



F.A.I.R. Trade Group

FireArms Import/Export Roundtable

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Ms. Tracey Robertson
Chief, Federal Firearms Licensing Center
Bureau of Alcohol, Tobacco, Firearms and Explosives
244 Needy Road
Martinsburg, WV 25405

Via Fax and E-mail (Tracey.Robertson@atf.gov)

Dear Ms. Robertson:

The purpose of this letter is to provide comments on the proposed collections of information published in the Federal Register on November 25, 2014 as OMB Number 1140-0018 (79 FR 70203) and OMB Number 1140-NEW (49 FR 70204).

The F.A.I.R. Trade Group ("F.A.I.R.") is a nonprofit organization dedicated to protecting the interests of the firearms and ammunition import and export community. F.A.I.R. works with many U.S. government agencies, including ATF and the Departments of State and Homeland Security, to provide solutions to the concerns of F.A.I.R. Members. Our membership includes importers of firearms, ammunition, and other defense articles who rely on licenses issued by ATF to legally import these commodities into the United States. Many members also hold Type 07 or Type 10 licenses as manufacturers of firearms. Members provide equipment to law enforcement agencies and the military who require such items to carry out their public safety and national security missions. Members also sell the articles they import to distributors for general commercial sale.

F.A.I.R. appreciates the opportunity to comment on the proposed collections of information and offers specific comments on each proposed collection below.

1. OMB Number 1140-0018, Revision of Federal Firearms License (ATF Form 7 (5310.12)) and Application for Federal Firearms License (Collector of Curios and Relics) (ATF Form 7CR (5310.16)).

This proposed collection of information relates to revision of ATF Form 7, Application for Federal Firearms License. The proposal includes combining the ATF Form 7 with the ATF Form 7CR, the Application for Federal Firearms License (Collector of Curios and Relics). F.A.I.R. agrees this is a useful revision that streamlines the licensing process to include all license types on one form.

In comparing the proposed revisions to the Form 7 with the existing form, there is one change we believe is significant. Block 20.e. of the proposed form implements an amendment made to the

Gun Control Act by Public Law 105-277 (112 Stat. 2681), October 21, 1998. The proposed form requires applicants for dealer's licenses to certify that "compatible" secure gun storage or safety devices will be available at any place where firearms are sold to unlicensed purchasers. This certification implements 18 U.S.C. § 923(d)(1)(G), added to the GCA in 1998. We note, however, that the certification language in the statute does not include the word "compatible." The 1998 amendment also provided a definition for the term "secure gun storage or safety device" in 18 U.S.C. § 921(a)(34) as follows:

(34) The term "secure gun storage or safety device" means--

(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

(B) A device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.

Public Law 105-277 also amended 18 U.S.C. § 923(e) to give ATF authority to revoke the license of any dealer who fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to unlicensed purchasers.

Neither the certification requirement of section 923(d)(1)(G) nor the definition of "secure gun storage or safety device" in section 921(a)(34) use the term "compatible." We are unclear on the meaning of the term "compatible" as applied to such a device and why this word has been added to the certification requirement on the Form 7, Block 20. The instructions for the Form 7 do not provide a definition for the term "compatible" and the Federal Register notice does not explain why this word was added to the statutory language. ATF has no authority to change a statutory definition without going through notice and comment rulemaking as required by the Administrative Procedure Act, 5 U.S.C. 551 et seq. F.A.I.R. opposes the addition of the word "compatible" to section 20.e. and hereby requests that ATF remove it from the final version of the form.

2. OMB Number 1140-NEW, Creation of ATF Form 5300.34, Federal Firearms License Responsible Person Questionnaire.

This proposed collection of information relates to ATF's creation of a new form to provide information on "responsible persons" for applicants applying for Federal firearms licenses. The term "responsible person" is defined in Instruction #10 on the existing Form 7, Definition #3 for the proposed revision of the Form 7, and in Definition #4 for the proposed Form 5300.34. The definitions are consistent and provide that the term means a sole proprietor, and, in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management, policies, and practices of the corporation, partnership, or association, insofar as they pertain to firearms.

ATF's collection of information on "responsible persons" is intended to ensure that none of the persons who occupy positions of authority within the applicant company are prohibited by law from transporting, shipping, or receiving firearms or ammunition in interstate or foreign commerce. 18 U.S.C. § 923(d)(1). The information collected on the proposed new form is currently collected in Blocks 22-25 of the current Form 7 and is substantially similar to what is already collected. F.A.I.R. does not oppose creation of the new form and believes a separate signature and penalty of perjury statement from each responsible person will help ensure accuracy of the information submitted to ATF.

Language in Section D of the proposed Form 5300.34 advises applicants that if they are adding a responsible person to an existing FFL the new responsible person must complete ATF Form 5300.34 and mail it, along with fingerprint card and photograph, to the Federal Firearms Licensing Center. Use of the term "must" indicates a term of command that can result in penalties if not followed by Federal firearms licensees. However, there is no statutory or regulatory requirement that this form be submitted if a new officer, director, or other responsible person is added to an existing company during the term of its Federal firearms license. Long-standing agency practice has been to allow Federal firearms licensees to add responsible persons to their licenses by submitting a letter to the Chief of the Federal Firearms Licensing Center. This is not a regulatory requirement, but licensees generally do this on a voluntary basis to ensure ATF will allow the company's authorized personnel to submit forms, applications, and other information to ATF on its behalf.

If the addition of new responsible persons results in a change of control of the corporation or association holding a Federal firearms license, notification must be given to ATF within 30 days of the change. 27 C.F.R. 478.54. In this instance, ATF specifically has the authority to require submission of a Form 7, which would include new Responsible Person Questionnaires. ATF has no authority to require submission of the Responsible Person Questionnaire at any time other than when an applicant initially applies for a Federal firearms license, at time of renewal, or when there is a change of control. If ATF wishes to impose such a requirement, notice and comment rulemaking is required under the Administrative Procedure Act. We note that regulations implementing the Federal explosives laws specifically include such a requirement in 27 C.F.R. 555.57, while regulations in 27 C.F.R. Part 478 do not.

Based on the above, F.A.I.R. opposes the language in Section D of proposed Form 5300.34 that appears to require submission of the form if a new responsible person is added during the term of an existing license. This language should be removed from the form and the agency should continue its current practice of allowing responsible persons to be added by licensees voluntarily by correspondence to the licensing center.

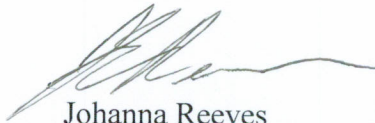
Ms. Tracey Robertson

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If you have any questions about our comments do not hesitate to contact me. We look forward to your response to our comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Reeves', with a long horizontal flourish extending to the right.

Johanna Reeves
Executive Director