Maine Gunman Tried to Buy a Silencer Months Before Lewiston Shootings,” ABC News, Oct. 29, 2023, available at <https://abcnews.com/US/alleged-maine-gunman-buy-silencer-months-lewiston-shootings/story?id=104453990>.

³⁴ 91 Fed. Reg. 24448.

³⁵ 91 Fed. Reg. 24450.

³⁶ *Id.*

ATF claims in its information collection request that this change was “because of statutory changes in 2022.”³⁷ The 2022 statutory changes, however, do not warrant such a wholesale revision of how the Form 4473 addresses straw purchases. Rather than simply adding to the definition of “straw purchase” on the current Form 4473 to align with the new provision enacted as part of BSCA, the proposal instead offers an entirely new approach to straw purchases that will create confusion for both FFLs and purchasers. The statutory changes made in 2022 do not preclude ATF from explaining both types of straw purchasing activity in the way ATF has articulated those types in its straw purchasing NPRM, nor does it preclude ATF from continuing to explain, like Question 21.a did, that acquiring a firearm on behalf of another person is prohibited.³⁸ The statute also does not require ATF to only mention the second type of straw purchasing in its definition, nor does the statute require ATF to relegate that definition of straw purchase to a separate page of the form where it is more likely to be overlooked.

ATF’s proposed shift away from “yes” or “no” prohibitor questions, its proposed consolidation of prohibitor category questions, and its proposed new Question 2.d’s reference to straw purchasing that provides less information than current Question 21.a all make it less clear for customers what conduct is prohibited, in addition to making it harder for prosecutors to demonstrate that a straw purchaser knew that their conduct in acquiring a gun on behalf of another person was unlawful. Each of these proposed changes further increases the likelihood that prohibited purchasers will be able to purchase guns and complicates efforts to hold purchasers who lie on Form 4473 or FFLs who inadequately vet their customers accountable. ATF should rescind these proposed changes and maintain the current Form 4473’s “yes” or “no” question format, separate questions for each individual prohibitor, and Question 21.a’s explanation that a customer cannot acquire a firearm on behalf of another.

C. ATF’s proposed removal of Question 24 about the “category of firearm(s) to be transferred” risks allowing persons under age 21 to unlawfully obtain handguns.

Currently, Question 24 of Form 4473 directs FFLs to identify what category of firearm or firearms are to be transferred by checking a box for handgun, long gun, or other firearm. This question serves as a safeguard to help ensure compliance with the federal requirements that FFLs may not sell handguns to purchasers under age 21 and that FFLs must report multiple sales of two or more handguns to a purchaser within five business days (and FFLs in states along the southwest border must also report multiple sale transactions involving certain rifles larger than .22 caliber).

However, ATF now proposes to remove this question from Form 4473, increasing the likelihood that FFLs will fail to note the correct firearm type during the NICS background check process, which could in turn allow persons under age 21 to buy handguns or reduce compliance with multiple sale reporting. ATF should rescind this proposed change and retain the current Question 24.

D. ATF proposes directing FFLs to obtain the customer’s identification document after initiating the NICS check, which increases the risk that FFLs will fail to verify that

³⁷ 91 Fed. Reg. 25449.

³⁸ Question 21.a. in the current form explains in the question and in its instructions that a customer can acquire a firearm on behalf of another if the customer is picking up a repaired firearm for another person or if the firearm is a bona fide gift.

the information provided by the customer on the Form 4473 matches the identification provided.

The current Form 4473 requires FFLs to inspect the customer's identification document (e.g., driver's license) and to fill out information from the ID in Question 26 on the form before the FFL can initiate the NICS background check. This step helps the FFL ensure that the identification information provided matches the customer's information recorded on the 4473 and the identification is valid and sufficient prior to initiating the NICS background check.

ATF's proposed revised Question 7, however, directs the FFL to obtain and attach a copy of the customer's ID *after* initiating the NICS check, not before. This new sequencing increases the likelihood that the FFL will fail to verify that the information recorded by the customer on page 1, Question 1 of the form matches the information in the ID provided. This may increase the use of fraudulent identification documents and may allow such fraudulent documents to go unnoticed by FFLs, leading to inaccurate NICS results which may allow prohibited people to obtain firearms and disrupt the firearm's traceability. ATF should retain the current Form 4473 sequencing in which FFLs must inspect customers' identification documents and input that ID information before initiating the NICS check.

IV. ATF's proposal would remove instructions from Form 4473 that provide critical guidance to help responsible FFLs avoid making sales to prohibited purchasers and firearms traffickers.

The current Form 4473 provides instructions that explain nearly every numbered question that a customer or FFL must answer in the form. These instructions help provide notice both to customers and FFLs about legal obligations and restrictions governing the transfer of firearms. Indeed, the current Form 4473 includes a purpose statement that says the form is "designed so that a person licensed under 18 U.S.C. § 923 may determine if he/she may lawfully sell or deliver a firearm to the person identified in Section B, and to alert the transferee/buyer of certain restrictions on the receipt and possession of firearms." (Emphasis added.)

The revised Form 4473, however, removes numerous instructions from the form and reorganizes instructions so they no longer refer back to specific questions. The purpose statement provided in the revised form also no longer even mentions alerting the transferee/buyer about restrictions on the receipt and possession of firearms as a purpose of the form. Between these changes to the instructions and the reordering and consolidation of questions discussed in Part III above, the revised Form 4473 makes customers less aware of the types of prohibitions that render customers ineligible than the current form does. ATF's proposal removes additional instructions for transferors from the form as well and instead just provides a link to the ATF website.

While removing instructions may shorten the length of the form, the loss of those instructions increases the likelihood that gun sales will be made to prohibited persons. ATF must reaffirm its commitment to Form 4473's currently stated purpose of helping make customers aware of legal restrictions on firearm purchases and possession. ATF should also preserve the format of instructions that are identified along with a specific question on the form, and should keep instructions for transferors as part of the paper form instead of shuffling transferors over to ATF's website.

Several additional proposed changes to the instructions section of the form that raise concerns are discussed below.

A. ATF’s proposed removal of instructions advising FFLs about the 10-day waiting period for purchasers under age 21 risks increasing sales to prohibited underage purchasers.

Currently, Form 4473 provides a specific notice after Question 26.d that makes clear to FFLs that if a customer is under 21, a waiting period of 10 days may apply if NICS or a state notifies the FFL that it has cause to investigate a possibly disqualifying juvenile record involving the customer. This under-21 enhanced background check process, which was created by BSCA, has shown significant success in preventing gun sales to prohibited purchasers. During the first year after this extended background check process for under-21 purchasers took effect, NICS denied over 3,500 purchasers under age 21 based on BSCA outreach to local law enforcement that identified prohibiting juvenile records.³⁹ The FBI also reported in 2024 that on average, NICS responses to FFLs to proceed after under-21 enhanced checks took four days, which is longer than the three-day default proceed waiting period for over-21 buyers.⁴⁰ Thus, FFLs who may not know about the 10-day waiting period for under-21 enhanced checks may end up providing firearms through three-day default proceed sales to buyers under age 21 who would have been denied had the 10-day waiting period been followed.

ATF now proposes to remove from Form 4473 the notice and associated instructions about the 10-day waiting period for under-21 enhanced checks, which will decrease compliance with the enhanced background check requirement for these sales and increase the risk of FFLs transferring firearms to prohibited persons under age 21. ATF describes no alternative process by which the agency will ensure that FFLs are aware of the legally required 10-day waiting period for these sales. This change will therefore directly undermine this provision of federal law. The current notice and instructions should be preserved to avoid this outcome.

B. ATF’s revised form omits the reminder for FFLs to submit multiple sales reports.

The current Form 4473 includes a bolded reminder that FFLs must complete ATF Form 3310.4 for multiple sales of handguns that have been purchased by a customer within five consecutive business days, which is required under 18 U.S.C. § 923(g)(3)(A). Information about multiple handgun sales is critically important to law enforcement in detecting firearms trafficking, and it assists ATF in efficiently completing crime gun trace requests. When a crime gun is part of a multiple sale, ATF does not have to go through the full process of tracing the firearm from manufacturer to last known FFL. Instead, it queries the crime gun against all submitted multiple sales reports to complete the trace, which saves valuable time in providing an investigative lead to law enforcement.

According to ATF’s National Firearms Commerce and Trafficking Assessment, “Nearly 10% of crime guns traced to a purchaser in 2022 (40,606 of 413,618) and in 2023 (39,094 of

³⁹ White House Office of Gun Violence Prevention, “Year One Progress Report,” Sept. 2024, at p. 3, *available at* <https://bidenwhitehouse.archives.gov/wp-content/uploads/2024/09/Year-One-Report-Final.pdf>.

⁴⁰ FBI, “A Closer Look: NICS enhanced background checks for under-21 gun buyers showing results,” March 25, 2024, *available at* <https://www.fbi.gov/news/stories/nics-enhanced-background-checks-for-under-21-gun-buyers-showing-results#:~:text=NICS%20responses%20to%20federal%20firearms,to%20about%204%20days%20now>.

411,207) were part of a multiple sale transaction.”⁴¹ The annual number of crime guns traced to a purchaser that were part of a multiple sale transaction increased 102% from 2017 (19,307) to 2023 (39,094).⁴² Additionally, crime guns that were part of a multiple sale transaction have a median time-to-crime of 2.1 years, one year shorter than that of non-multiple sale crime guns.⁴³ This means multiple sales are an indicator of illicit trafficking activity, and the multiple sale report information enables law enforcement to be proactive in investigations and try to stop traffickers before guns end up used in crimes.

Despite the importance of multiple sales reporting, ATF’s revised Form 4473 removes this multiple sales report reminder entirely, making no mention of the legal requirement to report multiple sales anywhere in the form. ATF provides no justification or explanation for this deletion in the NPRM or information collection request. This is troubling because ATF has reported that “failure to report multiple sales or other dispositions of pistols and revolvers” was one of its “top 10” inspection violations during Fiscal Year 25.⁴⁴ ATF cited 6,608 of these violations that year, a 49% increase over the 4,407 violations cited in Fiscal Year 2022, the first year ATF began reporting “top 10” inspection violations.⁴⁵ There is simply no public safety purpose to be accomplished by deleting the current reminder about this important anti-trafficking tool, and ATF should retain the current reminder.

V. ATF should require that customer information listed in identification documents continue to be recorded on Form 4473, in addition to the documents being copied and attached, so that crime gun tracing is not undermined by copies becoming separated from the form.

Currently, Form 4473 requires the FFL to check a customer’s identification document and enter information into the form in Question 26. This step helps ensure that the NICS check initiated by the FFL is based upon information that matches the information in the customer’s ID. The revised form, however, provides that identification documents, including additional documents needed to establish current residence address, non-immigrant alien exceptions, and “Brady alternate” permits, must be copied and attached rather than recorded on Form 4473 itself. If the FFL chooses to also document this information it can be done on page 4 of the form, but inputting such information into the form itself is no longer required under the proposed rule.

While copying and attaching this documentation is sensible as a supplemental measure, it has long been ATF’s practice to encourage FFLs to record this information directly on the Form 4473 due to the possibility that additional pages of copies may become detached from the form during the many years those forms are required to be retained. If identification or exemption documentation becomes detached and is not elsewhere recorded in the form itself, it could pose

⁴¹ ATF, National Firearms Commerce and Trafficking Assessment (NFCTA), Volume IV - Protecting America from Trafficked Firearms: NFCTA Updates, New Analysis, and Policy Recommendations, Part III- Crime Gun Tracing Updates and New Analysis, at p. 5, available at www.atf.gov/sites/default/files2/nfcta_volume_iv_-_part_iii_0.pdf.

⁴² *Id.*

⁴³ ATF, NFCTA, Volume II - Crime Guns, Part III - Crime Guns Recovered and Traced within the United States and its Territories, at p. 31, available at <https://www.atf.gov/media/15426/download>.

⁴⁴ ATF Fact Sheet - Facts and Figures for Fiscal Year 2025, available at <https://www.atf.gov/resource-center/fact-sheet/facts-and-figures-fiscal-year-2025>.

⁴⁵ *Id.*; ATF Fact Sheet - Facts and Figures for Fiscal Year 2022, available at <https://web.archive.org/web/20250201015816/https://www.atf.gov/resource-center/fact-sheet/fact-sheet-facts-and-figures-fiscal-year-2022>.

difficulties in establishing who the purchaser was and ultimately disrupt the traceability of firearms. Accordingly, ATF should require that copies of identification documents supplement, rather than take the place of, the required inputting of information from the identification documents directly into the form.

VI. ATF’s proposed removal of the FFL anti-trafficking certification in the revised Form 4473 diminishes notice and accountability for customers and FFLs.

Currently, 27 C.F.R. § 478.124(c) requires that FFLs must obtain a Form 4473 that contains a “certification that the transferee does not intend to purchase or acquire any firearm for sale or other disposition to a person so prohibited or in furtherance of any felony or other offense punishable by imprisonment for a term of one year, a Federal crime of terrorism, or a drug trafficking offense.” The NPRM proposes to strike this requirement from the regulation, and the revised Form 4473 accordingly removes Question 21.b from the current form, which asks customers a “yes” or “no” question if they “intend to sell or otherwise dispose of any firearm listed on this form . . . in furtherance of any felony or other offense punishable by imprisonment for a term of more than one year, a Federal crime of terrorism, or a drug trafficking offense.”⁴⁶ While this information is included in the new form’s definition of “straw purchase” in the separate definitions page, that does not provide the same level of notice for customers as Question 21.b in the current form. ATF should preserve Question 21.b both for notice purposes and to ensure that the certification required of FFLs reflects the FFL having obtained a clear “yes” or “no” answer whether the customer intends to sell or otherwise dispose of the firearm in such a way. ATF should also rescind the NPRM’s proposal to revise 27 C.F.R. § 478.124(c) to delete that certification requirement.

VII. The residence information changes in the revised Form 4473 will complicate timely notifications to local law enforcement under the NICS Denial Notification Act.

The current Form 4473 requires customers to state in Question 10 which city and county (or parish or borough) they reside in, as well as whether they reside in the city limits of their city. This information helps allow for prompt notification to local law enforcement agencies in the customer’s home jurisdiction if the customer has attempted to “lie and try” to purchase a gun while prohibited. Pursuant to the NICS Denial Notification Act (“NDNA”), local law enforcement must be promptly notified of such “lie and try” attempts so they can investigate and stop the customer from further seeking to illicitly obtain a gun.⁴⁷ Form 4473 was modified in 2023 to include the city limits question to help ensure compliance with NDNA notifications.

NICS denial notifications provide crucial information to law enforcement that can be used to intervene and prevent horrific acts of gun violence. That a prohibited person is attempting to purchase a gun may be a sign of a potential escalation of violence that warrants law enforcement intervention, particularly in the context of a person prohibited due to a domestic violence conviction or restraining order. Following up on these attempted unlawful purchases is also crucial to ensure that the prohibited individual is unable to acquire a firearm through other means, such as purchasing from an unlicensed seller or obtaining the components to make an

⁴⁶ 91 Fed. Reg. 25436.

⁴⁷ 18 U.S.C. § 925B. For example, 124,412 NICS Denial Notifications were sent to local law enforcement agencies in 2023. See FBI, Science and Technology Branch, “National Instant Criminal Background Check System (NICS) Denials Report,” Oct. 2, 2024, at p. 13, available at <https://www.justice.gov/ovw/media/1375616/dl>.

unserialized “ghost gun” at home. That a prohibited abuser has demonstrated the intent to purchase a firearm through the denied sale signals a risk that they may attempt to use another channel to obtain one that does not require a background check.

ATF’s proposed revisions to Form 4473 would remove the questions asking about the customer’s county and the city limits question, instead leaving space for the optional inclusion of that information. Removing such information would likely have the result of slowing down the notification process under the NDNA, which would allow denied customers additional time to attempt to acquire a firearm from another source before local law enforcement could investigate and respond. This is a risk to the public and to law enforcement, and ATF should preserve these questions in Form 4473.

VIII. ATF’s proposed changes to the non-over-the-counter transfer process are deeply concerning.

In this NPRM, ATF proposes certain changes to 27 C.F.R. § 478.96, the regulation that governs requirements for NOTC firearms sales. These proposed changes are then further modified by a separate NPRM on NOTC sales that amends the same regulatory provision.⁴⁸ In Part I of this comment we expressed our concerns about the process ATF has used to amend the same regulatory provision through two separate NPRMs. Everytown also has strong substantive concerns about ATF’s full set of proposed revisions to 27 C.F.R. § 478.96, which are detailed in our separate comment on the NOTC NPRM and which we request be treated as incorporated herein.

IX. Auto-populating of data into Form 4473 must come with strict review, opportunity for correction, and required certification.

The NPRM also seeks to revise 27 C.F.R. § 478.124 to allow FFLs to auto-populate information on Form 4473. Auto-populating of information can be beneficial only if the information is auto-populated accurately, and this will require ATF to firmly ensure in every instance that automatically populated data must be clearly presented to the customer, that the customer must be able to revise any incorrect or incomplete auto-populated data, that the auto-populating software complies with requirements not to auto-populate any answers to questions related to a person’s eligibility to possess or acquire firearms, and that the customer must certify that the data is both complete and accurate.

X. Government-issued identification documents should continue to be used to verify the purchaser’s place of residence.

ATF proposes revising its regulations to allow purchasers to use non-government-issued documents to establish their place of residence when filling out the Form 4473. Allowing use of non-government documents to establish residence risks complicating crime gun tracing efforts, as such documents are more susceptible to alteration or fraud. FFLs must verify with certainty a purchaser’s current address so that a purchaser can be located if the firearm ends up recovered in crime and needs to be traced, especially if the purchaser frequently moves locations or lives primarily in a mobile home. Requiring use of government-issued identification documents provides greater certainty and should be maintained in ATF regulations.

⁴⁸ 91 Fed. Reg. 25216.

XI. Conclusion

ATF portrays its proposed revisions to Form 4473 and its governing regulations largely as technical updates and streamlining, but at its core, these changes would create more opportunities for prohibited persons to buy firearms from FFLs while reducing accountability for such transfers. ATF claims that the risk from these changes is minimal, but concedes that the changes could produce scenarios where a prohibited person could obtain a firearm as a result of the proposed revisions and use that firearm to inflict mass casualties. That alone is sufficient justification to withdraw the proposed revisions, but it is hardly the only way that the revisions increase risks to public safety. ATF's current proposals prioritize speed over safeguards, brevity over notice, convenience over accountability, and, ultimately, industry interests over the goal of preventing gun sales to prohibited persons.

ATF knows how to make periodic updates to Form 4473 that improve administrability while advancing the goals of ensuring that firearms sales are not made to prohibited persons and alerting both FFLs and customers about relevant legal restrictions that must be followed. ATF has made such updates to Form 4473 before, including twice in the last six years. But ATF's current set of proposed changes to Form 4473 and its governing regulations undermine these critical public safety goals. These proposals miss the mark and would make our communities less safe. Accordingly, the NPRM and the proposed changes to Form 4473 should be withdrawn.

Thank you for your consideration of this comment.

Sincerely,

/s/ Justin Wagner

Justin Wagner
Senior Vice President for Law & Policy
Everytown for Gun Safety Support Fund