



GUN OWNERS OF AMERICA
THE ONLY NO-COMPROMISE GUN LOBBY IN WASHINGTON



RE: Revising the Firearms Transaction Record (Form 4473)

ADDRESSED TO

Office of Regulatory Affairs

Bureau of Alcohol, Tobacco, Firearms and Explosives
U.S. Department of Justice
Washington, DC 20226

SUBMITTED BY

Gun Owners of America
Gun Owners Foundation

DATE OF SUBMISSION

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91 Fed. Reg. 25432 (May 8, 2026)



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GOA & GOF COMMENTS TO ATF ON THE “FORM 4473” NPRM

**GOA FEDERAL AFFAIRS | FORMAL COMMENTS ON RIN 1140-AA82 • 91 FED. REG. 25432
(MAY 8, 2026)**

Re: Revising Firearms Transaction Record, “Form 4473” (RIN 1140-AA82)

DOJ RULEMAKING

On May 8, 2026, the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) published a notice of proposed rulemaking to amend various aspects of ATF Form 5300.9, colloquially known as the “Form 4473,” which serves as a record of firearm transactions conducted through Federal Firearms Licensees (“FFLs”). See 91 Fed. Reg. 25432 (May 8, 2026) (“NPRM”).¹ As relevant to this Comment, the NPRM proposes to “doubl[e] the performance timeframe for transactions under Form 4473 following a National Instant Criminal Background Check System (‘NICS’) check” from “the current 30 days to two months.” *Id.* at 25432, 25434. In other words, the NPRM proposes that firearm transferees have up to two months to complete a firearm transaction after initial completion of a Form 4473 and background check, before that background check will expire and have to be redone. See *id.* at 25434. Beyond this timeframe, transferees would have to “complete a new [Form 4473] and initiate a new NICS check prior to completing the transfer.” *Id.* The NPRM seeks public comment by August 6, 2026 on “the clarity of this proposed rule and how it may be made easier to understand,” as well as “the costs or benefits of the proposed rule and on the appropriate methodology and data for calculating those costs and benefits.” *Id.* at 25442.

IDENTITY OF COMMENTERS

Gun Owners of America, Inc. (“GOA”) is a California non-stock corporation headquartered in Springfield, Virginia. Organized as a nonprofit membership organization under Section 501(c)(4) of the Internal Revenue Code, GOA was founded in 1976 with the mission to preserve, protect, and defend the Second Amendment rights of gun owners. Today, GOA represents the interests of more than two million members and supporters nationwide, and routinely lobbies and litigates to vindicate the right to keep and bear arms throughout the country.

Gun Owners Foundation (“GOF”) is a Virginia non-stock corporation headquartered in Springfield, Virginia. GOF is a nonprofit legal defense and educational foundation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code. Supported by a national donor base, GOF provides essential legal services and educational resources to the firearms community. Its activities include strategic litigation and administrative advocacy, including the submission of comments such as these intended to safeguard the enumerated right of the people to keep and bear arms.

1. See <https://www.govinfo.gov/content/pkg/FR-2026-05-08/pdf/2026-09182.pdf>.

GOA and GOF have a direct interest in this rulemaking, which affects the rights of countless Americans, including GOA and GOF's members and supporters, to purchase firearms. Tens of millions of NICS checks for firearm purchases are completed each year,² often resulting in erroneous denials for gun owners.³ GOA and GOF submit these comments to ensure that ATF's regulation complies with the statutory text and eases regulatory burdens on gun owners.

COMMENTS ON PROPOSED RULE

I. The NPRM's Proposed Two-Month NICS Performance Timeframe Is Arbitrary and Not Permitted by Statute.

The NPRM proposes to "extend the time period during which an initiated Form 4473 and its accompanying NICS background check would continue to be valid for a purchase, from the current 30 days to two months." NPRM at 25434. As the NPRM notes, this extension would accommodate state-imposed waiting periods on the acquisition of firearms and mitigate federal delays in completing NICS checks for approximately nine percent of transferees. See *id.* In addition, a two-month timeframe would reduce the source of "many technical violations for FFLs" that the Biden administration had used as a malicious basis for license revocations. *Id.* Correspondingly, ATF has "no evidence" that the proposed timeframe would "adversely impact public safety" by allowing prohibited persons to acquire firearms. *Id.* at 25435.

While extending the NICS performance timeframe is a laudable goal, there is no reason why ATF should limit it to *only* two months. First, the statute contains no requirement that a completed NICS check should ever expire, see 18 U.S.C. § 922(t). Indeed, as the NPRM concedes, the proposed timeframe is "far shorter than the Brady Act's provision for alternative permits, which can remain valid for *up to five years* from the date they were issued." NPRM at 25435; see 18 U.S.C. § 922(t)(3). Similarly, under the National Firearms Act, an approved ATF Form 1 *does not expire*, and a person could, for example, make a short-barreled rifle 10 years after getting a Form approved. 27 C.F.R. § 479.64(c). Likewise, a buyer could wait *any length of time* after receiving an approved ATF Form 4, before picking up the firearm from the dealer. 27 C.F.R. § 479.86. In other words, Congress specifically chose a five-year time limit for a Brady alternate. And it chose not to impose any time frame for obtaining NFA firearms. So Congress knows how to impose such deadlines when it wishes, or not impose them when it does not. Here, Congress declined to impose a similar time limit on a NICS check. And ATF has no authority to revisit that decision.

To be sure, ATF may believe that a "two-month period strikes a better balance" than the current 30-day timeframe (NPRM at 25435), and that a "longer validity period might increase the chance that a buyer could become prohibited" (*id.* at 25439). But if that is the case, then ATF is free to ask Congress to make the change. Ultimately "is Congress's job, not [ATF's], to weigh competing concerns and create legislation to reflect the proper balance between them." *United States ex rel. Stinson, Lyons, Gerlin & Bustamante, P.A. v. Blue Cross Blue Shield, Inc.*, 755 F. Supp. 1040, 1049 (S.D. Ga. 1990). See also *Wis. Cent. Ltd. v. United States*, 585 U.S. 274, 284 (2018) ("Congress alone has the institutional competence,

2. See https://www.fbi.gov/file-repository/cjis/nics_firearm_checks_-_month_year.pdf/view.

3. See <https://www.ammoland.com/2021/11/fbi-admits-wrong-gun-background-check-denials/>.

democratic legitimacy, and (most importantly) constitutional authority to revise statutes in light of new social problems and preferences. Until it exercises that power, the people may rely on the original meaning of the written law.”). If ATF thinks a fixed period for a NICS check is appropriate, the proper forum to adopt that period is Congress, not ATF.

Second, ATF’s initial adoption of a 30-day timeframe was inherently arbitrary, and so too is the NPRM’s proposal merely to double it. Indeed, as ATF posited in 1998, “the 30-day period is *reasonable* in that it allows sufficient time for a purchaser to return to take possession of a firearm.” 63 Fed. Reg. 58272, 58274 (Oct. 29, 1998) (emphasis added);⁴ cf. 18 U.S.C. § 926(a) (emphasis added) (allowing “only such rules and regulations as are *necessary* to carry out the provisions of this chapter”). Likewise, the NPRM posits that a two-month timeframe “strikes a better balance,” but ATF has “no evidence” either way. NPRM at 25435. For example, ATF does not appear to have considered periods of 90 days, or 180 days, and examine the “public safety” data for alternative approaches. See *Biodiversity Conservation All. v. Jiron*, 762 F.3d 1036, 1083 (10th Cir. 2014) (“We ask whether the agency selected and considered a range of alternatives ‘sufficient to permit a reasoned choice among the options.’”). That makes ATF’s decision of 60 days inherently arbitrary – again, the sort of policy decision left to Congress, not unelected and unaccountable government bureaucrats. Until Congress articulates a fixed timeframe for the validity of a NICS check, ATF has no business legislating its own timeframe when the statute does not call for one.

CONCLUSION

The NPRM proposes several improvements to the Form 4473. However, ATF’s extension of the NICS performance timeframe is arbitrary. The statute does not provide for the expiry of completed NICS checks, and in fact it contemplates a five-year validity window for Brady alternates. There is no reason a NICS check should be valid for anything less than the full period allowed by statute—or indefinitely, as the statute permits. ATF should withdraw the NPRM, and replace it with one that eliminates the 30-day rule entirely, in line with the statute that Congress enacted.

Respectfully submitted,



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GUN OWNERS OF AMERICA

4. See <https://www.govinfo.gov/content/pkg/FR-1998-10-29/pdf/98-28986.pdf>.