OMB Comments ATF Form 1, 4, 5, and 5320.23

Comment #	Date of Submission	Commenter	Contact Information	Form #	Item #	Current	Proposed	ATF Response	Date of Response
1	5/31/2019	Chris Bass Silencer Shop	christopherbass01@gmail.com	4	2A	Corporation, Legal Entity, Individual, Trust	Individual, Legal Entity, Trust	"Other" Legal Entity (All else remains the same). This will be handled similarly on the Form 1 & 5	6/25/2019
2	5/31/2019	Chris Bass Silencer Shop	christopherbass01@gmail.com	4	Instructions 2i, 2j, 2m and Blanks 5 & 22	"Applicant"		Identify in Instructions who the Applicant is referring to i.e. Transferee, Transferor, or both. This will be handled similarly on the Form 1, 5, & .23	6/25/2019
3	5/31/2019	Chris Bass Silencer Shop	christopherbass01@gmail.com	4	16, 17a, 17b, 18a, 18b, 18c, & 20		Remove questions	Required as part of the background process. It is not duplicative to the Finger Print card as that is a separate and unrelated process. SSN can be greyed out on the ATF Copy 2 as well as the CLEO copy. Serial Number will also be greyed out on the CLEO copy. This will be handled similarly on the Form 1, 5, & .23	6/25/2019
4	5/31/2019	Chris Bass Silencer Shop	christopherbass01@gmail.com	4	Instructions 2h and Blanks 16 & 20		Add "Optional" to blanks 16 & 20	Add "*See Instruction 2h* " to Items 16 & 20	6/25/2019
5	5/31/2019	Chris Bass Silencer Shop	christopherbass01@gmail.com	4	Transferee Certification	Located at the top of Page 3	Move to Bottom of Page 2	Concur	6/25/2019
6	5/31/2019	Chris Bass Silencer Shop	christopherbass01@gmail.com	4	Definition 1D		Narrow Definition of "Person"	No Change Will Be Made	6/25/2019
7	5/31/2019	Chris Bass Silencer Shop	christopherbass01@gmail.com	4	"Important Information for Currently Registered Firearms"		Increase font size	Concur. This will be handled similarly on the Form 1, 5, & .23	6/25/2019
8	5/31/2019	Chris Bass Silencer Shop	christopherbass01@gmail.com	4	2i	All signatures required on ATF Form 4 must be original in ink on both copies. (]) if the applicant is an individual, the applicant shall sign the form; (2) if the applicant is the estate of a decedent where the firearm is being transferred to other than a beneficiary, the executor or administrator of the estate shall sign the form; (3) if the applicant is a trust or legal entity, a responsible person of the trust or legal entity shall sign the form; or (4) if the applicant is a Federal firearms licensee, a responsible person of the Federal firearms licensee shall sign the form.	All signatures required on ATF Form 4 must be original on both copies. Original signatures may be in ink, electronically or digitally signed. (]) if the applicant is an individual, the applicant shall sign the form; (2) if the applicant is the estate of a decedent where the firearm is being transferred to other than a beneficiary, the executor or administrator of the estate shall sign the form; (3) if the applicant is a trust or legal entity, a responsible person of the trust or legal entity shall sign the form; or (4) if the applicant is a Federal firearms licensee, a responsible person of the Federal firearms licensee shall sign the form.	Add: Exceptions: In the case of eforms or where a variance has been granted a digital/electronic signature may be used. This will be handled similarly on the Form 1, 5, & .23	6/25/2019
9	5/31/2019	Chris Bass Silencer Shop	christopherbass01@gmail.com	5320.23	3b & 3C		Remove Email and Telephone Number	No Change Will Be Made - Required for error resolution	6/25/2019
10	5/31/2019	Chris Bass Silencer Shop	christopherbass01@gmail.com	1	1q.	"intimate partner'	"intimate partner"	Concur	6/25/2019
11	5/31/2019	Chris Bass Silencer Shop	christopherbass01@gmail.com	1	1s.	"question"	"question"	Concur	6/25/2019
12	5/31/2019	Chris Bass Silencer Shop	christopherbass01@gmail.com	4	1m.	"jurisdication"	"jurisdiction"	Concur	6/25/2019
13	5/31/2019	Chris Bass Silencer Shop	christopherbass01@gmail.com	4	2a.	"Please note that the form now contain"	"Please note that the form now contains"	Concur	6/25/2019
14	5/31/2019	Chris Bass Silencer Shop	christopherbass01@gmail.com	4	2k.	Photocopies, etc.	Remove extra end parenthesis	Concur	6/25/2019
15	5/31/2019	Chris Bass Silencer Shop	christopherbass01@gmail.com	5320.23	Instruction 3c.	UPN	UPIN	Concur	6/25/2019
16	5/31/2019	Chris Bass Silencer Shop	christopherbass01@gmail.com	5320.23	Definition 4 Section B	"Trust those persons"	"Trust: Those persons"	Concur	6/25/2019
17	5/31/2019	Chris Bass Silencer Shop	christopherbass01@gmail.com	5320.23	Information for CLEO		Change reference to "7b. Or 7c." To "9d. or 9e."	Concur	6/25/2019
18	6/4/2019	Sean Sweeney	sean@mas-us.com	5	4i	Is the Firearm Unserviceable as Defined in Definition 1m (If "NO", describe the method by which the firearm has been rendered unserviceable. Use additional sheets.	Has the Firearm been rendered unserviceable as defined in Definition 1m? If "Yes", describe the method by which the firearm has been rendered unserviceable. Use additional sheets.	Concur	6/25/2019
19	5/21/2019	Alan Baker	alan@acbakerlaw.com	1, 4, 5, & .23	Photo Block		Define "Business Address"	Rather than having to define "Business Address" as used in the Photo Block on each form, we suggest to simply remove the word "Business"	6/27/2019
20	5/13/2019	Alan Baker	alan@acbakerlaw.com	4 & 5	13 Necessity Statement		Suggested to revise the Necessity Statement to remove "and Title" below the blank line	No Change Will Be Made	6/27/2019
21	5/13/2019	Alan Baker	alan@acbakerlaw.com	1, 4, & 5	Certification Section		Include the Printed Name and Title where applicable	No Change Will Be Made	6/27/2019
22	4/25/2019	Jason Kellar	jasonjkellar@gmail.com	1 & 4	Requested Copy of Forms		Requested Copy of Forms	Provided Link https://www.atf.gov/rules-and-regulations/forms-and-information-collection	5/3/2019
23	4/25/2019	Matthew Sill	matthew.sill@gmail.com	1, 4, & 5	Requested Copy of Forms		Requested Copy of Forms	Provided Link https://www.atf.gov/rules-and-regulations/forms-and-information-collection	5/3/2019

24	4/25/2019	Gary Himert	gary.himert@gmail.com	4	Requested Copy of Forms		Requested Copy of Forms	Provided Link https://www.atf.gov/rules-and-regulations/forms-and-information-collection	5/3/2019
25	4/24/2019	Stephen Stamboulieh	Stephen@sdslaw.us	4	Requested Copy of Forms		Requested Copy of Forms	Provided Link https://www.atf.gov/rules-and-regulations/forms-and-information-collection	5/3/2019
26	4/24/2019	John Rives	john@therives.net	1, 4, & .23	Requested Copy of Forms		Requested Copy of Forms	"Other" Legal Entity (All else remains the same). This will be handled similarly on the Form 1 & 5+J29:J30	5/3/2019
27	6/24/2019	Knox Williams American Suppressor Association (ASA)	knox@amsuppressor.com	4	2A	Corporation, Legal Entity, Individual, Trust	Individual, Legal Entity, Trust	"Other" Legal Entity (All else remains the same). This will be handled similarly on the Form 1 & 5	6/25/2019
28	6/24/2019	Knox Williams ASA	knox@amsuppressor.com	4	Instructions 2i, 2j, 2m and Blanks 5 & 22	"Applicant"		Identify in Instructions who the Applicant is referring to i.e. Transferee, Transferor, or both. This will be handled similarly on the Form 1, 5, & .23	6/25/2019
29	6/24/2019	Knox Williams ASA	knox@amsuppressor.com	1,4,5, & .23	Email & Telephone		Remove Email and Telephone Number	No Change Will Be Made - Required for error resolution. Concur to grey out on CLEO copy	6/25/2019
30	6/24/2019	Knox Williams ASA	knox@amsuppressor.com	4	Instructions 2h and Blanks 16 & 20		Add "Optional" to blanks 16 & 20	Add "*See Instruction 2h* " to Items 16 & 20. This will be handled similarly on the Form 1, 5, & .23	6/25/2019
31	6/24/2019	Knox Williams ASA	knox@amsuppressor.com	1,4,5, & .23	16, 17a, 17b, 18a, 18b, 18c, & 20		Obscure superfluous personally identifiable information on ATF Copy 2 and CLEO Copies of Forms	All will be obscured with exception of Name, DOB, and Sex as this is required as part of the NICS check.	6/25/2019
32	6/24/2019	Knox Williams ASA	knox@amsuppressor.com	4	4g		Obscure serial number from CLEO copy	Concur. This will be handled similarly on the Form 1 & 5	6/25/2019
33	6/24/2019	Knox Williams ASA	knox@amsuppressor.com	1,4,5 & .23			Remove Fingerprint/Photo Requirement as well CLEO Notification	Pursuant to 27 CFR 479.62 & 479.84 Notification of CLEO and submission of FP Cards with the application are required by regulation.	6/25/2019
34	6/24/2019	Knox Williams ASA	knox@amsuppressor.com	4	Instruction 2i	All signatures required on ATF Form 4 must be original in ink on both copies. (]) if the applicant is an individual, the applicant shall sign the form; (2) if the applicant is the estate of a decedent where the firearm is being transferred to other than a beneficiary, the executor or administrator of the estate shall sign the form; (3) if the applicant is a trust or legal entity, a responsible person of the trust or legal entity shall sign the form; or (4) if the applicant is a Federal firearms licensee, a responsible person of the Federal firearms licensee shall sign the form.	All signatures required on ATF Form 4 must be original on both copies. Original signatures may be in ink, electronically or digitally signed. (]) if the applicant is an individual, the applicant shall sign the form; (2) if the applicant is the estate of a decedent where the firearm is being transferred to other than a beneficiary, the executor or administrator of the estate shall sign the form; (3) if the applicant is a trust or legal entity, a responsible person of the trust or legal entity shall sign the form; or (4) if the applicant is a Federal firearms licensee, a responsible person of the Federal firearms licensee shall sign the form.	Add: Exceptions: In the case of eforms or where a variance has been granted a digital/electronic signature may be used. This will be handled similarly on the Form 1, 5, & .23	6/25/2019

From:	Christopher Bass
To:	NFA OMB Comments
Subject:	Comment related to OMB Number 1140-0014
Date:	Friday, May 31, 2019 12:11:02 PM
Attachments:	Silencer Shop Form comments Final.pdf

Attached please find Hill Country Class III, LLC's comment related to OMB Number 1140-0014 , Revision of a Currently Approved Collection; Application for Tax Paid Transfer and Registration of Firearm-ATF Form 4 (5320.4).

Please let me know if you have any questions or concerns.
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Thanks,
Chris Bass

The Bass Firm, PLLC

COMMENT OF HILL COUNTRY CLASS III, LLC D/B/A SILENCER SHOP

TO NOTICE OF PROPOSED AGENCY INFORMATION COLLECTION ACTIVITIES; PROPOSED ECOLLECTION ECOMMENTS REQUESTED; REVISION OF A CURRENTLY APPROVED COLLECTION; APPLICATION FOR TAX PAID TRANSFER AND REGISTRATION OF FIREARM-ATF FORM 4 (5320.4)

Respectfully submitted on behalf of Hill Country Class III, LLC d/b/a Silencer Shop by:

THE BASS FIRM, PLLC

Christopher M. Bass
The Bass Firm, PLLC
P.O. Box 2128
Coppell, Texas 75019
Telephone: (214) 596-8314

Hill Country Class 3, LLC d/b/a/ Silencer Shop ("Silencer Shop") files this comment related to OMB Number 1140- 0014, entitled Application for Tax Paid Transfer and Registration of Firearm—ATF Form 4 (5320.4).[1]

I. SILENCER SHOP'S INTEREST IN THE PROPOSED FORMS

Silencer Shop is a small business owned by Dave Matheny in Austin, Texas. Silencer Shop holds a federal firearm license ("FFL") and is a special occupational taxpayer ("SOT"). Silencer Shop is technology-focused business and was founded on the principals of customer service excellence, selection, competitive-pricing, and simplifying the silencer ownership process for both partner dealers and end-users. Silencer Shop is the largest distributor of firearm silencers in the country with a public showroom in Austin and a large online store available at www.silencershop.com.

II. SILENCER SHOP'S PROPOSED EDIT TO CHECKABLE SELECTIONS UNDER 2A.

The current checkable selections listed under 2a are:

Corporation
Legal Entity
Individual
Trust

Silencer Shop proposes that the checkable sections should be:

Individual
Legal Entity
Trust

[1] Although this comment focuses primarily on Form 4 applications, Silencer Shop suggests some changes to other forms herein, and offers the same comments related to the proposed Form 5 (OMB Number 1140- 0015), Form 1 (OMB Number 1140- 0011), and Form 23 (OMB Number 1140-0107) which are currently open for comment and contain the same or similar language.

Having a choice for "Corporation" and "Legal Entity" is duplicative and confusing to the end user because a corporation is a "legal entity." Using the choices Silencer Shop suggests eliminates that confusion.

III. SILENCER SHOP'S PROPOSED EDIT TO REMOVE THE WORD "APPLICANT."

The word "Applicant" is not defined on the Form and is used inconsistently. It is unclear if the ATF considers the transferee, the transferor, or both the "Applicant." In Instruction 2i and 2j, it appears the ATF considers the transferor the "applicant," however, in Instruction 2m and Blanks 5 and 22 it appears to use "applicant" to mean the transferee. 26 USC 5812 makes clear that the transferor is the Applicant.[2] To avoid this confusion the ATF should use the terms "Transferor" (or "Registrant") and "Transferee" and avoid the use of the word "applicant" altogether.

IV. SILENCER SHOP'S PROPOSED EDITS TO REMOVE PRIVATE AND UNNECESSARY IDENTIFYING INFORMATION.

Questions Requiring Transferees Social Security Number, Birth, Ethnicity, UPIN and Race Information should be removed.

Silencer Shop proposes that the ATF remove questions 16, 17a, 17b, 18a, 18b, 18c and 20 in accordance with the Paperwork Reduction Act, as that information not necessary to accomplish the purpose of the Form 4, is duplicative, has no practical utility, and requesting transferee's social security number is a violation of the Social Security Number Fraud Prevention Act of 2017.[3] Additionally requiring this information poses serious privacy concerns and could lead to identity

[2] "A firearm shall not be transferred unless (1) **the transferor** of the firearm has filed with the Secretary a written application, in duplicate, for the transfer and registration of the firearm to the transferee on the application form prescribed by the Secretary;" (emphasis added)

[3] The purpose of this form is "To insure payment of the tax imposed by 26 U.S.C. § 5811; to ensure that the transfer would not be in violation of law; and to effect registration of the firearm."

theft. This is especially true given that a copy of this Form will be sent to the transferor and to the transferee's chief law enforcement officer, who would almost certainly have an obligation to make these forms available to public through open record and public information requests. The current version of the Form 4 does not require the disclosure of this highly confidential information. Seeking this information from the transferee does nothing to assist in payment of the tax, because the tax is imposed on the transferor, not the transferee. See 26 USC 5812(a)(2). Further this information does nothing to assist in the registration of the firearm because none of this information is included in the registry – as the ATF states in Paragraph 3 of the Privacy Act Information section, the only information placed into the National Firearms Registration and Transfer Record is "information as to the identification of the firearm, date of registration, and the identification and address of person entitled to possess the firearm." Thus, requesting the information in questions 16, 17a, 17b, 18a, 18b, 18c, and 20 is unnecessary, duplicative, and poses serious privacy concerns.

Additionally, requiring the transferee's social security number in question 16 violates the Social Security Number Fraud Prevention Act of 2017. This act prevents government agencies from including social security numbers on documents sent by mail. This form is mailed to both the ATF and the CLEO. After approval or rejection of the Form 4 the ATF mails the document to the transferor, thus this document qualifies for protection under the Act. Again, the social security number is being sought from the transferee, who is not the Applicant. By mailing the approved or denied document to the transferor the ATF would be providing the transferee's social security number to a third party in violation of the law.

To the extent the ATF believes this information is needed to complete the FBI or NICS background check on the transferee, the information necessary for that check is already included

on the fingerprint card, and thus the request on the Form is duplicative. See FBI Form FD-258. Having this information on only the fingerprint cards offers slightly more protection because the fingerprint cards are not sent to CLEO's or returned to the transferor.

To the extent the ATF decides to require this information, blanks 16, 17a, 17b, 18a, 18b, 18c, and 20 should be obscured (greyed out) on the ATF Copy 2 (Registrant Copy) and the CLEO copy of the Form to prevent disclosure of confidential private information.

The serial number should be obscured on the CLEO copy.

The serial number of the firearm (blank 4g) should be obscured (greyed out) on the CLEO copy of the Form. The instructions on the form clearly state that "item 4g (serial number) is obscured on the CLEO copy. These fields do not require completion on these copies." However, the blank is not greyed out. To avoid unintentional disclosure of this information the ATF should obscure this blank similar to the way Method of Payment (blank 23) is greyed out on the CLEO copy.

V. SILENCER SHOP'S PROPOSED EDIT TO CURE THE INCONSISTANCY BETWEEN INSTRUCTION 2H AND BLANKS 16 AND 20.

If the ATF decides to include blanks 16 and 20 it should note on the Form itself, and not just the instructions, that those blanks are optional. This would bring the Form in line with the 4473, which reads: "Social Security Number (**Optional**, but will help prevent misidentification)."

VI. SILENCER SHOP'S PROPOSED EDIT TO MOVE THE TRANSFEREE CERTIFICATION.

Silencer Shop proposes that the ATF reformat the document to keep the Transferee Certification signature and date block (unnumbered) on page 2 of the Form. In the proposed Form, that Certification is on page 3 of the Form. The ATF should attempt to keep that certification on

page 2 along with the information that is being certified. That will assist transferors in gathering this information and certification from the transferee. This will also assist the transferee in carrying a copy of the approved form after the transfer has been completed. This formatting can easily be accomplished if the ATF removes some of the unnecessary blanks mentioned above.

VII. SHOP'S PROPOSED EDIT TO NARROW DEFINATION 1D "PERSON"

Silencer Shop proposes that the ATF should remove the language "including each responsible person associated with such an entity" as there is no legal basis for this. Indeed, every legal resource defines entities in the exact opposite way, as separate from the responsible persons who compose it. For instance, Black's Law Dictionary defines a corporation as "an association of shareholders (or even a single shareholder) created under law and regarded as an artificial person by courts, ***having a legal entity entirely separate and distinct from the individuals who compose it*** ..." The US Supreme Court has consistently held that entity persons are entirely separate from the individuals who make them up - any definition of "Person" that attempts to equate an entity with the reasonable persons who own or are employed by that entity would fly in the face of long established precedent.

VIII. SILENCER SHOP'S PROPOSED EDIT ENLARGE THE FONT IN THE IMPORTANT INFORMATION FOR CURRENTLY REGISTERED FIREARMS SECTION.

Silencer Shop proposes increasing the font size of the section entitled "Important Information for Currently Registered Firearms." The font size for this section in the proposed Form appears to be smaller than the font in the other sections. The small font makes this section difficult to read. Given the importance of the information in this section, Silencer Shop would propose increasing the font size to at least the same size as the other sections in the Form. This

formatting can easily be accomplished if the ATF removes some of the unnecessary blanks mentioned above.

IX. SILENCER SHOP'S PROPOSED EDIT TO INSTRUCTION 2(I) TO ACCEPT ELECTRONIC SIGNATURES.

The current proposed instruction 2(i) reads:

> ***Signatures.*** *All signatures required on ATF Form 4 must be original in ink on both copies.*
> *(1) if the applicant is an individual, the applicant shall sign the form;*
> *(2) if the applicant is the estate of a decedent where the firearm is being transferred to other than a beneficiary, the executor or administrator of the estate shall sign the form;*
> *(3) if the applicant is a trust or legal entity, a responsible person of the trust or legal entity shall sign the form; or*
> *(4) if the applicant is a Federal firearms licensee, a responsible person of the Federal firearms licensee shall sign the form.*

Silencer Shop would propose the instruction be changed to read:

> ***Signatures****. All signatures required on ATF Form 4 must be original on both copies. Original signatures may be in ink, electronically or digitally signed.*
> *(1) if the applicant is an individual, the applicant shall sign the form;*
> *(2) if the applicant is the estate of a decedent where the firearm is being transferred to other than a beneficiary, the executor or administrator of the estate shall sign the form;*
> *(3) if the applicant is a trust or legal entity, a responsible person of the trust or legal entity shall sign the form; or*
> *(4) if the applicant is a Federal firearms licensee, a responsible person of the Federal firearms licensee shall sign the form.*

In other words, Silencer Shop would suggest removing the signing "in ink" requirement in order to allow for electronic signatures, both in and out of the e-Form system, and other legally acceptable "original" signatures other than those "in ink." Such a change would "[m]inimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or

other forms of information technology, e.g., permitting electronic submission of responses." OMB Number 1140–0014. The ATF estimates that the current version of the Form 4 takes "227.0598 minutes" to complete, allowing for electronic signatures would significantly reduce that time and accomplish the stated task of using technology to minimize the burden on the submitter. This is especially true now that the signature of both the transferor and the transferee is required on the Form. These parties could live hundreds or even thousands of miles apart making "in ink" signatures from both parties difficult.[4] Electronic signatures hold the same weight and legal significance as "in ink" signatures, so requiring "in ink" signatures has no added benefit. The ATF offers no reasoning as to why an "in ink" signature is necessary.

A) The ATF and other government agencies already accepts electronic signatures.

Although the current Form 4 instructions state that signatures must be "in ink," for many years the ATF accepted and approved Form 4's bearing electronic signatures. Through its e-Form system the ATF allowed Form 4's that were not signed "in ink," but were instead electronically signed.[5] The e-Form system is currently accepting Forms 1, 2, 5, 6, 9, 10, and 11 - all with electronic signatures. Indeed, the ATF acknowledged that allowing for "Electronic Signature (for submitter and ATF personnel) – provides enhanced authentication, validation and improves processing and approval."[6] Changing the instruction to indicate that electronic signatures are acceptable as originals simply conforms to the ATF's current practice of accepting electronic signatures.

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[4] For instance, an owner of a firearm in Navy Town, Alaska who was transferring the firearm to someone in Gordon, Alaska would have to travel some 1800 miles by plane or ship to obtain the transferee's "in ink" signature. More realistic, a transferor in El Paso, Texas who was transferring a firearm to someone in Texarkana, Texas would have to travel almost 12 hours by car to obtain an "in ink" signature.

[5] The ATF indicates on the Form 4's that they were "DIGITALLY SIGNED" in the signature block.

[6] ATF Eforms Update, January 15, 2016, Lenora (Lee) Alston-Williams.

The Internal Revenue Service accepts electronic signatures on documents in its similar tax collection functions. The IRS has explained that accepting electronic signatures "helps reduce office expenses like paper, postage and physical storage space and time-consuming efforts spent obtaining a physically signed authorization form."[7] These are advantages that both the ATF and the applicants would benefit form. The Environmental Protection Agency allows for electronic signatures in similar registration functions concluding that allowing for electronic signature technology will "result in reductions in costs and other business efficiencies."[8]

B) Federal Law Requires Acceptance of Electronic Signatures as Originals.

Governmental agencies must accept private parties' use of electronic signatures.[9] Congress has mandated that electronic signatures are valid and must be accepted, and all federal courts who have examined the issue agree. An electronic signature is valid and enforceable under the U.S. Electronic Signature in Global and National Commerce Act of 2000 (E–SIGN). See 15 U.S.C. § 7001(a)(1) ("Notwithstanding any statute, regulation, or other rule of law ... with respect to any transaction in or affecting interstate or foreign commerce, (1) a signature, contract, or other record relating to such transaction may not be denied legal effect, validity or enforceability solely because it is in electronic form"); *see also Newton v. Am. Debt Servs., Inc.,* 854 F. Supp. 2d 712, 731 (N.D. Cal. 2012) aff'd, 549 Fed.Appx. 692 (9th Cir. 2013) ("Under ESIGN, electronic records and signatures that are in compliance with ESIGN are legally binding."); *Small Justice LLC v. Xcentric Ventures LLC*, 2014 WL 1214828, at *4 n.2 (D. Mass., Mar. 24, 2014) ("The E–Sign Act, 15

[7] New esignature Guidance for IRS efile, https://www.irs.gov/e-file-providers/new-electronic-signature-guidance-for-the-irs-efile-signature-authorization

[8] EPA INFORMATION DIRECTIVE POLICY, Electronic Signature Policy, Directive No.: CIO 2136.0.

[9] *See* General Services Administration (GSA) and Federal Chief Information Officers (CIO) Council, Use of Electronic Signatures in Federal Organization Transactions v. 1.0 (January 25, 2013) (Table C-1, noting that acceptance of an electronic signature is required in all cases where a signature is required by law or regulation); Office of Management and Budget, Guidance on Implementing the Electronic Signatures in Global and National Commerce Act (E-SIGN) (E-SIGN supersedes "Federal and State statutes and agency regulations requiring the use of paper records and ink signatures.").

U.S.C. § 7001, recognizes that the click of a button online can replace an actual signature."). E-SIGN "effectively sweeps away a myriad of anachronistic and inconsistent state and federal requirements for paper and ink documents and signatures."[10] Whether electronic or otherwise, "[t]he law demands only demonstration of a person's intent to authenticate a document as [his or her] own in order for the document to be signed." *Hamdi Halal Mkt. LLC v. United States*, 947 F.Supp.2d 159, 164 (D. Mass. 2013) (considering a definition of electronic signature in federal statute). "[R]egulations may not deny the legal effect of filings with governmental agencies solely because they are made with an electronic record."[11]

The E-Sign Act defines an "electronic signature" as an electronic sound, symbol, or process attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record. 15 U.S.C.A. § 7006(5). E-Sign preempts state law, other than the Uniform Electronic Transactions Act (UETA). 15 U.S.C.A. § 7002(a)(1). The overwhelming majority of states have adopted the Uniform Electronic Transactions Act (UETA) that authorizes the use of electronic signatures. The UETA states that a signature may not be denied legal effect or enforceability solely because it is in electronic form. Unif. Electronic Transactions Act § 7. It also states that if a law requires a signature, an electronic signature satisfies the law. *Id.*

X. EMAIL AND PHONE NUMBER INFORMATION SHOULD BE REMOVED FROM THE FORM 23.

Seeking non-public personal information on the Form 23 such as a responsible person's phone number (blank 3b) and electronic mail address (blank 3c) does nothing to further the

[10] Whittie, Robert, Electronic Records and Signatures under the Federal E-SIGN Legislation and the UETA, http://www.law.washington.edu/Directory/docs/Winn/Electronic%20Records%20and%20Signatures.htm
[11] Whittie, *supra.; see also* footnote 4.

purposes of the form. The ATF does not request this information on the Form 4 or Form 5 from the transferee. It is unclear why the responsible person of an entity transferee might need to provide his email and phone number when an individual transferee would not be required to provide this. Providing a phone number and email address does nothing to assist the ATF or local law enforcement in assessing a responsible person is prohibited from possessing the firearm. The FBI NICS system does not require such information to conduct a background check. Nowhere in the ATF regulations does it require transferee or responsible person to provide a phone number or email address. Thus, those blanks should be eliminated.

For all Forms, phone and email should be should be optional. The ATF should use "(optional)" in the blank similar to the email blank in the current version Form. Many users may not have telephone numbers or electronic mail addresses[12].

XI. MISCELLANEOUS ERRORS

Silencer Shop suggests the ATF correct the following typographical errors contained in the current drafts of the Forms:

- Form 1 – Under 1.q. "intimate partner' (end apostrophe rather than quotation mark) should be changed to "intimate partner" (with end quotation mark)
- Form 1 – Under 1.s. "quesion" should be changed to "question"
- Form 4 – Under 1.m. EXEMPTION (1): "jurisdication" should be changed to "jurisdiction"
- Form 4 – Under 2.a. "Please note that the form now contain" should be changed to "Please note that the form now contains"
- Form 4 – Under 2.k. Photocopies, etc. the extra end parenthesis needs to be removed
- Form 23 – Under Instruction 3.c. "UPN" should be changed to "UPIN"

[12] A 2015 Pew Research Center study shows that 15% of American adults do not use the internet, and thus would not have access to electronic mail. The study also noted that seniors, Americans living in rural communities, and racial minorities are among those most likely to be without electronic mail. http://www.pewresearch.org/fact-tank/2015/07/28/15-of-americans-dont-use-the-internet-who-are-they/

- Form 23 – Under Definition 4 Section B "Trust those persons" should be changed to "Trust: Those persons"

- Form 23 – Under Information for the Chief Law Enforcement Officer CLEO Copy, "7.b. or 7.c." should be changed to "9.d. or 9.e."

From: NFA OMB Comments
To: Christopher Bass
Subject: RE: Comment related to OMB Number 1140-0014
Date: Tuesday, June 25, 2019 10:52:00 AM

Thank you for your comments. ATF will be reviewing each and providing an official response at a later time.

Please let me know if you have any further questions or comments.

Regards,

James Chancey
Program Analyst/COR
National Firearms Act Division
Bureau of Alcohol, Tobacco, Firearms and Explosives
U.S. Department of Justice

james.chancey@atf.gov

From: Christopher Bass <christopherbass01@gmail.com>
Sent: Friday, May 31, 2019 12:08 PM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: Comment related to OMB Number 1140-0014

Attached please find Hill Country Class III, LLC's comment related to OMB Number 1140-0014 , Revision of a Currently Approved Collection; Application for Tax Paid Transfer and Registration of Firearm-ATF Form 4 (5320.4).

Please let me know if you have any questions or concerns.
--
Thanks,
Chris Bass

The Bass Firm, PLLC

From: NFA OMB Comments
To: "Sean Sweeney"
Subject: RE: OMB № 1140-0015 (06/30/2019) | ATF Form 5 [5320.5]
Date: Tuesday, June 25, 2019 10:52:00 AM
Attachments: image009.png
image010.png
image011.png
image012.png
image013.png
image014.png

Thank you for your comments. ATF will be reviewing each and providing an official response at a later time.

Please let me know if you have any further questions or comments.

Regards,

James Chancey
Program Analyst/COR
National Firearms Act Division
Bureau of Alcohol, Tobacco, Firearms and Explosives
U.S. Department of Justice

james.chancey@atf.gov

From: Sean Sweeney <info@mas-us.com>
Sent: Tuesday, June 4, 2019 5:00 PM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>; melody.brasswell@atf.gov
Cc: ian.sweeney@sbcglobal.net
Subject: OMB № 1140-0015 (06/30/2019) | ATF Form 5 [5320.5]

Hi Melody,

I am writing to you regarding the above captioned form which presently has a 60-Day notice in the Federal Register with respect to the form's routine review by its authors, the relevant agencies who use it, and ultimately the public at large. The Federal Register publication for same provides your name and contact information to direct feedback and suggestions. While completing this paperwork for its intended purpose, my father came upon a question with directions which contain contradictory language and present the individual responsible for completing the form with a set of options that do not make sense, yet the response to this question is a critical decision point in the workflow. We wanted to bring this to the ATF's attention and we are pleased to have learned that this paperwork is undergoing a review for updates to address just such inaccuracies or inefficiencies at this very moment.

The offending section of the application in its current format is Question Four, specifically subsection (i). **Question 4(i)** asks the individual completing the form:

"Is the Firearm Unserviceable as Defined in Definition 1m?
(If 'No," describe the method by which firearm has been rendered unserviceable. Use additional Sheets.
Yes No

Our interpretation of 4(i) is that it clearly posits the question of whether certain mechanisms of the firearm at issue have been modified in such a way that it is no longer capable of discharging its ammunition. The instruction immediately following the question however, introduces confusion and is the very item in controversy. in the hope that your office can take the necessary action to bring change to the language found within the succeeding form edition. Logic would dictate that if the statement read, "***If 'Yes,' describe the method…***" the preparer should not experience the same confusion by the question that we feel it causes. Alternatively, if the question read "***Have you rendered the firearm unserviceable?***" and the subsequent statement began with, "***If 'Yes,***" it would also appear more concise and easier to understand.

If there is any additional information we may be able to provide that you feel would be useful in addressing these concerns with the application's current format, please feel free to reply to this message or you can contact Ian Sweeney by phone at (203)675-8544. He is the individual who will be submitting the application to ATF and better represents the audience for which this form is intended.

Sincerely,

Sean Sweeney
Operations Manager

M.A.S. Home Services, LLC
40 Lafayette Drive • Trumbull, CT 06611

☎ 203 816 8060
888 365 1170
sean@mas-us.com
www.mas-us.com

From:	Chancey, James E.
To:	Alan Baker
Subject:	RE: suggestions for OMB Nos. 1140–0107 (RPQ), 1140–0011 (Form 1), 1140–0014 (Form 4), and 1140–0015 (Form 5)
Date:	Thursday, June 27, 2019 10:25:00 AM

Thank you for your comments. ATF will be reviewing each and providing an official response at a later time.

Please let me know if you have any further questions or comments.

Regards,

James Chancey
Program Analyst/COR
National Firearms Act Division
Bureau of Alcohol, Tobacco, Firearms and Explosives
U.S. Department of Justice

james.chancey@atf.gov

From: Alan Baker <alan@acbakerlaw.com>
Sent: Tuesday, May 21, 2019 2:48 PM
To: Chancey, James E. <James.Chancey@atf.gov>
Cc: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: RE: suggestions for OMB Nos. 1140–0107 (RPQ), 1140–0011 (Form 1), 1140–0014 (Form 4), and 1140–0015 (Form 5)

Hello again Mr. Chancey,

Another suggestion came to mind on all of the draft forms that I had e-mailed about last week, namely OMB Nos. 1140–0107 (RPQ), 1140–0011 (Form 1), 1140–0014 (Form 4), and 1140–0015 (Form 5). Each of these forms has a box in which the maker, manufacturer and/or importer of the firearm is to be listed along with the corresponding address, but the instructions for these forms do not specify whether address means a physical street address, a mailing address, both, or simply the city and state, or the city, state and ZIP code. Regardless of what 'address' is to mean, it is unclear whether the address of the maker, manufacturer and/or importer to be provided is the current address or the address at the time the firearm was made, manufactured, or imported, although I presume that the address at the time of the original of these events is what should be used.

I suggest that the Bureau consider at least providing clarification of what is meant by 'address' in the instructions of each form or, if 'address' is to mean simply city and state (as the eForms system generates and which probably makes most sense), that the Bureau replace 'Name and Address of

Maker, Manufacturer and/or Importer of Firearm' (or equivalent phrasing) with 'Name, City, and State of Maker, Manufacturer and/or Importer of Firearm' (or some equivalent) and then specify in the instructions for the question that the information sought is that which was used at the time of making, manufacture, and/or importation (or differently if the Bureau wants otherwise). I'd also suggest that the instructions specify whether a trade name is sufficient or whether the legal name of the maker, manufacturer, and/or importer should be provided as well or in lieu of trade name.

As with my earlier suggestions, I hope that the above suggestion will be helpful to the Bureau and to those who use these forms in the future. Should you or anyone else at the Bureau have any questions regarding my suggestions or require anything further, please feel free to contact me at any time.

Thank you,

Alan C. Baker
Attorney at Law
A.C. Baker Law, PLLC
2501 17th Street
P.O. Box 1247
Lewiston, Ida. 83501
(208) 743-5338
(208) 743-5307 (Fax)

From: Alan Baker
Sent: Monday, May 13, 2019 12:10 PM
To: 'James.Chancey@atf.gov'
Cc: 'nfaombcomments@atf.gov'
Subject: suggestions for OMB Nos. 1140–0107 (RPQ), 1140–0011 (Form 1), 1140–0014 (Form 4), and 1140–0015 (Form 5)

Hello Mr. Chancey,

I am an attorney in private practice at Lewiston, Idaho where I primarily practice firearms law and also operate a FFL/SOT business called JMB Solutions LLC with a colleague of mine. I noticed on the ATF website that the Bureau has published notice in the Federal Register of proposed changes to ATF Forms 1, 4, and 5, as well as to the NFA Responsible Person Questionnaire (RPQ). I have reviewed each notice along with the draft copy of the proposed form, and as someone who not only advises clients on the preparation of these forms, but also prepares some of these forms in the course of my FFL/SOT business, I would like to make three minor suggestions. If these suggestions need to be submitted in a format other than below, please let me know and I would be glad to do

so:

(1) With regard to OMB Nos. 1140–0107 (RPQ), 1140–0011 (Form 1), 1140–0014 (Form 4), and 1140–0015 (Form 5), I suggest that the Bureau define the term 'business address' as used on the portion of the form dedicated to attachment of a photograph or use a different term to describe the address sought.

As an example of where the term 'business address' may cause confusion to the applicant and, in turn, the use of ATF personnel time in answering questions from applicants as to its meaning, an individual who completes a Form 1 and who is not in business may find it unclear whether the address to be provided on the back of the photograph is their address or the address of the photographer.

Similarly, with regard to ATF Form 4, the transferee and transferor may both be businesses, leading to confusion as to whether the address sought is that of the transferor or transferee.

With the ATF Form 5, I have seen it used to transfer NFA items from an estate to a lawful heir or beneficiary where neither the transferor nor the transferee are a business.

The above examples relate equally well to the RPQ form, although I note that the currently-published draft of the RPQ contains no Item 3e for a photo on the ATF copy as the instructions refer to. It appears that the place for a photograph has been obscured on the ATF copy as is currently done on the CLEO copy. To the extent the Bureau intends to revise the draft form to have an Item 3e on the ATF copy of the RPQ, I would suggest that any instructions for photographs clearly identify what address is to be placed on the back of the photograph submitted.

(2) With regard to OMB Nos. 1140–0014 (Form 4) and 1140–0015 (Form 5), I suggest that the Bureau revise the necessity statement at Item 13 to strike 'and Title' from the italicized text below the blank line. I suggest this in light of non-individual transferees where the trust or entity is the transferee rather than its responsible person. I believe it would make most sense to simply require the transferee name in Item 13 and then, as detailed in my third suggestion below, have a clear means for the transferee to indicate what particular responsible person is certifying, among other things, the necessity statement on behalf of the transferee trust or entity.

(3) With regard to OMB Nos. 1140–0011 (Form 1), 1140–0014 (Form 4), and 1140–0015 (Form 5) I suggest that the Bureau consider revising the certification section between Items 17 and 18 on the Form 1, and between Items 20 and 21 on Forms 4 and 5, to be similar to Items 7-9 on the Form 1 and Items 9-11 on Forms 4 and 5, so as to not only capture the signature of the person certifying, but also their printed name and, as applicable, their title. In the case of a trust or entity with more than one responsible person, this would give clarity by having an indication of which of the responsible persons made the certification on behalf of the

trust or entity.

I hope that the above suggestions will be helpful to the Bureau and to those who use these forms in the future. Should you or anyone else at the Bureau have any questions regarding my suggestions or require anything further, please feel free to contact me at any time.

Thank you,

Alan C. Baker
Attorney at Law
A.C. Baker Law, PLLC
2501 17th Street
P.O. Box 1247
Lewiston, Ida. 83501
(208) 743-5338
(208) 743-5307 (Fax)

From: NFA OMB Comments
To: Jason Kellar
Subject: RE: Proposed forms 1&4
Date: Friday, May 3, 2019 12:45:00 PM

Thank you for contacting the ATF. Please find below the link at which each of the forms are posted for review.

https://www.atf.gov/rules-and-regulations/forms-and-information-collection

Best Regards

-----Original Message-----
From: Jason Kellar <jasonjkellar@gmail.com>
Sent: Thursday, April 25, 2019 7:32 PM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: Proposed forms 1&4

I would like to request copies showing the proposed revisions to forms 1 & 4.

Thank you,

Jason Kellar
334-521-6282

From: NFA OMB Comments
To: Matthew Sill
Subject: RE: Requesting copies of the proposed changes to ATF forms
Date: Friday, May 3, 2019 12:45:00 PM

Thank you for contacting the ATF. Please find below the link at which each of the forms are posted for review.

https://www.atf.gov/rules-and-regulations/forms-and-information-collection

Best Regards

From: Matthew Sill <matthew.sill@gmail.com>
Sent: Thursday, April 25, 2019 12:49 PM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: Requesting copies of the proposed changes to ATF forms

I see from the Federal Register that changes are proposed to the ATF forms 1, 4 and 5.

Can you please send me copies of the proposed changes to the documents?

Thank you,
Matthew Sill
--
Matthew D. Sill, PE
Waterfront Engineer
907-460-1026
matthew.sill@gmail.com

From: NFA OMB Comments
To: Gary Himert
Subject: RE: Proposed revisions to ATF Form 5320.4
Date: Friday, May 3, 2019 12:44:00 PM

Thank you for contacting the ATF. Please find below the link at which each of the forms are posted for review.

https://www.atf.gov/rules-and-regulations/forms-and-information-collection

Best Regards

From: Gary Himert <gary.himert@gmail.com>
Sent: Thursday, April 25, 2019 11:27 AM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: Proposed revisions to ATF Form 5320.4

Dear Sirs:

In accordance with the announcement number OMB-1140-0014, I request a copy of the new proposed Form 5320.4 so that I can examine the proposed changes and comment

Gary Himert

--
Sent from Gmail Mobile, pardon typos and brevity.

From: NFA OMB Comments
To: Stephen Stamboulieh
Subject: RE: OMB Number 1140-0014; ATF NFA Form 5320.4
Date: Friday, May 3, 2019 12:44:00 PM

Thank you for contacting the ATF. Please find below the link at which each of the forms are posted for review.

https://www.atf.gov/rules-and-regulations/forms-and-information-collection

Best Regards

From: Stephen Stamboulieh <Stephen@sdslaw.us>
Sent: Wednesday, April 24, 2019 9:49 AM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: OMB Number 1140-0014; ATF NFA Form 5320.4

Hello, please provide me with a copy of the proposed information collection instrument with instructions, and a copy of the proposed Form 5320.4 with the revised and additional questions as proposed. I do not see the changes in the proposed rulemaking.

Thank you,

Stephen D. Stamboulieh
Stamboulieh Law, PLLC
P.O. Box 4008
Madison, MS 39130
Telephone (601) 852-3440

From: NFA OMB Comments
To: John Rives
Subject: RE: Revisions to ATF Forms 5320.1, 5320.4, and 5320.23
Date: Friday, May 3, 2019 12:43:00 PM

Thank you for contacting the ATF. Please find below the link at which each of the forms are posted for review.

https://www.atf.gov/rules-and-regulations/forms-and-information-collection

Best Regards

From: John Rives <john@therives.net>
Sent: Wednesday, April 24, 2019 11:22 AM
To: Chancey, James E. <James.Chancey@atf.gov>
Subject: Revisions to ATF Forms 5320.1, 5320.4, and 5320.23
Importance: High

Mr. Chancey,

Per the notice put out in the Federal Register Public Inspection site today regarding the revisions to OMB 1140-0107 (ATF Form 5320.23), OMB 1140-0011 (ATF Form 5320.1), and OMB 1140-0014 (ATF Form 5320.4), I am requesting copies of each of the proposed revised information collections. Please send the three revision information collection forms via email to john@therives.net, or if you would prefer, please provide URLs to copies of the revised information collections that I can download.

Thank you for your assistance.

Best Regards,
John Rives

From:	Knox Williams
To:	NFA OMB Comments
Cc:	"Owen Miller"; Hughes, Alphonso J.; Carlson, Krissy Y.
Subject:	ASA Comments - Form 4, 1, 5, and RPQ Forms
Date:	Monday, June 24, 2019 1:42:38 PM
Attachments:	image001.png image004.png image005.png ASA Comment on ATF Forms- Final - June 24 2019.pdf

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Mr. Chancey,

My name is Knox Williams with the American Suppressor Association. I'm trying to submit our comments to the proposed changes for the ATF Form 4, 1, 5, and 5320.23 (Responsible Person Questionnaire). When I click the submit comments button on the Federal Register webpage, it takes me to your contact information. Am I correct in assuming that emailing you constitutes a submission? If not, how do we submit?

Attached are our comments.

Thank you very much for your help. Please let me know if there's anything that we need to do from here.

https://www.federalregister.gov/documents/2019/04/25/2019-08314/agency-information-collection-activities-proposed-ecollection-ecomments-requested-revision-of-a#further-info

Thanks,

Knox Williams | President & Executive Director
American Suppressor Association

Cell: 404-754-2682 | Knox@AmSuppressor.com

www.AmericanSuppressorAssociation.com

AMERICAN SUPPRESSOR ASSOCIATION

COMMENT OF THE AMERICAN SUPPRESSOR ASSOCIATION ON THE NOTICE OF PROPOSED AGENCY INFORMATION COLLECTION ACTIVITIES; PROPOSED ECOLLECTION ECOMMENTS REQUESTED; REVISION OF A CURRENTLY APPROVED COLLECTION; APPLICATION FOR TAX PAID TRANSFER AND REGISTRATION OF FIREARM-ATF FORM 4 (5320.4); APPLICATION NATIONAL FIREARMS ACT (NFA) RESPONSIBLE PERSON QUESTIONNAIRE – ATF FORM 5320.23; APPLICATION TO MAKE AND REGISTER A FIREARM – ATF FORM 1 (5320.1); AND APPLICATION FOR TAX EXEMPT TRANSFER AND REGISTRATION OF FIREARM – ATF FORM 5 (5320.5)

Respectfully submitted by the American Suppressor Association:

Knox Williams
Executive Director, American Suppressor Association
6085 Lake Forrest Drive, Suite 200
Atlanta, GA 30328
Telephone: (202) 706-7615

The American Suppressor Association ("ASA") files this comment primarily in response to the proposal set forth by OMB Number 1140-0014, entitled Application for Tax Paid Transfer and Registration of Firearm – ATF Form 4 (5320.4). However, where applicable, the same or additional changes are also recommended for the following: OMB Number 1140-0107, entitled National Firearms Act (NFA) Responsible Person Questionnaire – ATF Form 5320.23; OMB Number 1140-0011, entitled Application to Make and Register a Firearm – ATF Form 1 (5320.1); and OMB Number 1140-0015, entitled Application for Tax Exempt Transfer and Registration of Firearm – ATF Form 5 (5320.5).

In addition, we agree with and endorse many of the concerns outlined by Silencer Shop in their comments. In the interest of avoiding redundancies, we will only briefly state our concerns on these points.

I. THE AMERICAN SUPPRESSOR ASSOCIATION'S INTEREST IN THE PROPOSED FORMS

The American Suppressor Association (ASA) is a 501(c)(6) nonprofit organization dedicated to advancing the rights and common interests of suppressor manufacturers, distributors, dealers, and owners across the country. As the unified voice of the suppressor industry and community, the ASA's interest in this matter stems from those of our members, including many of the largest suppressor manufacturers, distributors, and dealers, and thousands of suppressor owners nationwide.

II. ASA'S PROPOSED EDIT TO REMOVE "CORPORATION" FROM 2A

The inclusion of both "Corporation" and "Legal Entity" as checkable options in 2a is duplicative, as a "Corporation" is a "Legal Entity". Removing the option for "Corporation" would ease confusion among end users who are unsure about which box to check, leading to fewer errors.

III. ASA'S PROPOSED EDIT TO REMOVE THE WORD "APPLICANT"

As Silencer Shop points out, the word "Applicant" is not defined on any Form. Its inconsistent use makes it unclear if ATF considers the "applicant" to be the transferee, transferor, or both. To avoid this confusion, ATF should use the terms "Transferor" and "Transferee" and avoid the use of the word "applicant" altogether.

IV. ASA'S PROPOSED EDITS TO EMAIL AND PHONE NUMBER FIELDS

The fields for email and telephone should be optional for the primary ATF copy of all Forms and should be clearly marked as such. On all duplicate ATF Copy 2 and CLEO copies, the email and telephone fields should be obscured. Many applicants do not have an email address or telephone number. Those who do not have an email address or telephone number should not have their access to NFA items restricted or denied solely on this basis.

On the proposed Form 4, item 3b does not clarify if it is seeking an email address for the transferee or the transferor. It is assumed that it is seeking the email address or the transferor, because items 3a and 3c ask for information from the transferor, however item 3d asks for information from the transferee. To avoid potential confusion, rephrasing 3b to read, "Transferor's e-mail address (optional)" would simplify the process and avert preventable errors.

V. ASA'S PROPOSED EDIT TO CLARIFY OPTIONAL NATURE OF SOCIAL SECURITY NUMBER (SSN) AND UNIQUE PERSONAL IDENTIFICATION NUMBER (UPIN) ON BLANKS 16 AND 20

Should ATF decide to include blanks for an SSN and a UPIN in the new Form, they should make clear on the Form itself that the information is optional. This would bring the Form in line with the Form 4473, which clearly states in the SSN field (Item 8) that it is optional. *(Item 8 states, "Optimal, but will help prevent misidentification").* Due to the voluntary nature of disclosure, as noted in the Privacy Act Information on page 6 of the Form 4473, we believe it is meant to say

"*Optional*." Additionally, in order to protect the identity of the transferee, these fields should be obscured on all duplicate copies of the Form, including ATF Copy 2 and CLEO copies.

VI. ASA'S PROPOSED EDIT TO OBSCURE SUPERFLUOUS PERSONALLY IDENTIFIABLE INFORMATION ON ATF COPY 2 AND CLEO COPIES OF FORMS

In order to protect the privacy of the transferee, the American Suppressor Association proposes that information included in blanks 16, 17a, 17b, 18a, 18b, 18c, and 20 be obscured on ATF Copy 2 and CLEO copies of the Form 4. Where applicable, similar information should also be obscured on ATF Copy 2 and CLEO copies of the Form 1, Form 5, and Responsible Person Questionnaire.

Requiring Personally Identifiable Information (PII) on duplicate copies of the Forms poses a serious threat to the privacy of the transferee. Upon approval, transferees are required to retain the ATF Copy 2 in perpetuity in order to verify to ATF agents that they legally obtained the NFA item in question. Requiring transferees to maintain, and produce upon request, paper copies of privileged tax information that includes superfluous PII unnecessarily jeopardizes their identity. Additionally, requiring transferees to include unessential PII on the CLEO copy opens the door for intentional and/or inadvertent disclosure of privileged information from CLEOs. Finally, because the ATF Copy 2 and CLEO copies are not utilized in any capacity to query the FBI National Instant Criminal Background Check System, and because the PII is not recorded in the NFRTR, it should be obscured on all but the primary copy of the application that is sent to ATF.

VII. ASA'S PROPOSED EDIT TO OBSCURE SERIAL NUMBER ON CLEO COPY OF FORMS

The serial number, item 4g, should be obscured on the CLEO copy of all Forms. Item 2.d.6 on the proposed Form 4 clearly states, "*item 4g (serial number) is obscured on the CLEO copy.*

These fields do not require completion on these copies." However, the blank on the CLEO copy of the proposed Form 4 is not obscured. ASA recommends that 4g actually be obscured.

VIII. ASA'S PROPOSED EDIT TO REMOVE FINGERPRINTS AND PHOTOGRAPHS FROM NON-INDIVIDUALS

The National Firearms Act states that those applying to make or receive firearms must be identified "*in the application form in such manner as the Secretary may by regulations prescribe, except that, if such person is an individual, the identification must include his fingerprints and his photographs.*" 26 U.S.C. §§ 5812(a)(3) and 5822(d). This language makes clear that Congress intended to require fingerprints and photographs only for individuals—not for trusts, corporations, and partnerships. If Congress had wanted to require fingerprints and photographs of all applicants, it would not have needed to add specific language requiring them from individuals. After all, the language expressly requires identification of the applicant, not of individuals associated with the applicant.

As such, the American Suppressor Association requests that the fingerprint and photograph requirements be removed immediately from all NFA Forms for all non-individuals.

IX. ASA'S PROPOSED EDIT TO REMOVE CLEO NOTIFICATION

As a federal revenue statute, the National Firearms Act should be implemented solely by federal officials. We believe the CLEO notification requirement attempts to circumvent federal tax privacy laws, see 26 U.S.C. § 6103, by forcing applicants to submit tax return information to local officials before filing. In order to prevent the further dissemination of privileged tax information to state and local law enforcement officials who are not authorized to have access to said tax information, the American Suppressor Association requests that the CLEO Notification be removed entirely from all NFA Forms and applications.

X. ASA'S PROPOSED EDIT TO ACCEPT ELECTRONIC SIGNATURES

Instruction 2i of the proposed Form 4 states that "All signatures required on ATF Form 4 must be original in ink on both copies." As Silencer Shop points out in item IX of their comments, electronic copies should be allowed. For all the reasons they enumerate, we encourage ATF to accept electronic signatures.

From: NFA OMB Comments
To: "Knox Williams"
Subject: RE: ASA Comments - Form 4, 1, 5, and RPQ Forms
Date: Tuesday, June 25, 2019 10:52:00 AM
Attachments: image008.png
image011.png
image012.png

Thank you for your comments. ATF will be reviewing each and providing an official response at a later time.

Please let me know if you have any further questions or comments.

Regards,

James Chancey
Program Analyst/COR
National Firearms Act Division
Bureau of Alcohol, Tobacco, Firearms and Explosives
U.S. Department of Justice

james.chancey@atf.gov

From: Knox Williams <knox@amsuppressor.com>
Sent: Monday, June 24, 2019 1:42 PM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Cc: 'Owen Miller' <owen@amsuppressor.com>; Hughes, Alphonso J. <Alphonso.Hughes@atf.gov>; Carlson, Krissy Y. <Krissy.Carlson@atf.gov>
Subject: ASA Comments - Form 4, 1, 5, and RPQ Forms

Mr. Chancey,

My name is Knox Williams with the American Suppressor Association. I'm trying to submit our comments to the proposed changes for the ATF Form 4, 1, 5, and 5320.23 (Responsible Person Questionnaire). When I click the submit comments button on the Federal Register webpage, it takes me to your contact information. Am I correct in assuming that emailing you constitutes a submission? If not, how do we submit?

Attached are our comments.

Thank you very much for your help. Please let me know if there's anything that we need to do from here.

https://www.federalregister.gov/documents/2019/04/25/2019-08314/agency-information-collection-activities-proposed-ecollection-ecomments-requested-revision-of-a#further-info

Thanks,

Knox Williams | President & Executive Director
American Suppressor Association

Cell: 404-754-2682 | Knox@AmSuppressor.com

www.AmericanSuppressorAssociation.com