

60-16

Schaible, Gary N.

From: NFA OMB Comments
Sent: Thursday, February 25, 2016 12:57 PM
To: John Rives
Subject: RE: Comment period for revised Form 1, 4, and 5?

The proposed National Firearms Act (NFA) Responsible Person Questionnaire (Form 5320.23) can be viewed on the ATF website (www.atf.gov). Choose the Firearms option by clicking on the word Firearms and then go to the What's New section. There is an announcement the form which allows you to view the Federal Register information and a PDF of the form. Please direct any comments to nfaombcomments@atf.gov.

-----Original Message-----

From: John Rives [<mailto:john@therives.net>]
Sent: Wednesday, February 24, 2016 2:54 PM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Cc: john@therives.net
Subject: RE: Comment period for revised Form 1, 4, and 5?

Thank you. I have found the new Forms 1, 4, and 5.

Where can I find form 5320.23? It was announced in the Federal Register on the 17th of February.

Thanks,
John Rives

NFAOMBCOMMENTS@atf.gov wrote:

> The proposed revisions to the ATF Forms 1, 4 and 5 can be viewed on
> the ATF website (www.atf.gov). Choose the Firearms option by clicking
> on the word Firearms and then go to the What's New section. There is
> an announcement for each form which allows you to view the Federal
> Register information and a PDF of the form. The sites you reference
> are for the regulations when announced.

>
> Yes, the email box is the lonely location for comment submission
>

>
>

> -----Original Message-----

> From: John Rives [<mailto:john@therives.net>]
> Sent: Monday, February 22, 2016 10:52 AM
> To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
> Cc: Schaible, Gary N. <Gary.Schaible@atf.gov>
> Subject: Comment period for revised Form 1, 4, and 5?
> Importance: High

>
>
> Mr. Schaible,
>

>
> Will these forms be placed on Reginfo.gov or Regulations.gov for
> comments or is the email the only acceptable method of providing
> comments or asking questions regarding the revised forms?

>
> Thanks,
> John Rives

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>

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John

Schaible, Gary N.

60-21

From: NFA OMB Comments
Sent: Thursday, February 25, 2016 12:56 PM
To: Jeff Folloder
Subject: RE: 5320.23

Hey, Jeff - The proposed National Firearms Act (NFA) Responsible Person Questionnaire (Form 5320.23) can be viewed on the ATF website (www.atf.gov). Choose the Firearms option by clicking on the word Firearms and then go to the What's New section. There is an announcement the form which allows you to view the Federal Register information and a PDF of the form. Please direct any comments to nfaombcomments@atf.gov.

From: Jeff Folloder [<mailto:jeff.folloder@nfatca.org>]
Sent: Wednesday, February 24, 2016 6:37 AM
To: Schaible, Gary N. <Gary.Schaible@atf.gov>
Subject: 5320.23

Gary,
I see that the 5320.23 Responsible Person questionnaire is up for review . Can you point me to a copy of the latest form to look at?

--

Jeff Folloder

Executive Director

Phone: 281.492.8288

Website: www.nfatca.org

Forums: www.nfatcaforums.org



Schaible, Gary N.

60-25

From: NFA OMB Comments
Sent: Wednesday, March 9, 2016 3:09 PM
To: Pete Manning
Subject: RE: 41F - Question

Thank you for your comments. The forms maintained by state and local law enforcement are not documents maintained by ATF. Each agency (including Federal, state and local agencies) has their own guidance on how to properly process, store and maintain documents.

From: Pete Manning [mailto:pmdata@gmail.com]
Sent: Thursday, February 25, 2016 10:55 AM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: 41F - Question

Dear Sir or Madam,

The proposed 5320.23 form contains a great deal of Personally Identifiable Information (PII). Is the BATFE prepared to accept the liability of possible mismanagement of PII information by requiring makers or transferees of NFA items to transfer PII to agencies and departments who may have not received the proper training on the management of such information?

Respectfully,
Pete Manning

60-27

Schaible, Gary N.

From: Pete Manning <pmdata@gmail.com>
Sent: Wednesday, March 9, 2016 5:21 PM
To: NFA OMB Comments
Subject: Re: 41F - Question

Thank you for your responses. Much appreciated.

Pete

On Mar 9, 2016, at 3:15 PM, <NFAOMBCOMMENTS@atf.gov> <NFAOMBCOMMENTS@atf.gov> wrote:

The National Firearms Act requires the submission of an application for each making or transfer. The implementing regulations provide guidance for the submission of the forms. The regulations, and as a result, the forms, are subject to the Paperwork Reduction Act requirements, which is part of the process. The final rule's holdings met the requirements.

From: Pete Manning [<mailto:pmdata@gmail.com>]
Sent: Thursday, February 25, 2016 10:58 AM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: 41F - Question

Dear Sir or Madam,

With regards to the supporting documentation required, why is it necessary to submit fingerprints, photographs and a 5320.23 each time an application is made to transfer or make an NFA item? Specifically, the submission of multiple copies of the same documentation seems to violate the Paperwork Reduction Act of 1995.

Respectfully,
Pete Manning

Schaible, Gary N.

60-31

From: NFA OMB Comments
Sent: Thursday, March 24, 2016 11:07 AM
To: asbestonemusic@juno.com
Subject: RE: 41P/F

Thank you for your comments. As noted in the final rule, the identification of the responsible persons in a trust or other legal entity allows ATF to conduct background checks of persons within the trust or other legal entity. You note that the information on the Form 5320.23 is redundant as it is covered in the Form 1 or 5. The information collected on Form 5320.23 does not duplicate information on the Form 1 or 4. The Form 5320.23 collects information only for responsible persons. This information is not collected on the Form 1 or 4. An individual applicant completes it on Form 1 or 4, but does not complete the Form 5320.23.

From: asbestonemusic@juno.com [mailto:asbestonemusic@juno.com]
Sent: Sunday, March 6, 2016 11:18 AM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Cc: Schaible, Gary N. <Gary.Schaible@atf.gov>
Subject: 41P/F

I am writing in concern to the 41P/F ruling.

While the removal of the CLEO sign off requirement is good, having notifying them is still absurd. There are too many hoops to jump through as of now to exercise what is supposed to be an inalienable right, as defined in the Second Amendment. Why should law abiding citizens have to ask permission to, or notify anyone when they exercise a right?

The addition of prints and photos of trustees when new forms are filed is an undue burden to anyone with a trust. What benefit is given to citizens from this proposed requirement?

Is not the "Responsible Persons Form 5320.23" redundant and unnecessary as it covers things already covered in the Form 1, 4, ect.? What is the benefit of the additional paperwork used for the same information? It seems as if it would only create more unnecessary work.

I do NOT support the additional requirements for trusts.

Even though the change of CLEO sign off to notification is a step in the right direction it falls short of removing hoops for law abiding people to jump through. It only exchanges one hoop for another.

A Concerned American



60-35

U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

May 9, 2016

Washington, DC 20226

www.atf.gov

Christopher M. Bass
The Bass Firm, PLLC
P.O. Box 2128
Coppell, TX 75019

Dear Mr. Bass:

This is in response to your comments submitted via email on March 30, 2016, regarding proposed ATF Form 5320.23, National Firearms Act (NFA) Responsible Person Questionnaire, on behalf of Hill Country Class, III, LLC, d/b/a Silencer Shop.

Your first comment concerns Silencer Shop's proposed edit to instruction 2(h) to note that all signatures are to be original and then to accept electronic signatures. Silencer Shop proposes that the instruction provide that "All signatures required on ATF Form 23 (sic) must be original" and this change will be made to the form. Silencer Shop notes that such a change to allow electronic or digital signatures would minimize the burden of collection.

As you may be aware, ATF has met with Mr. Dave Matheny of Silencer Shop in regard to this matter. Mr. Matheny was advised that we would consider allowing electronic signatures in the future but presently an approved variance request would be needed where the signature required is that of someone other than the submitter.

The second comment is to remove private and unnecessary identifying information from the form. You state that requesting information such as those items 3b, 3c, 4b, 4c, 4d, and 4e (letter cites 4f) is unnecessary, duplicative and poses serious privacy concerns.

In regard to items 3b and 3c, you contend that seeking non-public personal information such as the telephone number and email address does nothing to further the form, nor assist in payment of the tax, nor assists ATF in assessing whether the transfer (or making) would violate the law. You suggest elimination of the items or, in the alternative, may the entry of information optional. We believe we need a means to contact the responsible person and feel the telephone number will suffice. We will make the email address field entry optional.

In regard to items 4b, 4c, 4d and 4e, you contend this information is unnecessary and does nothing to further the purposes of the form. You contend ATF will already have the information from the Form 4 (or Form 1) and the chief law enforcement officer would only need the type of firearm (item 4a) to determine whether the making or transfer is in violation of law. We believe that this information is

The Bass Firm, PLLC

necessary both for ATF to be able to associate the form to the proper application and for the chief law enforcement officer to properly evaluate whether the responsible person is prohibited. However, we agree that the serial number of the firearm is not pertinent information for the chief law enforcement officer to determination and will obscure item 4e on the form.

Your third comment is to eliminate the certification by the responsible person in that it is not required by the Final Rule. In the alternative, you suggest that ATF edit the certification to eliminate confusion. You note that the certification requires the responsible person to certify that a completed copy of the form 'has been' sent to the chief law enforcement officer when the form cannot be completed until the certification has been signed. You suggest a change of language to read that a copy of the form 'will be' sent. ATF believes this certification is necessary as the responsible person is providing information and answering questions which can determine whether the responsible person may possess the firearm in question. If there is no certificate, then the information provided is meaningless. Thus, we will retain the certificate. As for the alternate proposal, the suggestion to change the language is a good point and ATF will change the form to reflect that the form will be, not has been, sent.

Your fourth comment is in regard to the wording of item 5 where the responsible person is advised by the instructions to 'mail or deliver' which implies the use of the United States Postal Service. You contend that the form can be 'forwarded' in many ways. That language has been removed and ATF makes no suggestion as to how the form is provided or directed to the chief law enforcement officer.

Sincerely yours,



Gary Schaible

Industry Liaison Analyst

Firearms and Explosives Services Division

Schaible, Gary N.

60-35

From: Christopher Bass <christopherbass01@gmail.com>
Sent: Wednesday, March 30, 2016 3:34 PM
To: NFA OMB Comments
Cc: Dave
Subject: Comment related to OMB Number 1140-NEW
Attachments: Silencer Shop Form 23 comment.pdf

Attached please find Hill Country Class 3, LLC d/b/a/ Silencer Shop's comment related to OMB Number 1140-NEW, entitled Agency Information Collection Activities; Proposed eCollection eComments Requested; National Firearms Act (NFA) Responsible Person Questionnaire (ATF Form 5320.23).

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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; NATIONAL FIREARMS
ACT (NFA) RESPONSIBLE PERSON QUESTIONNAIRE
(ATF FORM 5320.23)**

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

THE BASS FIRM, PLLC

A handwritten signature in black ink, appearing to read 'Chris Bass', written over a horizontal line.

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-NEW, entitled Agency Information Collection Activities; Proposed eCollection eComments Requested; National Firearms Act (NFA) Responsible Person Questionnaire (ATF Form 5320.23).

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 silencer dealer of firearm silencers in the country selling to both dealers and end-users. Silencer Shop has a public showroom in Austin and a large online store available at www.silencershop.com. Approximately ninety percent of Silencer Shop's non-dealer customers purchase silencers using trusts, corporations, or other legal entities.

II. SILENCER SHOP'S PROPOSED EDIT TO INCLUDE AN INSTRUCTION THAT ALLOWS FOR THE ACCEPTANCE OF ELECTRONIC SIGNATURES.

There is currently no instruction in the 5320.23 form on signatures. Silencer Shop would propose the adding the following instruction:

Signatures. All signatures required on ATF Form 23 must be original. Original signatures may be in ink, electronically or digitally signed.

In other words, Silencer Shop would suggest making it clear in the instructions that electronic signatures are acceptable. 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-NEW.¹

III. SILENCER SHOP’S PROPOSED EDIT TO REMOVE PRIVATE AND UNNECESSARY IDENTIFYING INFORMATION FROM THE FORM 23.

Silencer Shop proposes that the ATF remove blanks 3(b), 3(c), 4(b), 4(c), 4(d), 4(f) in accordance with the Paperwork Reduction Act, as that information not necessary to accomplish the purpose of the Form 23 and has no practical utility. Indeed, the final ATF rule 41(f) requires only that the Form 23 contain “responsible person’s name, position, home address, and date of birth.” 27 CFR 479, 81 FR 2657, 2714, 2722. The stated purpose of the Form 23 is “[t]o ensure payment of the tax imposed by 26 U.S.C. §§ 5811 and 5821; to ensure that the making or transfer would not violate law; and to effect the registration of the firearm.” Requesting information such as those in blanks 3(b), 3(c), 4(b), 4(c), 4(d), 4(f), is unnecessary, duplicative, and poses serious privacy concerns, especially given that a copy of this form will be sent to the responsible person’s chief law enforcement officer, who would almost certainly have an obligation to make these forms available to public through state level open record and public information requests.²

Email and phone number information should be removed.

Seeking non-public personal information such as a transferee’s phone number (blank 3b) and electronic mail address (blank 3c) does nothing to further the purposes of the form. Seeking this information from the responsible person of the transferee does nothing to assist in payment of the tax, because the tax is imposed on the *transferor*, not the transferee (or its responsible persons). To the extent that information is needed for the maker of a firearm it is already included on the

¹ For a full discussion of why the ATF should accept electronic signatures see Silencer Shop’s comment to the proposed Form 4.

² See, e.g., Tex. Rev. Civ. Stat. Ann. art. 6252-17a (Section 552.002 says that information is public if it “is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business” by a governmental body or for a governmental body, and the governmental body owns the information or has a right of access to it.)

Form 1. Further, providing a phone number and email address does nothing to assist the ATF or local law enforcement in assessing whether the transfer would violate the law. For instance, the FBI does not require such information to conduct a background check. *See* FBI Form FD-258. Nowhere in the rule does it require a responsible person to provide a phone number or email address. Thus, those blanks should be eliminated.

In the alternative, blanks 3(b) and 3(c) should be optional. Many responsible persons may not have telephone numbers or electronic mail addresses³.

Information on the particular firearm should be removed.

The information sought in blanks 4(b), 4(c), 4(d), 4(f), related to the firearm itself is unnecessary and does nothing to further the purposes of the form and has no practical utility. The ATF will already have the information on the firearm itself from the Form 4 (or Form 1), so including the information on the Form 23 is merely duplicative. Further, the chief law enforcement officer of the responsible person has no need for that information. At most, all the chief law enforcement officer would need “to ensure that the making or transfer would not violate [state or local] law” is the type of firearm sought in blank 4(e). The chief law enforcement officer has no need for information related to the serial number, manufacturer, model number, or caliber of the weapon. For instance, if machine guns were banned by state law, the local officer would only need to know that the transferee was attempting to transfer a machine gun, the fact that it is a Colt M-16 in 5.56mm caliber with a particular serial number is irrelevant to the determination of legality.

³ 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/>

IV. SILENCER SHOP'S PROPOSED EDIT TO REMOVE OR EDIT THE CERTIFICATION.

The Certification at the bottom of page two currently reads ". . . I certify that a completed copy of this form has been sent to the chief law enforcement officer shown in item 5, that the statements contained in this certification, and any attached documents in support thereof, are true and correct to the best of my knowledge and belief." This certification is unnecessary and confusing, and should be removed in its entirety or should be edited for clarity.

The Certification Should be Eliminated.

The certification is altogether unnecessary and should be removed. The final Rule 41(f) simply does not require a certification. 27 CFR 479, 81 FR 2657. The final rule contains an exhaustive list of items that must be included in the Form 23⁴, and nowhere among that list is any certification listed.⁵ As such the certification should be removed as unnecessary.

This notice is extremely similar to the notice given to chief law enforcement officers reporting multiple sale or other disposition of certain rifles (Form 3310.12) and multiple sale or other disposition of pistols and revolvers (Form 3310.4). However, neither of those forms require any certification.

In the Alternative, the Certification Should be Revised to Cure the "Chicken and Egg" Problem.

In the alternative, the ATF should edit the certification to eliminate confusion. The current certification suffers from a severe "chicken and egg" problem. It requires that a responsible person certify that "a completed copy of this form has been sent to the chief law enforcement officer."

⁴ "The information required on Form 5320.23 includes the responsible person's name, position, home address, and date of birth. The identifying information for each responsible person is necessary for ATF to conduct a background check on each individual to ensure the individual is not prohibited from possessing an NFA firearm under Federal, State, or local law." 27 CFR 479, 81 FR 2657, 2714.

⁵ Similarly, the rule does not require the responsible person to provide the information requested in questions 6(a)-(h), 7(b)-(d)(2), or 8. Oddly, the proposed Form 23 does not contain a blank for a date of birth as expressly required by the rule.

However, there is no way to have a *completed* form without signing the certification that the form “has” (past tense) already been sent. So it begs the question how one can certify that a completed form has been sent, when that very certification is necessary to have a completed form. Silencer Shop would propose that the certification be changed to read:

CERTIFICATION: Under penalties imposed by 18 U.S.C. §924 and 26 U.S.C. § 5861, I certify that a completed copy of this form *will be* sent to the chief law enforcement officer shown in item 5, that the statements contained in this certification, and any attached documents in support thereof, are true and correct to the best of my knowledge and belief.

This small change makes it clear that a completed copy of the Form 23 must be sent to the chief law enforcement officer before or at the time of the application is sent to the ATF, but eliminates the problem of having to certify that something is completed when the certification itself is a prerequisite to the completion.

V. SILENCER SHOP’S PROPOSED EDIT REMOVE THE WORD “MAILED”

Instruction 9 states correctly only that a copy of the form “shall be directed to the responsible person’s chief law enforcement officer identified in item 5 of this form.” However, in question 5, the form indicates that the responsible person should list the address to which the form will be sent, but then in parentheses it states “mailed or delivered.” The use of the word “mailed” is confusing and should be removed.

The use of the word “mailed” implies that use of the U.S. Postal Service is required.⁶ Rule 41(f) does not specify a specific service one must employ to “forward” the Form 23 to the chief law enforcement officer. A form may be “forwarded” in many ways, including via hand delivery,

⁶ Merriam-Webster Dictionary defines the word “mail” as “material sent or carried in the postal system.” Merriam-Webster.com. Merriam-Webster, n.d. Web. 25 Mar. 2016.

though common carriers such as Fed Ex or UPS, and by electronic delivery methods such as electronic mail and facsimile - in addition to use of the U.S. Postal Service.

Schaible, Gary N.

From: Walfred Nelson <nels5@verizon.net>
Sent: Monday, May 9, 2016 2:11 PM
To: NFA OMB Comments
Subject: Re: Question on New Form 4 and Form 5320.23

Thanks Gary.

Sent from my iPhone

On May 9, 2016, at 8:10 AM, <NFA.OMB.Comments@usdoj.gov> <NFA.OMB.Comments@usdoj.gov> wrote:

Hi, Wally! Yes, good point! We are changing the certification to reflect that a completed copy of the forms will be sent upon submission of the form 1, 4 or 5 to ATF.

From: Wally & Melanie Nelson [<mailto:Nels5@Verizon.net>]
Sent: Monday, April 18, 2016 7:57 PM
To: Schaible, Gary N. <Gary.Schaible@atf.gov>; gary.schaible@usdoj.gov
Subject: Question on New Form 4 and Form 5320.23

Hi Gary, I have a question on both forms. Each has a spot for the date the form was transmitted to the CLEO agency by the transferee.

How can this date be determined before the form(s) is completed and signed by the transferee?

So they will complete the forms and they will go to the dealer submission with remittance.

Unless they are immediate going to send it, the date would not be complete until the transferee tells the dealer the form has been sent to the CLEO.

I take it ATF would not accept a form with the date not completed.

So therefore, the dealers are going to have to hold the forms until they get the transmittal date from the transferee or the RPs.

Am I making any sense?



60-487

U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

May 9, 2016

Washington, DC 20226

www.atf.gov

Michael B. Williams
General Counsel
American Suppressor Association
6805 Lake Forrest Drive, Suite 200A
Atlanta, GA 30328

Dear Mr. Williams:

This is in response to your comments submitted via email on April 25, 2016, regarding proposed ATF Form 5320.23, National Firearms Act (NFA) Responsible Person Questionnaire, on behalf of the American Suppressor Association (ASA).

Your first comment concerns ASA's proposed edit to instruction 2(h) to note that all signatures are to be original and then to accept electronic signatures. ASA proposes that the instruction provide that "All signatures required on ATF Form 23 (sic) must be original" and this change will be made to the form. ASA notes that such a change to allow electronic or digital signatures would minimize the burden of collection.

As discussed in response to your comment on the ATF Form 4, ATF would consider allowing electronic signatures in the future but presently an approved variance request would be needed where the signature required is that of someone other than the submitter.

The second comment is to remove private and unnecessary identifying information from the form. You state that requesting information such as those items 3b, 3c, 4b, 4c, 4d, and 4e (letter cites 4f) is unnecessary, duplicative and poses serious privacy concerns.

In regard to items 3b and 3c, you contend that seeking non-public personal information such as the telephone number and email address does nothing to further the form, nor assist in payment of the tax, nor assists ATF in assessing whether the transfer (or making) would violate the law. You suggest elimination of the items or, in the alternative, may the entry of information optional. We believe we need a means to contact the responsible person and feel the telephone number will suffice. We will make the email address field entry optional.

In regard to items 4b, 4c, 4d and 4e, you contend this information is unnecessary and does nothing to further the purposes of the form. You contend ATF will already have the information from the Form 4 (or Form 1) and the chief law enforcement officer would only need the type of firearm (item 4a) to determine whether the making or transfer is in violation of law. We believe that this information is

American Suppressor Association

necessary both for ATF to be able to associate the form to the proper application and for the chief law enforcement officer to properly evaluate whether the responsible person is prohibited. However, we agree that the serial number of the firearm is not pertinent information for the chief law enforcement officer to determination and will obscure item 4e on the form.

Your third comment is to eliminate the certification by the responsible person in that it is not required by the Final Rule. In the alternative, you suggest that ATF edit the certification to eliminate confusion. You note that the certification requires the responsible person to certify that a completed copy of the form 'has been' sent to the chief law enforcement officer when the form cannot be completed until the certification has been signed. You suggest a change of language to read that a copy of the form 'will be' sent. ATF believes this certification is necessary as the responsible person is providing information and answering questions which can determine whether the responsible person may possess the firearm in question. If there is no certificate, then the information provided is meaningless. Thus, we will retain the certificate. As for the alternate proposal, the suggestion to change the language is a good point and ATF will change the form to reflect that the form will be, not has been, sent.

You also note a typographical error in the "Information for the Chief Law Enforcement Officer" section. Thank you and the error will be corrected.

Sincerely yours,



Gary Schaible
Industry Liaison Analyst
Firearms and Explosives Services Division

60-43

Schaible, Gary N.

From: michael@americansuppressorassociation.com
Sent: Monday, April 25, 2016 8:46 PM
To: NFA OMB Comments
Subject: ASA Comment re: Proposed ATF Form 23
Attachments: ASA Comment on Proposed Form 23_Final_Signed.pdf

Dear Sir or Madam:

Please find attached a PDF version of the American Suppressor Association's comment regarding ATF's proposed ATF Form 23 (Notice of proposed Agency Information Collection Activities; Proposed eCollection eComments Requested; National Firearms Act (NFA) Responsible Person Questionnaire (ATF Form 5320.23)). We would like to submit this comment for the record. We appreciate your consideration.

Thanks,

Michael B. Williams | General Counsel
American Suppressor Association

Cell: [404-401-2945](tel:404-401-2945) | Michael@AmericanSuppressorAssociation.com

www.AmericanSuppressorAssociation.com

60-47

**COMMENT OF THE AMERICAN SUPPRESSOR ASSOCIATION
TO NOTICE OF PROPOSED AGENCY INFORMATION COLLECTION
ACTIVITIES; PROPOSED ECOLLECTION ECOMENTS REQUESTED;
NATIONAL FIREARMS ACT (NFA) RESPONSIBLE PERSON
QUESTIONNAIRE (ATF FORM 5320.23)**

Respectfully submitted by the American Suppressor Association:

Michael B. Williams

Michael B. Williams
General Counsel, American Suppressor Association
6085 Lake Forrest Drive, Suite 200A
Atlanta, GA 30328
Telephone: (202) 706-7615

The American Suppressor Association ("ASA") files this comment related to OMB number 1140-NEW, entitled Agency Information Collection Activities; Proposed eCollection eComments Requested; National Firearms Act (NFA) Responsible Person Questionnaire (ATF Form 5320.23).

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

The American Suppressor Association is a nonprofit 501(c)(6) 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, the ASA's interest in the proposed revisions to ATF Form 4 stems from those of our members, including many of the largest suppressor manufacturers and distributors, nearly one hundred suppressor dealers, and thousands of individual suppressor owners. Since the majority of privately-owned suppressors are currently purchased through the use of a trust, corporation, or other legal entity, the proposed changes will affect the ASA's membership at every level.

II. THE ASA'S PROPOSED EDIT TO INCLUDE AN INSTRUCTION THAT ALLOWS FOR THE ACCEPTANCE OF ELECTRONIC SIGNATURES

The current proposed version of Form 5320.23 does not include an instruction regarding how signatures may be applied to the form. The American Suppressor Association proposes that an instruction be added to this form that mirrors the suggested instruction proposed by ASA in its recently submitted comment regarding Form 4. Adding such an instruction would serve to clarify that electronic signatures are acceptable, as are signatures made in ink. This 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-NEW. For further discussion of this issue, please see ASA’s comment regarding the proposed revisions to ATF Form 4.

Thus, the ASA suggests that an instruction be included to read:

Signatures. All signatures required on ATF Form 23 must be original. Original copies may be signed in ink, signed electronically, or signed digitally.

III. THE ASA’S PROPOSED EDIT TO REMOVE PRIVATE AND UNNECESSARY IDENTIFYING INFORMATION FROM FORM 23.

The American Suppressor Association believes that the current proposed version of Form 23 solicits information from applicants that is both not necessary to accomplish the purpose of Form 23 and could have negative privacy and practical consequences for applicants, and as such that blanks 3(b), 3(c), 4(b), 4(c), 4(d), and 4(f) should be removed from Form 23. Removing these blanks from Form 23 would bring Form 23 in line with the Paperwork Reduction Act, since the information requested by these blanks is not necessary to accomplish the purpose of the form and hence has no practical utility, and would also bring Form 23 in line with ATF Rule 41F, which requires only that Form 23 contain the “responsible person’s name, position, home address, and date of birth.” 27 CFR 479, 81 FR 2657, 2714, 2722.

The proposed version of Form 23 states that its purpose is “[t]o ensure payment of the tax imposed by 26 U.S.C. §§ 5811 and 5821; to ensure that the making or transfer would not violate law; and to effect registration of the firearm.” Proposed Form 23 at p. 4. None of the information requested by blanks 3(b), 3(c), 4(b), 4(c), 4(d), or 4(f) would further any of the three goals listed above. Indeed, although neither ATF nor local law enforcement would gain any information relevant to the three goals listed above by requiring applicants to list the information requested by these blanks, the privacy interests of applicants would likely be negatively affected

should these records be released to the general public through state open records laws. These laws, present in many states (including Texas, the nation's largest private suppressor market) could be interpreted to require local or state law enforcement agencies to turn over copies of Form 23 to the public.¹ As such, information such as telephone numbers, email addresses, and information on the particular firearms purchased could be released to the general public should these blanks remain on Form 23.

Email and Phone Number Information Should be Removed.

Requiring responsible persons to include non-public, personal information such as the applicant's phone number (3(b)) or email address (3(c)) will not assist in any of the goals listed as the purpose of Form 23. Since the transfer tax is paid by the transferor, and Form 23 applies only to responsible persons of the transferee entity, this information will not assist in the collection of the transfer tax. And individual makers of NFA items will have already provided this information on the relevant Form 1, which is not subject to public disclosure. This information also will not assist the ATF or state law enforcement in determining whether the transfer in question would violate the law. Additionally, Rule 41F does not include any discussion or explanation as to why such information would be relevant. Thus, blanks 3(b) and 3(c) should be eliminated.

Alternately, blanks 3(b) and 3(c) should be made optional. This option would allow individuals who are concerned about their privacy the choice of whether such information is divulged.

¹ See, e.g., Tex. Rev. Stat. Ann. art. 6252-17a (Section 552.002 states that information is public if it "is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business" by or for a governmental body, and the governmental body owns or has rights of access to the information).

Information Regarding the Particular Firearm Should be Removed.

The information required in blanks 4(b), 4(c), 4(d) and 4(f), which identifies the specific firearm transferred, does not further the purposes of the form and is thus unnecessary. This information is already required by ATF Form 4 (or Form 1), and will not assist state or local law enforcement in determining whether the transfer violates state or federal law, who can make that determination in all cases based simply on the information required by blank 4(e) regarding the type of firearm being transferred. The relevant chief law enforcement officer simply has no need for a record of the serial number, manufacturer, model number, or caliber of the firearm in question. In jurisdictions that do not allow possession of machine guns, for instance, a chief law enforcement officer would be able to determine that the transfer was not legal by reviewing the type of firearm being transferred as stated in blank 4(e)

IV. THE ASA PROPOSES THAT THE CERTIFICATION BE ELIMINATED, OR IN THE ALTERNATIVE THAT IT BE EDITED.

The ASA believes that the certification at the bottom of page two of the proposed Form 23, which currently reads "...I certify that a completed copy of this form has been sent to the chief law enforcement officer shown in Item 5, that the statements contained in this certification, and any attached documents in support thereof, are true and correct to the best of my knowledge," is unnecessary and confusing. The ASA suggests that this certification be eliminated in its entirety, or in the alternative, that it be edited for clarity.

The Certification Should Be Eliminated.

The certification required on page two of the proposed Form 23 is unnecessary and should be removed. Rule 41F does not itself list a certification as an item that the new Form 23 must include, and a certification does not in any way further the stated purposes of Form 23, as it

does not assist in ensuring that applicable taxes are paid, does not assist in ensuring that the transfer is legal, and does not assist in effecting the registration of the firearm.

In the Alternative, the Certification Should be Revised for Logical Consistency.

Should the ATF choose to leave the certification as a requirement of proposed Form 23, the ASA suggests that the certification be edited substantially for both clarity and logical consistency. At present, the certification requires an applicant to sign a statement certifying that a completed copy of the form in question “has been sent to the chief law enforcement officer.” Since it is impossible to have sent a completed copy of the form before signing it, literal interpretation of the certification as currently drafted results in a “chicken and egg” problem, as the form must be signed to be completed but must also have been sent before being signed. As such, the ASA suggests that the certification be changed to read:

CERTIFICATION: Under penalties imposed by 18 U.S.C. §924 and 26 U.S.C. §5861, I certify that a completed copy of this form will be sent to the chief law enforcement officer shown in Item 5, that the statements contained in this certification, and any attached documents in support thereof, are true and correct to the best of my knowledge.

By changing the verb tense from “has been sent” to “will be sent,” the “chicken and egg” problem is dispensed with, making clear to the applicant that signing the certification requires that the completed form be sent in the near future to the relevant chief law enforcement officer.

V. THE ASA’S PROPOSED FIX OF A MINOR TYPOGRAPHICAL ERROR ON THE INFORMATION FOR THE CHIEF LAW ENFORCEMENT OFFICER SECTION.

The ASA would like to point out that on page one of the proposed Form 23, in the section above item 6 entitled “Information for the Chief Law Enforcement Officer,” the fourth sentence references “items 6.a. through 6.j. (except 6.i.).” At issue is the fact that question 6 begins at 6.a. and continues only to 6.h. As there is no item 6.i. or 6.j., the ASA supports fixing this portion of

the sentence in the "Information for the Chief Law Enforcement Officer" section to correctly reflect the numbering of question 6.

Schaible, Gary N.

From: NFA OMB Comments
Sent: Tuesday, May 10, 2016 10:44 AM
To: 'Robert Medkeff'
Subject: RE: form 1,4,23 drafts

Thank you for your comments.

1. ATF considers a person to be a responsible person, regardless of the person's title, if they meet the definition of responsible person in 27 CFR 479.11. For example, if the person has the capability to exercise or possesses the power or authority under any trust instrument, or under State law, to receive, possess, ship, transport, deliver, transfer, or otherwise dispose of a firearm for, or on behalf of, the trust, then they will most likely be considered a responsible person. The definition is not a draft definition, but is final as contained in the final rulemaking.
2. Same as for item 1.
3. Our Distribution Center advises that up to 100 fingerprint cards can be ordered at a time.
4. Yes, as long as they are the blue-lined applicant cards.
5. We hope to be able to implement electronic fingerprints at some time in the near future, but until then, the fingerprints will have to be submitted on fingerprint cards.

From: Robert Medkeff [mailto:gungallerynfa@hotmail.com]
Sent: Thursday, April 28, 2016 4:10 PM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: form 1,4,23 drafts

After reviewing the proposed drafts of ATF forms 4, 1, and 23 I am in need of clarification on a few items.

- 1) The draft definition for responsible person is unclear in regards to how it will treat a successor trustee. I have had two attorneys that are very familiar with the NFA give there opinions and they contradict each other. On one hand a successor trustee has no authority to manage or direct a trust until the trustee(s) have died. On the other hand in some trusts the successor trustee can be instrumental in the decision making process in the case a trustee is unable to act as trustee. The fact that the title successor trustee contains the word trustee also suggests that they may be considered a responsible person. So how are you (the ATF) going to define a successor trustee?
- 2) Along the same line of thought as question 1). Some trusts list individuals that, upon the question of competency raised by the successor trustee, are to vote on that question. Will these individuals be considered responsible persons? These "voters" have no real authority in the management of the trust as the successor trustee retains control of the decision making process.
- 3) The ordering of finger print cards are restricted to 2 copies per order. How am I as a FFL/SOT to handle the demand for finger print cards from my customers?
- 4) Can I use blank finger print cards and hand wright the necessary information into the ORI box?
- 5) Our local sheriffs department has been inconstant over the last 5 or so years as to doing ink finger prints. They will do electronic scans of fingerprints, and sometimes refuse to do ink finger prints with the reasoning

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that the electronic scans are available. Will the electronic scans be accepted? If not will ink finger prints from other sources (for example the UPS store) be excepted?

Sincerely,

Robert Medkeff
NFA compliance manager

Gun Gallery Rifle Range
10268 Beach Blvd
Jacksonville, FL 32246
904-641-1619 Opt. 5

Schaible, Gary N.

60-4

From: NFA OMB Comments
Sent: Thursday, April 21, 2016 1:34 PM
To: 'Mike Holcomb'
Subject: RE: Documents in German

Sorry for the delay in responding. We are only tasked with creating the forms in English and have no funding to create forms in alternative languages.

From: Mike Holcomb [mailto:mike.holcomb@gmail.com]
Sent: Thursday, February 18, 2016 3:28 PM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: Re: Documents in German

How was the need for alternate languages determined?

How do I request the forms to submit for 41F are in German?

On Thu, Feb 18, 2016 at 12:14 PM, <NFAOMBCOMMENTS@atf.gov> wrote:

No, only in English. No need has been determined for any language other than English.

From: Mike Holcomb [mailto:mike.holcomb@gmail.com]
Sent: Tuesday, February 16, 2016 9:43 PM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: Documents in German

Will the new forms required by 41F be available in German? If not, why not?

Thank you,

Mike Holcomb

60-10

Schaible, Gary N.

From: NFA OMB Comments
Sent: Friday, February 19, 2016 9:47 AM
To: Ty Timmer
Subject: RE: 41f comment/question

We hope to have funding to allow the electronic submission of the forms subsequent to the changes resulting from the rulemaking. At this time, we do not know what will be developed and when.

From: Ty Timmer [mailto:tytimmer8@hotmail.com]
Sent: Friday, February 19, 2016 2:59 AM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: 41f comment/question

Just wondering if there will be electronic submission available with the new ruling. It would really be inconvenient if there wasn't. Also, would this system be like the eform system or different?

Thanks,
Ty

Schaible, Gary N.

60-11

From: NFA OMB Comments
Sent: Tuesday, February 23, 2016 10:11 AM
To: Thadeus Suzenski
Subject: RE: 41F Comment

We hope to have funding to allow the electronic submission of the forms subsequent to the changes resulting from the rulemaking. At this time, we do not know what funding will be provided, which forms will be developed, and when.

From: Thadeus Suzenski [mailto:tsuzenski@gmail.com]
Sent: Friday, February 19, 2016 11:29 AM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: 41F Comment

Hello,

From my understanding, the implementation of 41F will do away with E-file. Is this true? If so, why would the government resort to using paper forms when they have already spent tax payer money building an electronic filing system? This seems to be counter-intuitive to the trend towards making all things electronic and simplifying processes. Also, what is the environmental impact now requiring all forms to be submitted on paper?

Thank you,
Thadeus

--

Thadeus Suzenski, Esq.
310-614-4566
TSuzenski@gmail.com

Schaible, Gary N.

60-12

From: NFA OMB Comments
Sent: Friday, February 26, 2016 10:10 AM
To: ARF Comm
Subject: RE: 41F Forms

The regulations do not specify the weight of the paper. The forms do require all signatures to be original in ink.

Thank you for your comments.

From: ARF Comm [mailto:fbatfe87@gmail.com]
Sent: Saturday, February 20, 2016 3:53 PM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: 41F Forms

What weight of paper will the ATF accept for the new forms to be submitted on? If we print the forms onto wax paper, is crayon acceptable to fill out the form.

Thank you.

Schaible, Gary N.

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From: NFA OMB Comments
Sent: Friday, February 26, 2016 10:11 AM
To: ARF Comm
Subject: RE: 41F

ATF is currently examining options for the funding of program development and changes to the eForms system as a result of the changes to the regulations. At this time, we do not have a time frame for implementation that would allow electronic filing.

From: ARF Comm [mailto:fbatfe87@gmail.com]
Sent: Saturday, February 20, 2016 3:57 PM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: 41F

3. Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced

You could add the forms to Eforms and let people attach their photograph similar to the trust documents, as well as their FD-258.

Schaible, Gary N.

60-14

From: NFA OMB Comments
Sent: Tuesday, February 23, 2016 10:10 AM
To: nick miller
Subject: RE: NFA 41F

These comments were part of the discussion with the final rule. Please refer back to the notice of proposed rulemaking and the final rule.

From: nick miller [mailto:nickgmiller04@gmail.com]
Sent: Sunday, February 21, 2016 12:17 PM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: NFA 41F

Regarding the new responsible persons definition and fingerprint/background check requirements:

Has there been an increase in violence using NFA items registered to trusts/llc/non-individuals?

If yes, can you provide the data?

If no, what problem are these new regulations seeking to fix?

Thank you,
Nick Miller

60-19

Schaible, Gary N.

From: NFA OMB Comments
Sent: Wednesday, February 24, 2016 10:56 AM
To: Michael Jones
Subject: RE: NFA Forms changes

Thank you for your comment.

From: Michael Jones [mailto:pcvfd12@yahoo.com]
Sent: Tuesday, February 23, 2016 3:27 PM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: NFA Forms changes

Mr. Schaible,

No changes should be made to our current forms. That is all....

Sincerely,

Michael Z. Jones

Schaible, Gary N.

From: NFA OMB Comments
Sent: Monday, March 14, 2016 3:27 PM
To: He, Ya Xing
Subject: RE: comment regarding proposed ATF 41F

1. The plan is to provide for online submission of photographs
2. What are the requirements to which you refer?
3. No
4. Same answer as to item 1

From: He, Ya Xing [mailto:he.213@buckeyemail.osu.edu]
Sent: Saturday, March 12, 2016 1:21 PM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: Re: comment regarding proposed ATF 41F

Hello ATF agents,

Thank you for your response. I am glad you answered most of my questions. Nevertheless, I still have a couple new questions. Thank you.

1. Regarding photo submission for each member of a particular trust, will ATF offer on-line submission or will ATF require each applicant to submit physical copy of photo?
2. Still regarding photo requirement, will ATF have the same requirement as those for passport photo required by Department of State?
3. Will applicant's data be made available to the general public? If so, what data will be available?
4. Regarding submitting fingerprint, will there be any way to submit electronic copy of fingerprint to ATF, or will ATF accept only physical copies of fingerprint cards?

Thank you very much for your time and service.

Cordially,

From: NFAOMBCOMMENTS@atf.gov <NFAOMBCOMMENTS@atf.gov>
Sent: Wednesday, March 9, 2016 3:07 PM
To: He, Ya Xing
Subject: RE: comment regarding proposed ATF 41F

Thank you for your comments.

1. Can you please clarify your first question?
2. ATF's systems, as for other Federal agencies, are required to meet certain security requirements for the data maintained.
3. The information will be maintained forever as with all our registration information.
4. Same as item 3
5. No
6. The system security requirements will remain in place
7. It depends on the type of shut-down.

From: He, Ya Xing [mailto:he.213@buckeyemail.osu.edu]
Sent: Tuesday, February 23, 2016 11:16 PM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: comment regarding proposed ATF 41F

Hello ATF agents,

Thank you for your service. I have the following comments and questions regarding ATF 41F. Thank you.

1. How can ATF reduce the associated burden with submitting photos to ATF for each person of a particular trust? Please consider that there are many formats of digital photos.
2. How can ATF protect the privacy and information security of all the private data (finger print, photo, signature, etc.) submitted by all applicants?
3. How will the data be stored?
4. For how long will the data be kept by ATF?
5. Will the data eventually be discarded by ATF?
6. If there is to be unfortunate budget cut in the future, how can ATF allocate resource to keep applicants' data and protect their privacy?
7. If there is ever another unfortunate government shut-down, will ATF be able to have enough manpower to take applications during shut-down?

Thank you.

Schaible, Gary N.

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From: NFA OMB Comments
Sent: Friday, February 26, 2016 10:13 AM
To: He, Ya Xing
Subject: RE: comment regarding proposed ATF 41F

As part of the rulemaking process, ATF published a Notice of Proposed Rulemaking, which notifies the public of proposed changes to regulations. The notice established a comment period regarding the changes. ATF evaluated the comments and issued the Final rule which resulted in the changes to the forms. Your comments cover issues discussed in the Notice and Final Rule. The Final Rule can be found on the ATF website (www.atf.gov).

From: He, Ya Xing [mailto:he.213@buckeyemail.osu.edu]
Sent: Tuesday, February 23, 2016 11:16 PM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: comment regarding proposed ATF 41F

Hello ATF agents,

Thank you for your service. I have the following comments and questions regarding ATF 41F. Thank you.

1. How can ATF reduce the associated burden with submitting photos to ATF for each person of a particular trust? Please consider that there are many formats of digital photos.
2. How can ATF protect the privacy and information security of all the private data (finger print, photo, signature, etc.) submitted by all applicants?
3. How will the data be stored?
4. For how long will the data be kept by ATF?
5. Will the data eventually be discarded by ATF?
6. If there is to be unfortunate budget cut in the future, how can ATF allocate resource to keep applicants' data and protect their privacy?
7. If there is ever another unfortunate government shut-down, will ATF be able to have enough manpower to take applications during shut-down?

Thank you.

Schaible, Gary N.

60-22

From: NFA OMB Comments
Sent: Friday, February 26, 2016 10:14 AM
To: M Fruggiero
Subject: RE: Rule 41F

As part of the rulemaking process, ATF published a Notice of Proposed Rulemaking, which notifies the public of proposed changes to regulations. The notice established a comment period regarding the changes. ATF evaluated the comments and issued the Final rule which resulted in the changes to the forms. Your comments cover issues discussed in the Notice and Final Rule. The Final Rule can be found on the ATF website (www.atf.gov).

ATF is currently examining options for the funding of program development and changes to the eForms system as a result of the changes to the regulations. At this time, we do not have a time frame for implementation that would allow electronic filing.

-----Original Message-----

From: M Fruggiero [mailto:mrf556@verizon.net]
Sent: Wednesday, February 24, 2016 9:34 AM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: Rule 41F

To whom it may concern:

I'd like to address a few points on the rule and forms as currently written.

Regarding the CLEO notification wouldn't a single notification suffice (i.e. notification of the existence of a trust). As with the FFL 03 application, there needs to be CLEO notification of the application, i.e. existence of the license. With the current system there does not need to be a CLEO notification whenever a C&R purchase is made. If that is considered sufficient, shouldn't the same apply for NFA purchases? I know my local LE agency is understaffed, as are most rural agencies across the country. I can't speak for all of them, but one would expect a constant flurry of paperwork would be a hindrance to officers and staff that would impede them from performing their duties.

As your department already knows, the processing times keep getting longer and longer, adding a larger burden on the current examiners and aides who will be now tasked with examining more photograph and fingerprint cards, essentially treating each trust as an individual filing, further lengthening processing times and adding undue stress on the current system. What is the anticipated approval time for future applications using current wait times as a benchmark? Are the budgetary measures in place to add examiners to expedite the process?

To ease the burden, will electronic filing be enhanced? In particular, adding functionality to allow photos and fingerprints to be uploaded from a PC. If such a system is proposed, would there be file size limits, and what file formats would be accepted?

Thank you for your time.

v/r
Matthew Fruggiero

This email has been checked for viruses by Avast antivirus software.
<https://www.avast.com/antivirus>

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60-23

Schaible, Gary N.

From: NFA OMB Comments
Sent: Thursday, February 25, 2016 12:59 PM
To: Nathan Thornton
Subject: RE: Proposed Revisions to NFA Transfer/Making Forms

The proposed revisions to the ATF Forms 1, 4 and 5 and the proposed National Firearms Act (NFA) Responsible Person Questionnaire (Form 5320.23) can be viewed on the ATF website (www.atf.gov). Choose the Firearms option by clicking on the word Firearms and then go to the What's New section. There is an announcement for each form which allows you to view the Federal Register information and a PDF of the form. Please direct any comments to nfaombcomments@atf.gov.

From: Nathan Thornton [mailto:ncthorn1623@gmail.com]
Sent: Thursday, February 25, 2016 9:45 AM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: Proposed Revisions to NFA Transfer/Making Forms

Gary,

As an NFA firearms collector, I've been closely following ATF 41P/F developments over the past two years. When the ATF announced last week that you would be accepting comments on the new Forms 1, 4, 5, and 5320.23, I immediately sought out the new documents, only to find that they are not attached to the proposal within the Federal Register.

Since the forms have not been attached, there exists a great deal of confusion as to what the documents actually look like and what is changing. In order to save your organization time and to prevent potential APA compliance disputes, it seems it would be wise to publish the revised forms inside each Register entry.

So that I may help to address concerns of other collectors, could you please send me files or links to the proposed forms?

Thank you,
Nathan Thornton

Schaible, Gary N.

60.24

From: NFA OMB Comments
Sent: Friday, February 26, 2016 10:16 AM
To: Pete Manning
Subject: RE: 41F - Question

As part of the rulemaking process, ATF published a Notice of Proposed Rulemaking, which notifies the public of proposed changes to regulations. The notice established a comment period regarding the changes. ATF evaluated the comments and issued the Final rule which resulted in the changes to the forms. Your comments cover issues discussed in the Notice and Final Rule. The Final Rule can be found on the ATF website (www.atf.gov).

-----Original Message-----

From: Pete Manning [mailto:pmdata@gmail.com]
Sent: Thursday, February 25, 2016 10:54 AM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: 41F - Question

Dear Sir or Madam,

Can you explain why the use of the National Instant Background Check System (NICS) does not satisfy the requirement for the transfer or making of an NFA item? Why should potential NFA owners be required to submit fingerprints and photographs with each NFA item transferred or made when technological solutions exist that are faster, require less manpower and operate within an infrastructure already used for criminal background checks.

Respectfully,
Pete Manning

Schaible, Gary N.

From: NFA OMB Comments
Sent: Wednesday, March 9, 2016 3:12 PM
To: Pete Manning
Subject: RE: 41F - Question

The guidance in the Executive Order is to Federal agencies. ATF will not be issuing guidance to other Federal agencies or to State or local agencies.

From: Pete Manning [mailto:pmdata@gmail.com]
Sent: Thursday, February 25, 2016 10:56 AM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: 41F - Question

Dear Sir or Madam,

On November 28, 2011, the White House issued a Presidential Memorandum for managing government records (<https://www.whitehouse.gov/the-press-office/2011/11/28/presidential-memorandum-managing-government-records>). Can you explain how the implementation of 41F conforms to this memorandum? More specifically, will the BATFE be issuing guidance to local, state and other federal agencies on how to properly process, store and maintain forms submitted in conjunction with the transfer or making of an NFA item.

Respectfully,
Pete Manning

Schaible, Gary N.

60-29

From: NFA OMB Comments
Sent: Friday, February 26, 2016 10:35 AM
To: peter.howard
Subject: RE: 41 F comments

As part of the rulemaking process, ATF published a Notice of Proposed Rulemaking, which notifies the public of proposed changes to regulations. The notice established a comment period regarding the changes. ATF evaluated the comments and issued the Final rule which resulted in the changes to the forms. Your comments cover issues discussed in the Notice and Final Rule. The Final Rule can be found on the ATF website (www.atf.gov).

From: peter.howard [mailto:peterjhoward6@gmail.com]
Sent: Thursday, February 25, 2016 3:00 PM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: 41 F comments

I believe the new forms will add a substantial burden to trusts applying for NFA tax approval and it will overwhelm ATF with burdens. These forms will do nothing to speed up the approval process nor will they allow the ATF to properly screen applicants. The ATF should only use 1 person per trust.

The ATF should eliminate the responsible persons section and only request 1 person

Peter Howard
peterjhoward6@gmail.com

60-30

Schaible, Gary N.

From: NFA OMB Comments
Sent: Friday, February 26, 2016 10:38 AM
To: Harvey
Subject: RE: Person Questionnaire (ATF Form 5320.23)

Bonin

Thank you for your comments. The Final Rule did eliminate the 'CLEO' signoff and replaced it with a notification. The CLEO does not have to act on any notification.

From: Harvey [mailto:gundealer915@mindspring.com]
Sent: Friday, February 26, 2016 2:55 AM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: Person Questionnaire (ATF Form 5320.23)

My response and solution

DEPARTMENT OF JUSTICE [OMB Number 1140-NEW]**Agency Information Collection****Activities; Proposed e-Collection e-Comments Requested; National Firearms Act (NFA)****Responsible****Person Questionnaire (ATF Form 5320.23)**

Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

Comments are encouraged and will be accepted for 60 days until April 25, 2016.

If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Gary Schaible, Industry Liaison Analyst, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), 99 New York Ave. NE., Washington, DC 20226 at email: nfaombcomments@atf.gov.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize 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.

Overview of this information collection:

1. Type of Information Collection (check justification or form 83-I): New collection.
2. The Title of the Form/Collection: National Firearms Act (NFA) Responsible Person Questionnaire.
3. The agency form number, if any, and the applicable component of the Department sponsoring the collection:
Form number (if applicable): ATF Form 5320.23 Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or households. Other (if applicable): State Local or Abstract: This form is filed with ATF Form 1, 4 or 5 applications when the applicant, maker, or transferee is other than an individual or government agency. This allows ATF to conduct background checks of persons who make, acquire, or possess firearms.
5. An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: An estimated 115,829 respondents will take .25 hours to complete the survey.
6. An estimate of the total public burden (in hours) associated with the collection: The estimated annual public burden associated with this collection is 57,914.5 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E- 405B, Washington, DC 20530. Dated: February 18, 2016. Jerri Murray, Department Clearance Officer for PRA, U.S. Department of Justice.
[FR Doc. 2016-03772 Filed 2-23-16; 8:45 am]

My RESPONSE

First of all, let me say that I am pro law enforcement and understand what you are trying to accomplish. I do not agree on the method in which you are attempting to use to accomplish these goals.

ATF is trying to weaken the TRUST VEIL in which it was intended for. I am not willing to trade my protections for this or any other purpose.

Let me tell you that the only reason people have gone to this type on protection is because you can't get the local CLEO to sign off the approval in the first place.

Solution

You do not need to weaken the Trust Veil to get an acceptable outcome. All you need to do is to no longer require any CLEO to sign off the approval in the first place. Then there would be very little need to get a Trust and law abiding citizens will continue to get the background check that meets your goal.

Thanks for listening,

FFL Dealer
Harvey N. Bonin
February 26, 2016

Schaible, Gary N.

60-34

From: NFA OMB Comments
Sent: Thursday, April 21, 2016 8:10 AM
To: John Rich
Subject: RE: A Concerned Class 3 Dealer

Mr. Rich - no, we are not trying to discourage sales nor destroy businesses. As a citizen, you can petition ATF for a rulemaking change. The requirements regarding fingerprints were proposed in a Notice of Proposed Rulemaking and finalized in the Final Rule. The forms are implementing what the regulations hold.

-----Original Message-----

From: John Rich [mailto:johnmrich1984@yahoo.com]
Sent: Tuesday, March 29, 2016 10:48 PM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: Re: A Concerned Class 3 Dealer

Tell me. Why does someone have to submit fingerprint cards every time they purchase something? Why? Are you trying to discourage us from buying these items? Are you trying to destroy our business? This is a serious question. It makes absolutely no sense to require fingerprint cards every time, and I'm telling you right now that I'm starting a campaign for every law abiding citizen to protest these discriminating rules you have put into place. We will not stop until this is changed.

Signed
A concerned Class 3 Dealer.

Sent from my iPad

> On Mar 28, 2016, at 12:16 PM, <NFA.OMB.Comments@usdoj.gov> <NFA.OMB.Comments@usdoj.gov> wrote:

>

> Mr Rich - thank you for your comment. The two-year exemption regarding the documentation remains in the Final Rule. Please see 27 CFR 479.63(c) for Form 1 and 479.85(c) for Form 4. Please note that the exemption is only for the trust or legal entity documentation and not the submission of the Form 5320.23 (National Firearms Act (NFA) Responsible Person Questionnaire), fingerprint cards, or photographs.

>

> -----Original Message-----

> **From:** John Rich [mailto:johnmrich1984@yahoo.com]
> **Sent:** Sunday, March 27, 2016 9:21 PM
> **To:** NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
> **Subject:** A Concerned Class 3 Dealer

>

> To Whom This May Concern,

>

> My name is John Rich, and I am a Class 3 Dealer in Savannah, TN. I am emailing because I am concerned about the new 41f coming out July 13th. I understand the reasoning behind having everybody on a trust fill out the Form 4 or 1, and I understand submitting a set of fingerprint cards for every responsible party. What I don't understand is why you guys are going back on your original ruling about the 24 month period where if nothing changes on the trust, you don't have to submit another set until the 2 years is up. That makes perfect sense! I applaud you guys for coming up with that idea, but why on earth on you now coming out and saying that there is no 24 month grace period?! Can someone's fingerprints change that quick? Honestly? Please make the right move, and stick with your original ruling, and keep the

60-34

24 month grace period! It makes much more sense, and for the dealers who livelihood depends on this industry, it is a way to help us out.

>

> Thanks.

>

> John M. Rich

> Savannah, TN 38327

> 731-607-1502

>

> Sent from my iPad

Schaible, Gary N.

60-39

From: NFA OMB Comments
Sent: Thursday, March 24, 2016 11:00 AM
To: Waltz, Barry M MM1 NRD Phoenix, Enlisted Recruiter
Subject: RE: Change to 5320

Mr Waltz - thank you for the comment but am not sure what you are asking. If you are thinking that the USPS provides the stamps, that is not the case. ATF has the stamps printed.

-----Original Message-----

From: Waltz, Barry M MM1 NRD Phoenix, Enlisted Recruiter [mailto:barry.waltz@navy.mil]
Sent: Thursday, March 17, 2016 6:36 PM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: Change to 5320

Mr. Schaible,

What is the effect that changing the Form 1, 4, and 5 will have on the US Postal services supply of stamps?

Very Respectfully,

MMN1 (SW) Waltz, Barry

5309 Menaul Blvd. NE, Suite A

Albuquerque, NM-87110

Office: (505) 346-2750

Cell: (505) 235-0071

Fax: (505) 346-2758

Schaible, Gary N.

60-40

From: NFA OMB Comments
Sent: Thursday, March 24, 2016 11:11 AM
To: Matt Rippen
Subject: RE: 41F changes

Thank you for your comments. The photographs submitted are not compared to any database. However, they are maintained for any future need where an identification may be needed. The submission of photographs for a maker or transferee is required by statute and cannot be waived by ATF.

From: Matt Rippen [mailto:matt.rippen@gmail.com]
Sent: Tuesday, March 8, 2016 2:20 PM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: 41F changes

Dear Sirs,

I'm writing to question the additional burden added to the process of approving NFA firearms. What is the specific need for submitting passport pictures to the ATF to approve a firearm transfer? How does summiting a picture enhance public safety? What database is the picture compared to in the process of approving the transfer of an NFA item and why?

Thank you for your time and answers to my questions during the open comment period of changes to 41F.

Respectfully,
Matt Rippen

Schaible, Gary N.

60-41

From: NFA OMB Comments
Sent: Tuesday, April 5, 2016 3:29 PM
To: Backwoodsman Magazine
Subject: RE: sound suppression

Thank you for your comments. Please be aware that the National Firearms Act (Title 26, United States Code, Chapter 53) requires the registration of a silencer. A properly registered silencer is legal to possess under Federal law. Any change to the registration requirements would require a change to the statute.

From: Backwoodsman Magazine [mailto:bwmmag@stx.rr.com]
Sent: Monday, April 4, 2016 8:00 AM
To: NFA OMB Comments <NFAOMBCOMMENTS@atf.gov>
Subject: sound suppression

The idea of firearms sound suppressors not being legal is ridiculous. There are those of us who target shoot, and would like to cut down on the noise, and a sound suppressor meets this need. I like firearms but I do not like the noise. I am not a criminal, nor have I ever been one. Why are firearms sound suppressors illegal. I live in Texas which is normally the last state to adopt new policies of any kind, and I'm sure they will drag their feet on this issue also.

Charlie Richie, Sr.

Editor/Publisher | BACKWOODSMAN MAGAZINE

Email: customerservice@backwoodsmanmag.com

Email: bwmmag@stx.rr.com

website: <http://www.backwoodsmanmag.com>

Schaible, Gary N.

60-49

From: xa0info@aijic.org
Sent: Thursday, May 5, 2016 8:10 AM
To: NFA OMB Comments
Subject: nfaombcomments

Importance: High

no comment shown
