ILLINOIS ATTORNEY GENERAL
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July 7, 2026

Via Email and Federal Rulemaking Portal (Regulations.gov)

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ATF Rulemaking Comments
Mail Stop 6N-518
Office of Regulatory Affairs, Enforcement Programs and Services
Bureau of Alcohol, Tobacco, Firearms, and Explosives
99 New York Ave. NE
Washington, DC 20226
ATTN: RIN 1140-AA82

Re: ATF Form 5300.9 and 5300.9A, OMB Control No. 1140–0020

Dear Mr. Gluck:

We, the Attorneys General for the States of Illinois, Arizona, California, Colorado, Connecticut, Delaware, the District of Columbia, Hawai'i, Maryland, Massachusetts, Michigan, Nevada, New Jersey, New York, Oregon, Rhode Island, Virginia, and Washington ("the States"), write in opposition to the Bureau of Alcohol, Tobacco, Firearms, and Explosives's ("ATF") information collection request ("ICR") entitled Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Previously Approved Collection; Firearms Transaction Record—ATF Form 5300.9 and 5300.9A ("Form 4473"), first noticed in the Federal Register on May 8, 2026.[1]

[1] 60-Day Notice of Information Collection Request: Form 4473, 91 Fed. Reg. 25448 (May 8, 2026).

The ICR accompanies a slate of nearly three dozen ATF rule changes or proposed rule changes that reflect an agency which has "fundamentally changed course."[2] Acting Attorney General Todd Blanche calls this the "most comprehensive regulatory reform package in the history of ATF."[3] Several of these changes—many of which are described in formal notices of proposed rulemaking (the "NPRMs")[4]—relate to and profoundly alter the standards and processes for the sale or transfer of a firearm by a federal firearms licensee ("FFL") to a person who is not an FFL.[5] The point-of-sale process is shepherded and documented through ATF Form 5300.9 and 5300.9A (''Form 4473''). One of the NPRMs focuses exclusively on changes to Form 4473 ("Form 4473 NPRM").[6]

However, the ICR itself includes significant changes to Form 4473 that substantially impact the point-of-sale process and its record, Form 4473, that are not discussed in the Form 4473 NPRM, nor any of the other NPRMs. Instead, those changes appear only in the proposed revisions to the form ("Proposed Form 4473"). These unannounced material changes would undercut the security of the lawful firearm transfer process, as well as how Form 4473 is meant to operate as a tool to regulate that process and provide accurate and clear documentation in the event it is required by law enforcement.

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[2] *ATF's New Era of Reform*, ATF, https://www.atf.gov/rules-and-regulations/atf-launches-new-era-reform (last updated May 12, 2026).

[3] ATF, *Acting AG Blanche and Acting ATF Director Cekada Announce Changes to ATF Regulations*, https://www.justice.gov/opa/video/acting-ag-blanche-and-acting-atf-director-cekada-announce-changes-atf-regulations (Apr. 29, 2026).

[4] *See* Firearm Records Retention Periods, 91 Fed. Reg. 24413 (proposed May 6, 2026) (to be codified at 27 C.F.R. pt. 478) (shortening retention periods for Form 4473 and related records); Firearms Transactions and Straw Purchases, 91 Fed. Reg. 24448 (proposed May 6, 2026) (to be codified at 27 C.F.R. pt. 478) (narrowing prohibited straw-purchase definition); Defining "Willfully" for Firearms Violations, 91 Fed. Reg. 25201 (proposed May 8, 2026) (to be codified at 27 C.F.R. pt. 478) (raising the threshold for license revocation); Revising Non-Over-the-Counter Firearms Transaction Requirements, 91 Fed. Reg. 25216 (proposed May 8, 2026) (to be codified at 27 C.F.R. pt. 478) (expanding remote transfers and substituting copies of identification and remote identity proofing for in-person identification examination); Clarifying Exceptions to the Brady Act Background Check Requirement, 91 Fed. Reg. 24436 (proposed May 6, 2026) (to be codified at 27 C.F.R. pt. 478) (amending the regulatory structure involving NICS background checks for state firearms purchasing permits); Selecting Biological Sex on ATF Forms, 91 Fed. Reg. 24462 (proposed May 6, 2026) (to be codified at 27 C.F.R. pts. 478, 479, and 555) (requiring individuals to select their biological sex under the question of "sex" on ATF forms); Removing Youth Handgun Safety Act Notice, 91 Fed. Reg. 25187 (proposed May 8, 2026) (to be codified at 27 C.F.R. pt. 478) (removing requirement that FFLs who deliver handguns to non-licensees post signs and provide written notice regarding the Youth Handgun Safety Act provisions for each handgun purchase); *see also* Revising Firearms Transaction Record, "Form 4473," 91 Fed. Reg. 25432 (proposed May 8, 2026) (to be codified at 27 C.F.R. pt. 478).

[5] This ICR is one piece of a coordinated 34-rule package in which several proposals, including the NPRMs noted above, would simultaneously weaken the safeguards Form 4473 supports. Together, these NPRMs would dilute point-of-sale screening, reduce the legal significance of false certifications, shorten the life of the resulting records, weaken enforcement consequences for noncompliant licensees, and create additional identity-verification gaps in transfers. ATF analyzed none of those interactions, instead treating each proposal as though it existed in isolation. That segmented approach is arbitrary because it prevents the agency and the public from evaluating the package's true cumulative impact on the screening, tracing, and enforcement functions Form 4473 is designed to serve. *See Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983); 44 U.S.C. § 3506(c)(1)(A).

[6] Revising Firearms Transaction Record, "Form 4473," 91 Fed. Reg. 25432.

The States have substantial interests that are implicated by this ICR, including in preventing the unlawful transfer of firearms, namely, the provision of firearms to prohibited persons, ensuring accurate information is collected to ensure effective and efficient tracing and background checks, and prosecuting criminals who break the law. The States submit this comment to shed light on those interests and identify the myriad ways in which the ICR is unlawful and procedurally deficient. The States will separately submit comments responding to each of the above-referenced NPRMs in their respective dockets and incorporate those comments by reference here.

To start, ATF's proposed changes to Form 4473 violate the Paperwork Reduction Act ("PRA") because they are unnecessary, in that the Form was functioning properly, and the revision does not speed the process—the only asserted rationale for the change. Indeed, ATF's own statements completely undermine this rationale, as the PRA notice at the end of the Proposed Form 4473 contains the exact same time estimate as that at the end of the current Form 4473. The changes also introduce significant confusion into the Form, thereby making it more time-consuming to complete, harder to complete accurately, and less reliable as an accurate record of the transfer at issue. This in turn would degrade public safety by substantially increasing the risk that firearms are sold to buyers not legally entitled to purchase them, and that—in the event of a prosecution for such a crime—Form 4473 will no longer provide the clear evidence necessary for a conviction.

Further, Proposed Form 4473 and its wholesale, substantive changes, including those *not presented in the Form 4473 NPRM nor any other NPRM*, do not comply with the requirements under the Administrative Procedure Act ("APA") and are thus unlawful. ATF has failed to provide adequate notice-and-comment opportunity—it may not make substantive changes of this nature simply by issuing an information collection request and avoiding the requirements of the APA. And even if ATF could properly notice these changes in the ICR, the proposed revisions still would violate the APA because they are contrary to law and arbitrary and capricious.

Therefore, ATF should withdraw the ICR.

I. Background

A. The Purpose of Form 4473

Form 4473 arises from the Gun Control Act of 1968 ("GCA" or the "Act"). "Congress's 'principal purpose' in enacting the statute—[was] 'to curb crime by keeping 'firearms out of the hands of those not legally entitled to possess them.'"[7] To that end, the Act creates recordkeeping obligations for FFLs, including a requirement that each "licensed dealer shall maintain [] records of . . . [the] sale" of firearms.[8] A "licensed importer, licensed manufacturer, or licensed dealer shall not sell or otherwise dispose, temporarily or permanently, of any firearm to any person, other than

[7] *Abramski v. United States*, 573 U.S. 169, 181 (2014) (internal citations omitted).

[8] 18 U.S.C. § 923(g)(1)(A) ("Each . . . licensed dealer shall maintain such records of . . . sale, or other disposition of firearms at his place of business for such period, and in such form, as the Attorney General may by regulations prescribe.").

another licensee, unless the licensee records the transaction on a firearm transaction record, Form 4473."[9]

Form 4473 serves two primary purposes, both of which are essential to public safety. First, Form 4473 is designed to serve the prospective purpose of ensuring firearms transactions comply with federal and state law at the time of sale, most essentially preventing the transfer of firearms to those prohibited by law. Second, Form 4473 serves the retrospective purpose of providing a reliable and accurate source of information for law enforcement investigating crimes and tracing firearms, including in circumstances where the firearm was recovered after having been used in a crime.

The current design, substance, and nature of Form 4473 support these purposes. Specifically, the Form alternates between sections for the transferee and transferor, reflecting that it is a document meant to be filled out together between the FFL and the purchaser "in original only at the licensed premises,"[10] not in separate silos where it would be easier for a straw purchase to succeed.[11] However, as described more fully below, ATF's proposed changes make this required form more cumbersome, less clear, and less accurate. Ultimately, this would thwart the statutorily required purpose of accurately documenting lawful transfers and later, after transfers have occurred, supporting law enforcement, including crime gun tracing.

1. Accurately Documenting Lawful Transfers

Form 4473 is meant to assist FFLs in ensuring that they only transfer firearms to individuals lawfully permitted to receive them. Industry organizations often herald FFLs as the "first line of defense" against illegal firearm sales, and Form 4473 is a key part of that defense.[12] As described in the ICR, prior to transferring firearms, the Act requires that FFLs (1) determine if the individual may lawfully receive the firearm, and (2) initiate a background check.[13] "Form 4473 is the vehicle

[9] 27 C.F.R. § 478.124(a). Further, FFLs must retain these firearms transaction records "until business or licensed activity is discontinued" in the manner ascribed in the relevant federal regulations. 27 C.F.R. § 478.129(b). Retention is required even where "a sale, delivery, or transfer" did not ultimately take place. *Id*.

[10] *See* ATF, FORM 4473, FIREARMS TRANSACTION RECORD, (Revised Aug. 2023) at p. 1, https://www.atf.gov/media/18646/download [hereinafter ATF Form 4473]. However, this does not apply in limited circumstances as set forth in 18 U.S.C. § 922(c).

[11] The Supreme Court has described straw buying as follows: "A felon or other person who cannot buy or own a gun still wants to obtain one. (Or, alternatively, a person who could legally buy a firearm wants to conceal his purchase, maybe so he can use the gun for criminal purposes without fear that police officers will later trace it to him.) Accordingly, the prospective buyer enlists an intermediary to help him accomplish his illegal aim. Perhaps he conscripts a loyal friend or family member; perhaps more often, he hires a stranger to purchase the gun for a price. The actual purchaser might even accompany the straw to the gun shop, instruct him which firearm to buy, give him the money to pay at the counter, and take possession as they walk out the door." *Abramski*, 573 U.S. at 180.

[12] *E.g., NSSF, ATF Celebrate 25 Years of Partnership With The 'Don't Lie for the Other Guy' Anti-Straw Purchasing Campaign*, NAT'L SHOOTING SPORTS FOUND. (Sept. 15, 2025), https://www.nssf.org/articles/nssf-atf-25-year-dont-lie-for-the-other-guy-partnership/; *Abramski*, 573 U.S. at 188 (stating that "the firearms law contemplates that the dealer will check not the fictitious purchaser's but instead the true purchaser's identity and eligibility for gun ownership").

[13] 60-Day Notice of Information Collection Request: Form 4473, 91 Fed. Reg. 25448: *see also* 27 C.F.R. § 478.124(c)(5) ("The licensee shall sign and date the form if the licensee does not know or have reasonable cause to believe that the transferee is disqualified by law from receiving the firearm and transfer the firearm described on the Form 4473."); 27 C.F.R. § 478.102(a)(1) ("Before the completion of the transfer, the licensee has contacted NICS").

by which transferees provide the necessary information for the FFLs to accomplish both statutorily required tasks."[14] Indeed, Form 4473 is specifically "designed so that a [FFL] may determine if he/she may lawfully sell or deliver a firearm to the person identified . . . and to alert the transferee/buyer of certain restrictions on the receipt and possession of firearms."[15]

The current Form 4473[16] does that in several ways. It begins with Section A, which requires the FFL to document specific information about the firearm(s) sought to be transferred. Setting out the details regarding the firearms at issue at the beginning of the transaction process is essential, particularly because not all firearms, components, or magazines are lawful for transfer under all state laws. (For example, many states prohibit the sale of defined "assault weapons," with limited exceptions.[17])

Then, in Section B, which "**Must Be Completed Personally By Transferee/Buyer**," the Form seeks identifying information about the prospective transferee, including an individual's name, address, and place of birth, and questions demonstrating whether the sale would be a lawful one. Indeed, a large portion of Section B is Question No. 21, which lays out 15 discrete and clear questions that a prospective transferee must answer "Yes" or "No" by checkbox. These questions determine whether the prospective buyer qualifies as a lawful recipient of the firearm(s). Question No. 21(a) begins with the most essential qualifying question, asking for a "Yes" or "No" from the transferee as to whether they "[a]re . . . the actual transferee/buyer of all of the firearm(s) listed on this form and any continuation sheet(s) (ATF Form 5300.9A)" and states in bold type "**Warning: You are not the actual transferee/buyer if you are acquiring any of the firearm(s) on behalf of another person."**[18] The second "Yes" or "No" question is "Do you intend to sell or otherwise dispose of any firearm listed on this form and any continuation sheet(s) in furtherance of any felony or other offense punishable by imprisonment for a term of more than one year, a Federal crime of terrorism, or a drug trafficking offense?"[19]

The next two subparts of Question 21—(c) and (d)—seek information as to whether the individual is charged with or has been convicted of a felony, with that word emphasized in bold.[20] Specifically, the Form asks whether the individual has been charged with "a **felony**, or any other crime for which the judge could imprison you for more than one year, or are you a current member of the military who has been charged with violation(s) of the Uniform Code of Military Justice and

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[14] 60-Day Notice of Information Collection Request: Form 4473, 91 Fed. Reg. 25448.

[15] ATF Form 4473 at p. 3 "Purpose of the Form."

[16] *Id.*

[17] *E.g.,* Cal., CAL. PENAL CODE §§ 16350, 16790, 16890, 30500-31115; Conn., CONN. GEN. STAT. §§ 53-202a – 53-202o; Del., DEL. CODE TIT. 11, § 1466(a); D.C., D.C. CODE ANN. §§ 7-2502.02(a)(6), 7-2505.01, 7-2505.02(a); Haw., HAW. REV. STAT. ANN. §§ 134-1, 134-4, 134-8; Ill., 720 ILCS 5/24-1.9-1.10; Md., MD. CODE ANN., CRIM. LAW §§ 4-301 – 4-306, MD. CODE ANN., PUB. SAFETY § 5-101(r); Mass., MASS. GEN. LAWS ch. 140, §§ 121, 122, 123, 131M; N.J., N.J. STAT. ANN. §§ 2C:39-1w, 2C:39-5, 2C:58-5, 2C:58-12, 2C:58-13; N.Y., N.Y. PENAL LAW §§ 265.00(22), 265.02(7), 265.10, 400.00(16-a); R.I., R.I. GEN LAWS §§ 11-47.2-1, 2; and Wash., REV. CODE WASH. (ARCW) Title 9, Ch. 9.41.

[18] ATF Form 4473 at p. 1, Question 21(a) (emphasis in original).

[19] *Id*. at Question 21(b).

[20] *Id*. at Questions 21(c), (d).

whose charge(s) have been referred to a general court-martial?"[21] Next, it asks: "Have you ever been convicted in any court, including a military court, of a **felony**, or any other crime for which the judge could have imprisoned you for more than one year, even if you received a shorter sentence including probation?"[22] Question 21 then, goes on to ask another 11 "Yes" or "No" eligibility questions, where an affirmative answer could indicate the prospective buyer is a prohibited person.[23] The last of the 15 questions then asks whether they "intend to sell or dispose of any firearm(s) listed on this form or any continuation sheet(s) to any person described in" the above list of conditions that would make a buyer a prohibited person.[24] The prospective buyer then completes a detailed certification of truthfulness on that same page.[25]

Once the prospective buyer has filled out Section B, the Form's obligations turn back to the FFL, as Section C "Must Be Completed By Transferor/Seller Prior to the Transfer of the Firearm(s)."[26] The first question is a three-option checkbox selection for category of firearm: either handgun, long gun (i.e., rifle or shotgun), or other firearm (e.g. frame, receiver, etc.).[27] This is relevant because, among other reasons, an FFL may not sell any firearm other than a shotgun or rifle to any person under the age of 21, nor can those other types of firearms be transferred to anyone who is not a resident of the State where the transfer is to take place.[28] Next the Form asks for details, set forth in sub-questions, of the gun show at which the sale occurred, if relevant.[29] Then the Form presents several fields where the FFL is to document details from the FFL's review of the prospective buyer's government identification.[30] Following that, flowing from the bottom of the second page and the top of the third page, the FFL completes several fields of information regarding the National Instant Criminal Background Check System ("NICS") background check processing.[31]

Then, once again, the Form's obligations turns back to the prospective buyer in Section D, where the transferee must make another certification that their 15 "Yes" or "No" answers are still true if the receipt of the firearm occurs on a later date from when the original questions were answered and certified.[32] Then the transferor provides their FFL's identifying information and completes their certifications.[33] The Form's detailed notices and instructions follow.

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[21] *Id*. at Question 21(c) (emphasis in original).

[22] *Id*. at Question 21(d) (emphasis in original).

[23] *Id*. at pp. 1-2, Questions 21(e)-(n).

[24] *Id*. at p. 2, Question 21(n).

[25] *Id*. at Question 22; *see also, id*. at p. 4 "Section B."

[26] *Id*. at p. 2, Section C.

[27] *Id.* at p. 2, Question 24.

[28] *See, e.g.*, 18 U.S.C. § 922(b).

[29] ATF Form 4473 at p. 2, Question 25.

[30] *Id*. at Question 26; *see also id.* at p. 6, "Section C" (describing that a valid government-issued photo identification document includes, for example, "[a] driver's license or an identification card issued by a State").

[31] *Id*. at pp. 2-3, Questions 27-29.

[32] *Id.* at p. 3, Section D.

[33] *Id*. at Section E.

Through its design and thorough nature, Form 4473 is a critical tool in shepherding a careful process, in which the FFL is to be closely attendant throughout, with the goal that only lawful transfers of firearms occur, pursuant to the Act.

2. Supporting Law Enforcement Post-Transfer

After the firearm has been transferred, Form 4473 maintains its importance. The information collected within Form 4473 "is critical to law enforcement," including "facilitating crime gun traces."[34] Separate from verifying the identities of the individuals seeking to obtain firearms and requesting the relevant background check, Form 4473 also requires that the FFL "identify the firearm to be transferred by listing . . . the name of the manufacturer, the name of the importer (if any), the type, model, caliber or gauge, and the serial number" of the firearm prior to the transfer of the firearm(s).[35] This information can help "link a suspect to a firearm in a criminal investigation" via crime gun tracing.[36]

Because FFLs are required to retain Form 4473,[37] federal and state law enforcement use these forms to trace crime guns, solve crimes, and ensure public safety.[38] Indeed, according to the ATF's own Federal Firearms Licensee Quick Reference and Best Practices Guide, "[c]orrectly completing ATF Forms 4473 is one of the most important things [FFLs] can do to ensure that [law enforcement] can trace crime guns."[39] As ATF explains, "[f]irearm tracing provides critical information to assist domestic and international law enforcement agencies investigate and solve firearms crimes; detect firearms trafficking; and track the intrastate, interstate and international movement of crime guns."[40]

[34] 60-Day Notice of Information Collection Request: Form 4473, 91 Fed. Reg. 25448.

[35] 27 C.F.R. § 478.124(c)(4).

[36] *National Tracing Center, "The Tracing Process,"* ATF, https://www.atf.gov/firearms/tools-services-law-enforcement/national-tracing-center (last visited June 13, 2026).

[37] 27 C.F.R. § 478.124(b); *see also* 27 C.F.R. § 478.129(b).

[38] 18 U.S.C. § 923(g)(1)(B) ("The Attorney General may inspect or examine the inventory and records" of an FFL, *inter alia*, "in the course of a reasonable inquiry during the course of a criminal investigation" and "for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation."); *see also What happens to the data provided on Form 4473?,* ATF, https://www.atf.gov/firearms/questions-and-answers (last visited June 13, 2026) (apply category "ATF Form 4473" and navigate to question "What happens to the data provided on Form 4473?") ("ATF may inspect individual Forms 4473 containing personally identifying information held by FFLs only for limited regulatory or law enforcement functions . . . for example, when tracing firearms linked to individual criminal investigations").

[39] *Federal Firearms Licensee Quick Reference and Best Practices Guide, "ATF Form 4473,"* ATF, https://www.atf.gov/firearms/tools-and-services-firearms-industry/current-licensees/federal-firearms-licensee-quick-reference-and-best-practices-guide (last visited June 13, 2026).

[40] *National Tracing Center*, ATF, https://www.atf.gov/firearms/tools-services-law-enforcement/national-tracing-center (last visited June 13, 2026).

Form 4473 remains critical through criminal prosecutions as well.[41] The certified-as-true statements on Form 4473 are used to prosecute buyers who falsify those certifications.[42] Common criminal statutes employed for this purpose are those which make it a crime to knowingly make false statements "with respect to any fact material to the lawfulness of the sale" of a gun,[43] or "with respect to the information required . . . to be kept" in the gun dealer's records.[44] Form 4473 also is key evidence in prosecutions of accused straw buyers or traffickers.[45] The clarity of the questions and answers on Form 4473 thus is essential to achieving conviction in those cases.

B. ATF's Proposed Changes to Form 4473 Will Make It More Difficult for FFLs to Comply with Federal Law and Will Create Needless Obstacles for Law Enforcement.

ATF's proposed revision to Form 4473 is comprehensive and multi-faceted. It effectuates the unlawful changes contemplated by the NPRMs, such as making it optional for an FFL to document on Form 4473 the details of the government identification used by the prospective buyer, expanding the permissible exceptions to the NICS background check requirement, and deleting the "non-binary" option under "Sex" in the transferee identification section. It also implements a wholesale reorganization of Form 4473 that changes the point-of-sale process in ways that do not appear in the Form 4473 NPRM, nor any other NPRM, but that will harm public safety and law enforcement within the States in significant ways. The combination of these changes—whether contemplated by other NPRMs or implemented solely through the ICR—fundamentally alters the purpose and efficacy of Form 4473 by, among other things, undermining the ability of the FFL to verify the identity of the transferee and whether they may legally purchase the firearm, and reducing the efficacy of the qualification questions posed to the transferee.

1. Undermining the Ability of the FFL to Verify the Identity of the Transferee and Whether they May Legally Purchase the Firearm

Proposed Form 4473 undermines the ability of the FFL to verify the identity of the transferee and ascertain whether they may legally purchase the firearm, rendering the process less effective, less secure, and less likely to result in a conviction in the instances where an unlawful purchase has occurred. This is particularly problematic as "[g]un retailers can significantly reduce the risk of straw purchasing at their stores."[46]

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[41] *See Huddleston v. United States*, 415 U.S. 814, 825 (1974) (explaining that ATF Form 4473 is a "means of providing adequate and truthful information about firearms transactions" to assist in the government's detection of firearms that are either obtained for an illegal purpose or purchased by someone ineligible to own a firearm).

[42] *See, e.g., State v. Pleva*, 203 N.J. Super. 178 (1985) (defendant convicted of giving false information on the certificate required by law in purchasing any firearm in violation of N.J. Stat. Ann. § 2C:39-10(c) when he made false statements on state forms and Form 4473).

[43] 18 U.S.C. § 922(a)(6).

[44] *Id.* § 924(a)(1)(A).

[45] *See, e.g., United States v. Frazier,* 605 F.3d 1271 (11th Cir. 2010) (defendant involved in a firearms smuggling operation was convicted with two counts of aiding and abetting the making of false statements to a firearms dealer because, at his direction, straw purchasers filled out Form 4473 affirming that they were the "actual buyer" of the firearms).

[46] *Don't Lie for the Other Guy*, ATF, "Retailers Are the First Line of Defense," https://www.atf.gov/firearms/tools-services-law-enforcement/atf-firearms-programs/dont-lie-other-guy (last visited June 23, 2026).

One way the Proposed Form 4473 undermines the FFL's verification of purchaser identity and authorization is by altering how and where transferees typically fill out the Form. FFLs identify straw purchasers by, among other things, closely observing the transferee during completion of the form and carefully reviewing identification documents.[47] As noted, the current Form 4473 must be completed as one, in original on the FFL premises, alternating back and forth between putative transferor and transferee, followed by global instructions for both parties. But the operational design of Proposed Form 4473 would allow transferees to prepare the vast majority of their responses out of view from the FFL. Proposed Form 4473 allows for this by creating separate pages for the transferee and FFL to complete: the first two pages contain fields that require input from the transferee alone along with instructions for those fields, and the third page contains fields that require input from the FFL and only a final signature from the transferee.[48]

Further, instead of certifying that the entire document was completed at the FFL's business premises (unless 18 U.S.C. § 922(c) applies), the proposed certification asks only whether the transferee appeared at the premises and the FFL certifier witnessed the transferee sign page one. In other words, Proposed Form 4473 would permit a scenario in which an individual brings in the Form with their portions completed in all respects other than the signature on page one. And given the new organization, an individual need not even select the firearm that they seek to purchase before completing their portion of the Form; indeed, the firearm selection field does not appear until the third page of Proposed Form 4473.

Another way Proposed Form 4473 undermines the ability of the FFL to verify the identity of the transferee and whether they may legally purchase the selected firearm is by weakening the verification process itself. As with the reorganization, these changes not only make it more likely that firearms will wind up in the hands of individuals who cannot legally (or safely) possess firearms but also will make it more difficult to prosecute those who have abused the process.

As one example of these verification changes, Proposed Form 4473 removes explicit instructions for the FFL that:

> Before a licensee may sell or deliver a firearm to a nonlicensee, the licensee must establish the identity, place of residence, and age of the transferee/buyer. The transferee/buyer must provide a valid government-issued photo identification document to the transferor/seller that contains the transferee's buyer's name, residence address, and date of birth.[49]

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[47] *See id*. ("Educating employees to recognize and respond to red flags indicating a possible straw purchase are key. Flags include a buyer who is reluctant to undergo a background check, unfamiliar with the firearm being purchased, or in communication with a third party via phone during the purchase."); *see also,* 27 C.F.R. § 478.124(c)(3)(i) (explaining that the FFL "shall verify the identity of the transferee by examining the identification document . . . presented, and shall note on the Form 4473 the type of identification used"); *see also What is a Straw Purchase and What Should FFLs Know?*, FFLGUARD, (June 9, 2025), https://www.fflguard.com/what-is-a-straw-purchase-and-what-should-ffls-know/ ("Identifying and preventing straw purchases is a critical responsibility for FFLs that requires vigilance and proper training. Several key behavioral indicators and documentation concerns can signal potential straw purchasers" including "[i]nconsistencies with addresses" and "[i]dentification documents that appear new, altered, or inconsistent with the buyer's appearance").

[48] *See* ATF, FORM 4473, FIREARMS TRANSACTION RECORD, (Revised Dec. 2025) (form marked "DRAFT DO NOT USE"), https://www.atf.gov/media/29576/download [hereinafter "Proposed Form 4473"].

[49] ATF Form 4473 at p. 6, "Section C."

In its place, Proposed Form 4473 simply asks the FFL to check boxes indicating that identification documents were provided; nowhere does it require that the FFL inspect an original of the identification, instead stating that a copy is sufficient.[50] The omission of this presentation and validation requirement in the instructions to the transferor is a significant reduction in the security of the verification process.

Similarly, Proposed Form 4473 directs the FFL to conduct the NICS background check[51] *before* completing the proof of identity section (such as it is), rather than after identity has been verified. That reversal of sequence is not a ministerial reorganization; it undermines the architecture Congress built in the GCA. Section 922(t)(1) of the GCA conditions every FFL-to-non-licensee transfer on two complementary requirements: the licensee must contact NICS, 18 U.S.C. § 922(t)(1)(A), and the transferee must present "a valid identification document," § 922(t)(1)(D). Those requirements are complementary because a NICS check is only as reliable as the identity it runs against—the system searches federal and state databases for disqualifying records associated with the name, date of birth, and other identifying data the transferee provides, and returns a "proceed," "delayed," or "denied" response keyed to that specific identity.

Under the current Form 4473, the FFL verifies identity first: it examines the transferee's government-issued photo identification, confirms that the name, date of birth, photograph, and residence address match the information the transferee entered in Section B, and only then transmits that verified information to NICS.[52] The current form's instructions make the logic explicit—the FFL records the date "the transferee's/buyer's identifying information in Section B was transmitted to NICS," presupposing that the information has already been collected and verified against the physical ID.[53] Proposed Form 4473 inverts this safeguard. It directs the FFL to contact NICS using the transferee's self-reported information from pages one and two—completed, under the new bifurcated design, potentially out of the FFL's view—and to address identification documentation only afterward, on page three.[54] And even then, Proposed Form 4473 permits the FFL to accept a photocopy of an identification document rather than inspecting the original.[55] The result is a background check run on unverified, self-reported data, confirmed against a document the FFL may never physically examine.

Other changes to Form 4473 further undercut the ability of the FFL to verify identity and eligibility to purchase a firearm. For example, Proposed Form 4473 deletes the "non-binary"

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[50] 60-Day Notice of Information Collection Request: Form 4473, 91 Fed. Reg. 25448 (explaining that the ICR would "allow[] respondents to submit copies of their identification documents, rather than transcribing the information onto the form"); *see also* Proposed Form 4473, at p. 3, Question 7.

[51] *See* Proposed Form 4473, at p. 3, Question 6 "NICS." Additionally, when conducting the NICS background check, Proposed Form 4473 no longer provides detailed check boxes to allow the FFL easy selection from the varying potential responses or scenarios that may result during the background check process. *Id.*

[52] ATF Form 4473, at p. 1-2, Section B and Section C; *see also id*., at 2 (certification of transferor that the seller completed "the verification of the identification recorded in question 26 (and the re-verification at the time of transfer, if Section D was completed)").

[53] ATF Form 4473, at p. 2, Question 27.a.

[54] Proposed Form 4473, at p. 3; *see also id.*, at p. 1, Question 1.

[55] *Id.*, at p. 3, Question 7.

option under "Sex."[56] However, many states allow individuals to change the marker on their driver's licenses or other identification cards to be consistent with their gender identity, including the designation "X."[57] Deletion of the non-binary option will result in a discrepancy between the gender marker on the transferee's government identification and the option selected on the Form, preventing the FFL from verifying identity and decreasing the usefulness of the Form for crime gun intelligence gathering.

Proposed Form 4473 also deletes the question of whether the transferee resides in city limits, which would help an FFL determine whether the putative transferee may legally purchase a certain firearm where city ordinances restrict those firearms. And Proposed Form 4473 leaves out certain information found in the current Form, including the checkbox for firearm category (e.g., shotgun, rifle, etc.) within the field about the firearms to be transferred. This omission is relevant because, among other reasons, an FFL may not sell any firearm other than a shotgun or rifle to any person under the age of 21, nor can these types of firearms be transferred to anyone who is not a resident of the State where the transfer is to take place.[58] The checkbox in the current Form 4473 helps to ensure the FFL adheres to these requirements.[59]

Because of how Proposed Form 4473 would change the sale process, including changing how and where transferees fill out the Form and the FFLs' ability to verify essential information, it would increase the likelihood that prohibited persons are able to acquire firearms.

2. Reducing the Utility for Law Enforcement of the Questions Posed to the Transferee

Proposed Form 4473's changes to the questions posed to the transferee make it both more likely that individuals prohibited from procuring firearms will acquire them, and more challenging for law enforcement to investigate and obtain convictions for any resultant criminal activity. For example, the certification section has been altered in ways that will make it more confusing for transferors, transferees, and law enforcement. Instead of a series of 15 questions, each accompanied by clear "Yes" or "No" checkboxes, the transferee eligibility section now has only 10 statements and the Yes/No checkboxes have been replaced with blank spaces to initial—there are three statements each next to a blank space, and then inexplicably seven more statements listed with only one blank associated with the entire group of statements.[60]

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[56] *Id*., at p. 1, Question 1.

[57] For example, Massachusetts permits an "X" gender designation on state-issued driver's licenses and identification cards, so deleting the non-binary option on Proposed Form 4473 will create a direct mismatch between a Massachusetts transferee's government identification and the Form, defeating identity verification and degrading the record's value for crime-gun intelligence. *See* MASS. GEN. LAWS ch. 90, § 8N (RMV "shall permit" applicants to designate "X," "M," or "F" for gender on driver's licenses, learner's permits and identification cards); *see also, e.g.,* 15 ILCS 335/5(a-5) (the Secretary of State "shall permit" applicants to designate "male", "female", or "non-binary" for sex on the identification card application form) and 625 ILCS 5/6-106(b-3) (the Secretary of State "shall permit" applicants to designate "male", "female", or "non-binary" for sex on the driver's license application form); *see also* CAL. VEH. CODE §12800(a)(2)–(3); HAW. REV. STAT. §§ 286-109(a), 286-303(c).

[58] 18 U.S.C. § 922(b)(1)–(3).

[59] ATF Form 4473, at p. 2, Question 24.

[60] *See* Proposed Form 4473, at p. 1, Question 2.

Specifically, Proposed Form 4473 eliminates the discrete "actual buyer" question and in its place buries a single clause—"I am not engaging in a 'straw purchase' as that term is defined in the instructions"—among a block of seven grouped statements sharing a single set of initials.[61] The current Form 4473 opens its certification section by asking the transferee directly whether they "[a]re . . . the actual transferee/buyer"—a standalone yes-or-no question, set in bold type, accompanied by an express warning that the transferee "is not the actual transferee/buyer if [they are] acquiring any of the firearm(s) on behalf of another person."[62] This question forces every transferee to confront the legal requirement that they be the actual buyer before the transaction proceed. Replacing that question with a legal term of art, "straw purchase," defined elsewhere on the form, removes the plain-English deterrent that sits at the threshold of every lawful sale. This is a significant change affecting the ability of an individual to answer accurately, potentially subjecting the individual to a later prosecution if they provide inaccurate responses. Further, as an evidentiary matter, the discrete yes-or-no format furthers straw-purchase prosecutions under 18 U.S.C. § 922(a)(6) and § 924(a)(1)(A) as follows: the government proves materiality by pointing to the question, and falsity by showing the defendant checked "Yes" when they were not the actual buyer. A grouped attestation block, initialed once for seven statements, makes it materially harder to prove which statement the defendant certified, whether they read the straw-purchase clause, and whether their initials constitute a knowing false statement as to that specific representation.

Additional changes in Proposed Form 4473 similarly may confuse the transferee, leading to inaccurate responses, and create an opening for reasonable doubt about whether a falsehood was made with the necessary *mens rea* in a later prosecution. Specifically, the word "felony" no longer appears in the questions regarding whether the prospective buyer has a charge or conviction that makes them a prohibited person, whereas in the current form, the word appears bold, alongside the statutory language regarding a crime punishable by more than one year.[63] The questions now simply ask about a "crime punishable by more than one year," removing the useful additional "felony" flag for transferees completing the form.[64] The proposed form also includes a final certification for the transferee that, at the last moment and separated from the "Transferee eligibility" section above, makes several assertions of fact above the final signature field, again without Yes/No answers required.[65]

As with the revisions to the verification process, these changes, too, will have substantial effects on public safety in the States. In particular, the changes make it more likely that individuals who cannot legally (or safely) possess firearms will procure firearms, whether because those individuals are confused about the standards set forth in Proposed Form 4473 or because the form provides undue opportunities for bad actors to exploit the system. Still other changes, such as the removal of the field requiring the transferee to identify his or her county, parish, or borough of

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[61] *Id.* at Question 2(d).

[62] ATF Form 4473, at p. 1, Question 21(a). The "actual buyer" question on the current Form exists because the Supreme Court held in *Abramski v. United States*, 573 U.S. 169, 171–172, 178–82 (2014), that the GCA's screening and recordkeeping provisions regulate the "actual buyer"—the person whose fitness to own a firearm the dealer-channeling system is designed to verify—and that a false answer to Question 21(a) is a material false statement under 18 U.S.C. § 922(a)(6) even when the true buyer is not a prohibited person.

[63] *Compare* Proposed Form 4473, at p. 1, Question 2, *with* ATF Form 4473, at p. 1, Question 21(c).

[64] Proposed Form 4473, at p. 1, Question 2(a).

[65] *Id*., at p. 1, Question 4; *see also id*., at p. 4, at Question 8.

residence, will hinder law enforcement efforts. Indeed, that field serves the important purpose of quickly and accurately identifying the appropriate law enforcement office (such as a sheriff) in the event that there is an emergency situation relating to the transferee and a firearm. And, as explained, these changes will make it harder for state and federal law enforcement to prosecute those individuals.

All told, the revisions in Proposed Form 4473 undermine the purpose and efficacy of Form 4473 to the detriment of public safety within the States.

II. The ICR Violates the Paperwork Reduction Act Because Its Proposals Are Unnecessary and Confusing, and Its Burdensomeness Analysis Is Unreliable.

Proposed Form 4473 violates the PRA and thus should be withdrawn. The purpose of the PRA is to "minimize the paperwork burden[s]" imposed on the public.[66] An agency must publish a notice of its proposed information collection in the Federal Register for a 60-day public comment period on statutorily required topics, including the necessity of the information collection, the quality, utility, and clarity of the information to be collected, and the burden on the public of providing the information.[67]

To satisfy the PRA, an information collection must meet ten statutory criteria, including that the collection is "necessary for the proper performance of the functions of the agency," "reduces to the extent practicable and appropriate the burden on persons who shall provide information to or for the agency," is "not unnecessarily duplicative of information otherwise reasonably accessible to the agency," "[h]as practical utility," and contains "unambiguous terminology."[68] To obtain the Office of Management and Budget's ("OMB") approval, the agency must demonstrate that its proposed information collection is "the least burdensome necessary" for the proper performance of its functions.[69] OMB in turn shall determine whether the agency's proposal is "necessary for the proper performance of [its] functions," and "the burden of the collection of information is justified by its practical utility," taking into account the preceding criteria.[70] Where the agency fails to make the required showing, and "to the extent that OMB determines that all or any portion of a collection of information is unnecessary, for any reason, the agency shall not engage in such [information] collection of portion thereof."[71]

The revisions in Proposed Form 4473 are unnecessary and, worse, will diminish the quality, utility, and clarity of the information collected in violation of the PRA.[72] For those reasons, in

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[66] 44 U.S.C. § 3501(1).

[67] *Id.* § 3506(c)(2)(A).

[68] *Id.* § 3506(c)(3)(A)–(J).

[69] 5 C.F.R. § 1320.5(d)(1)(i).

[70] *Id*. at § 1320.5(e); 44 U.S.C. § 3506(c)(2)(A), (3)(A); *see also id*., § 3507.

[71] 5 C.F.R. § 1320.5(f).

[72] Public comments may address any aspect of the Proposed Form 4473, including: (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques. *See* 44 U.S.C. § 3506(c)(2); *see also* 60-Day Notice of Information Collection Request: Form 4473, 91 Fed. Reg. 25448.

addition to the question of whether the changes violate the APA—which they do as described below—ATF should withdraw the ICR.

First, ATF has not shown that the revisions are "necessary for the proper performance of the functions of the agency." ATF's primary justification for making the changes to Form 4473 is to "make it easier and faster for respondents and licensees to complete the form."[73] In other words, ATF has not even attempted to satisfy the standard that applies here, which requires an assessment of how the revisions are necessary for its own functions.

Furthermore, ATF's own statements completely undermine its insufficient rationale. The PRA notice at the end of the Proposed Form 4473 contains the exact same time estimate as the current Form 4473: 30 minutes.[74] It is thus not "faster" for respondents and licensees to complete. Moreover, the significant confusion being introduced by these changes is more likely to make the new version take even longer than the old version, where diligent parties are involved.

In any event, the identified rationale (speed) is not a valid statutory priority of the relevant provision of the GCA. The Form's purpose is to assist an FFL to determine "if he/she may lawfully sell or deliver a firearm to the person identified and . . . to alert the transferee/buyer of certain restrictions on the receipt and possession of firearms"[75] because clear and accurate completion of Form 4473 is critical to public safety and effective law enforcement, as explained, *supra* Section I.A. In other words, Form 4473 is not simply paperwork; it is a critical tool that prevents individuals who cannot legally (or safely) possess firearms from obtaining firearms and assists law enforcement in investigating and prosecuting criminal offenses. A less effective form may mean a firearm in the hands of someone who is not safe to own one, and a confusing form can mean a straw buyer creating doubt about proof of their *mens rea* in making false statements.

Proposed Form 4473 therefore does not advance its statutory purposes. On the contrary, the proposed revisions frustrate those important goals. For example, the Proposed Form's deletion of the first and last certification questions removes clear, direct, factual, and focused questions to prevent and interdict straw purchasers (or, at least, focused on having solid evidence of a straw purchaser's falsehood, should there be one). Removing those and substituting them with a legal term, "straw buyer," does not serve the goals of clarity, efficiency, and utility. The same issue arises with the change from the current Form 4473's question regarding charges or convictions with the familiar term "felony" along with the statutory language of a crime punishable by a term of more than one year, to statements omitting the word "felony" and then offering a blank for a response. That the word "felony" assists in understanding the statutory language is reflected in guidance issued by Department of Justice and ATF, which have used the shorthand of "felony" for this category of offenses.[76]

In addition to conflicting with the purpose of the GCA, trading clear questions for opaque statements also does not serve the goals of the PRA. These changes are likely to increase time spent understanding the question and increase the rate of inaccurate responses. This may mean

[73] 60-Day Notice of Information Collection Request: Form 4473, 91 Fed. Reg. 25448.

[74] Proposed Form 4473, at p. 4 ("The estimated average burden associated with this collection is 30 minutes"); *see also* ATF Form 4473, at p. 7 ("The estimated average burden associated with this collection is 30 minutes").

[75] ATF Form 4473 at p. 3, "Purpose of the Form."

[76] *Quick Reference to Federal Firearms Laws*, ATF (revised March 2024), https://www.atf.gov/media/20736/download.

more individuals who are prohibited from receiving firearms end up acquiring them, even as mistakes. Of course, a false assertion on the Form can result in criminal conviction even where the respondent fails the background check and/or does not ultimately receive a firearm. The United States has charged many individuals for such "lie-and-try" offenses.[77] Using factual language instead of the term "straw buyer," and including both the term felony and its legal definition, makes it more likely that respondents will understand that their certified answers are subject to federal law that makes it a crime to make a false statement during the purchase of a firearm.

Likewise, the proposed revision to replace Yes/No checkboxes with a blank space for initials increases the likelihood of making an inaccurate record, in that a respondent is more likely to fill out the form without needing to fully read or understand each question. It also makes it easier for a fraudulent respondent to claim that their initial was not a willful false certification but was understood as something else. As such, these changes encourage the inaccurate recording of essential information, undermining the central purposes of Form 4473 and diminishing the quality, utility, and clarity of the information collected. Further, the elimination of per-question Yes/No checkboxes in favor of blank spaces for initials is not how the federal government typically confirms that a person may receive a particular authority. For example, the federal government's SF-86 background check process for prospective employees asks *individual questions* with Yes/No answer boxes.[78] It does not present a *collection of statements* with a single blank next to them, for good reason.

Finally, ATF has failed to show that its ICR is the "least burdensome necessary"[79] because it has not provided a clear burden analysis from which the public can evaluate its accuracy. Specifically, ATF notes in the ICR that it estimates there are "22,500,265 respondents associated with this information collection annually" and "it will take each respondent approximately 15 minutes (0.25 hours)" to complete the Form, resulting in an estimated annual public burden associated with this collection of 5,625,091 total hours.[80] However, in the chart immediately following that paragraph, ATF reports the total annual responses as 546,424, with a time per response as .20 hours, and total annual burden as 109,285 hours.[81] Neither of these matches the actual Proposed Form 4473, which states that the "estimated average burden associated with this collection is 30 minutes per respondents or record-keeper."[82] That is the same time reported in the current version of Form 4473 and therefore contradicts ATF's purported time-saving goal. The States cannot evaluate the accuracy of ATF's estimated burden where the agency seems confused about the facts of its own burden.

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[77] *See, e.g., Abramski*, 573 U.S. at 177 (affirming conviction of making a false statement that was material to the lawfulness of a firearm sale and making a false statement with respect to information required to be kept in the records of a licensed firearms dealer).

[78] COMPLETING YOUR INVESTIGATION REQUEST IN E-QIP: GUIDE FOR THE STANDARD FORM (SF) 86, U.S. OFFICE OF PERS. MGMT. (July 2018), at pp. 13, 33, https://www.dcsa.mil/Portals/128/Documents/pv/mbi/standard-form-sf-86-guide-for-applicants.pdf.

[79] 5 C.F.R. § 1320.5(d)(1)(i); *see also* 44 U.S.C. § 3506(c)(3).

[80] 60-Day Notice of Information Collection Request: Form 4473, 91 Fed. Reg. 25448.

[81] *Id*.

[82] Proposed Form 4473, at p. 4 ("The estimated average burden associated with this collection is 30 minutes").

The defect is compounded by ATF's broader rulemaking package. This ICR, OMB Control No. 1140–0020, is not being revised in isolation; it is simultaneously implicated in multiple co-pending ATF proposals published the same day. In the Form 4473 NPRM, ATF acknowledges that Form 4473 is "covered under OMB Control No. 1140–0020," that the collection "would need to be revised if this rule is finalized as proposed," and that the Form is being revised through the PRA process.[83] Yet in the co-pending non-over-the-counter transfer NPRM, ATF takes the opposite position: although that NPRM also involves OMB Control No. 1140–0020 and amends the regulations governing Form 4473, ATF certifies that it "would not impose any new reporting or record-keeping requirements" and "would not impact the existing information collection."[84]

Those positions cannot be reconciled. ATF cannot tell OMB and the public in one docket that the same collection requires revision, while certifying in another that changes to the same Form and implementing regulations have no PRA impact. That inconsistency deprives the States and the public of a meaningful opportunity to evaluate the collection's actual burden, utility, and necessity, as required by 44 U.S.C. § 3506(c)(1)(A) and 5 C.F.R. § 1320.8(d)(1), and independently confirms that ATF's burden analysis is not the product of reasoned decision-making.

III. The Proposed Form 4473 Violates the Administrative Procedure Act.

As explained, the PRA violations provide sufficient grounds for OMB to reject the Proposed Form 4473.[85] However, the APA provides an independent reason to deny the proposed revisions. Specifically, the ICR includes substantive changes that should have been, but were not, noticed in the Form 4473 NPRM, nor any other NPRM, in violation of the APA. And even if it were proper to notice these changes in this ICR, these revisions are "arbitrary, capricious . . . or otherwise not in accordance with law," in further violation of the APA.[86] As noted, *supra*, the States will address the changes noticed in the NPRMs in separate comments. Here, we focus on the illegality of the changes as they relate to the ICR and Proposed Form 4473. To the extent there is overlap between the two, the States hereby incorporate those comments into this objection.

A. ATF Failed to Follow Proper Administrative Steps for Substantive Changes.

In presenting certain material revisions to Form 4473 in the ICR, rather than in a proposed rule, ATF unlawfully bypassed the notice-and-comment procedures required by the APA. While some changes appear in the NPRMs, many significant and functional ones that go to the heart of the security of the firearm sale process do not. For example, as explained, *supra* Section I.B, one of the changes to Proposed Form 4473 not addressed in the Form 4473 NPRM, nor any other NPRM, is its structural change that effectively changes the transaction process, by separating the transferee's Form preparation from the FFL's oversight. And when these unannounced changes are combined with those identified in the NPRMs, such as changes to the certification and identification requirements, the process changes are even more significant. This extends far beyond paperwork or information collection, instead "effect[ing] a substantive change in existing

[83] Revising Firearms Transaction Record, "Form 4473," 91 Fed. Reg. 25432 at 25441.

[84] Revising Non-Over-the-Counter Firearms Transaction Requirements, 91 Fed. Reg. 25216 at 25226–27.

[85] The difference between the comment period requirements of the PRA and the APA is substantive, and stems from the statutes' related but distinct purposes. For instance, the PRA's comment process is focused on questions related to the utility, necessity, and burdens of information collection. The APA's comment process is broader and invites comments on, among other things, fairness to affected parties.

[86] 5 U.S.C. § 706(2)(A).

… policy."[87] As courts considering analogous requirements have held, the changes reflected in the ICR would be required to undergo APA notice-and-comment procedures,[88] and ATF's failure to do so therefore contravenes the APA.[89]

B. The ICR's Proposed Form 4473 Is Contrary to Law.

The changes in this Proposed Form 4473 operate against the Form's statutory purpose and thus violate the APA. Under the APA, courts are "to set aside federal agency action that is 'not in accordance with law.'"[90] This includes regulations "that are contrary to clear congressional intent."[91] ATF purports to promulgate the revisions to Form 4473 via its authority under the GCA.[92] As noted above, the two central purposes of the GCA are to ensure firearms transactions comply with federal and state law at the time of sale and serve as a reliable and accurate source of information for law enforcement investigating crimes and tracing firearms, therefore promoting public safety.

The proposed revisions in Proposed Form 4473 not only fail to further the GCA's purposes but also actively frustrate those goals and the congressional intent underlying the Act. Specifically, in its effort to make Form 4473 "easier and faster for respondents and licensees to complete,"[93] ATF has made Proposed Form 4473 into an opportunity for straw buyers to more easily acquire firearms unlawfully, and more likely to evade prosecution if they are caught. This has been accomplished by broad structural changes, language changes, and numerous omissions in the questions and instruction package. For instance, as noted above, the proposed reorganization will enable transferees to complete their portion of the Form away from the FFL, and allow a copy of a government identification to stand in for verification of the actual card.

The stripping of the certifications required for ascertaining whether a prospective buyer is prohibited is also contrary to law. In particular, the removal of individual Yes/No certification questions, and the language and structural changes to those certifications, makes the documentation opaque.[94] This is contrary to the requirement to ascertain whether the prospective transferee is a prohibited person. In particular, the removal of the factual condition precedent that

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[87] *Children's Hospital of the King's Daughters, Inc. v. Azar*, 896 F.3d 615, 620 (4th Cir. 2018) (citations omitted); *see also Fagan v. HHS*, 2025 WL 1837402, at *7 (D. Md. Jul. 2, 2025) ("[T]o read the PRA as authorizing an agency to promulgate new regulations that impose legal obligations on regulated entities without being subject to the APA would greatly go beyond the statute's scope.").

[88] *Id.* at 620, 622; 5 U.S.C. § 553(b)–(d) (notice-and-comment requirements applicable to substantive rules).

[89] *See* 5 U.S.C. § 553(b)–(d). ATF's action also implicates Executive Order 13132, which requires an agency adopting a policy with "federalism implications" to "ensure meaningful and timely input by State and local officials . . . early in the process of developing the proposed regulation," given the ICR's direct effect on state firearms-enforcement and crime-gun-tracing systems. *See* 64 Fed. Reg. 43255, at (Aug. 10, 1999), at Sec. 6(a).

[90] *FCC v. NextWave Pers. Commc'ns Inc*., 537 U.S. 293, 300 (2003) (quoting 5 U.S.C. § 706(2)(A)).

[91] *United Farm Workers v. United States Dep't of Lab*., 509 F. Supp. 3d 1225, 1235 (E.D. Cal. 2020) (internal quotation marks omitted); *see also Fed. Election Comm'n v. Democratic Senatorial Campaign Comm*., 454 U.S. 27, 32 (1981) ("[Courts] must reject administrative constructions of the statute, whether reached by adjudication or by rulemaking, that are inconsistent with the statutory mandate or that frustrate the policy that Congress sought to implement.").

[92] Revising Firearms Transaction Record, "Form 4473," 91 Fed. Reg. 25432.

[93] 60-Day Notice of Information Collection Request: Form 4473, 91 Fed. Reg. 25448.

[94] *See, e.g.,* Proposed Form 4473, at p. 1, Question 2.

the person must affirm that they are the "actual buyer" and not purchasing on behalf of another is a startling deletion. Likewise, deleting the term "felony" in the section on transferee eligibility hinders the ability of the parties to comply with their statutorily mandated duty of submitting appropriate and accurate information to conduct a NICS background check.[95]

These and other proposed revisions to Form 4473 not only make it less clear, less accurate, and more cumbersome, but also thwart the very purpose of this statutorily required Form, impede FFLs from complying with their statutorily required duties, and harm law enforcement's abilities to effectively trace firearms and prosecute offenders.

C. The Revisions to Form 4473 Are Arbitrary and Capricious.

The revisions proposed to Form 4473, shown in Proposed Form 4473, reflect arbitrary and capricious agency action. An agency action is arbitrary and capricious "if it is not reasonable and reasonably explained."[96] Agency decisions are not reasonably explained when, among other things, "the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise."[97] Where an agency changes a prior position, it is required to "display awareness that it *is* changing position" and "must show that there are good reasons" for its new policy.[98] Moreover, an agency must provide a "more detailed justification" for a change in position where "its prior policy has engendered serious reliance interests that must be taken into account."[99]

Here, the current Form 4473 is in daily use in the States for important public safety purposes. The States have an interest in preventing the unlawful transfer of firearms, preventing violent crime, and prosecuting those who commit gun crimes. Form 4473 has a significant role in all of these goals. It is used as a careful shepherd of the firearms transaction process and provides a reliable record of those transactions. Indeed, FFLs and law enforcement in the States for years have relied on the current version of Form 4473 to prevent unlawful transactions at the point of sale as well as to facilitate crime gun tracing. The States also frequently rely on Form 4473 as evidence in the prosecution of a crime.[100]

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[95] *Id., compare with* ATF Form 4473, at Question 21; *see also* 27 C.F.R. § 478.102(a)(1), (3); 27 C.F.R. § 478.124(c)(2), (3)(iv); *see also Why is this demographic information needed?,* ATF, https://www.atf.gov/firearms/questions-and-answers (apply category "ATF Form 4473" and navigate to question, "Why is this demographic information needed?") (last visited June 13, 2026) ("during background checks, this information is needed to facilitate proper identification by providing additional information that helps match – or rule out a match – between an individual and a potentially prohibiting record"); *see, e.g.*, 27 C.F.R. § 478.124(c)(1) (identifying information required on Form 4473); 27 C.F.R. § 478.124(c)(3)(i) (requiring FFLs to "verify the identity of the transferee").

[96] *Ohio v. Env't Prot. Agency*, 603 U.S. 279, 292 (2024) (citation omitted).

[97] *State Farm*, 463 U.S. at 43.

[98] *F.C.C. v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009) (emphasis in original).

[99] *Id.*

[100] *See, e.g., State v. Pleva*, 203 N.J. Super. 178 (1985) (defendant convicted of giving false information on the certificate required by law in purchasing any firearm in violation of N.J. Stat. Ann. § 2C:39-10(c) when he made false statements on state forms and Form 4473).

But ATF has failed to acknowledge and consider these serious reliance interests of the States in overhauling Form 4473. The various changes to Form 4473 not only will force FFLs and law enforcement to spend time and resources learning the new form but the changes will lead to more confusion and reduced utility and accuracy. Proposed Form 4473 would reduce FFLs' ability to stop unlawful transactions at the point of sale, hinder our law enforcement's gun tracing processes, and obfuscate what should be clear evidence in prosecutions for a gun crime. The ICR makes no mention of these crucial reliance interests.

Given these serious reliance interests, ATF must provide a detailed explanation for its revisions to Form 4473.[101] However, ATF has not explained why these revisions are necessary or why the current version of the form is inadequate. For example, ATF offers no explanation for why directing the FFL to conduct the NICS background check before completing the proof of identity section is consistent with the GCA's requirements, provides no analysis of the fraud risk it creates, and provides no consideration of the obvious alternative of retaining the current verify-then-check order—the very kind of "important aspect of the problem" an agency may not ignore.[102] The ICR also offers no explanation for removing the "actual buyer" question, which the Supreme Court identified as the linchpin of the GCA's anti-straw-purchase regime, provides no analysis of the effect on prosecution rates or deterrence, and provides no acknowledgment that the change reverses a design ATF itself adopted in response to *Abramski*. ATF's only justification for these changes is that the changes will "make it easier and faster for respondents and licensees to complete the form."[103] But this is insufficient, particularly where it is not even clear the changes will make the process faster, as discussed above. *Supra* Section II. And in fact, as explained, *supra* Section I.B, all evidence suggests that Proposed Form 4473 will insert errors into the point-of-sale process and transaction, increase the amount of time spent complying with the Form's requirements—thereby undermining ATF's purported justification for the change—and lead to decreased public safety by reducing the efficacy of straw purchasing prevention and eventual law enforcement actions.

Further, the lack of justification is especially striking because ATF's own published guidance establishes the very position the ICR now silently reverses. ATF's Federal Firearms Licensee Quick Reference and Best Practices Guide—the agency's current compliance resource for licensees—instructs that "[c]orrectly completing ATF Forms 4473 is one of the most important things you can do to ensure that ATF can trace crime guns," and emphasizes that "[b]efore you transfer any firearm, it is YOUR responsibility to make sure that the buyer or transferee provides ALL information required" on the form.[104] The Guide also identifies "[f]ailure to obtain an ATF Form 4473," "[f]ailure of an FFL to obtain a complete and correct ATF Form 4473," "[f]ailure to conduct a . . . NICS background check prior to the transfer of a firearm," and "[f]ailure to obtain appropriate identification documents prior to transfer" as among the "Top Violations Impacting

[101] *See F.C.C. v. Fox Television Stations, Inc.*, 556 U.S. at 515-516.

[102] *State Farm*, 463 U.S. at 43.

[103] 60-Day Notice of Information Collection Request: Form 4473, 91 Fed. Reg. 25448.

[104] *Federal Firearms Licensee Quick Reference and Best Practices Guide*, ATF, https://www.atf.gov/firearms/tools-and-services-firearms-industry/current-licensees/federal-firearms-licensee-quick-reference-and-best-practices-guide (last updated May 8, 2026) (navigate to "ATF Form 4473"); *id.* at "Transferee's Sections of ATF Form 4473."

Public Safety."[105] ATF's own Form 4473 NPRM, published the same day as this ICR, likewise acknowledges that "[t]he information and certification requested on Form 4473 are designed so that the FFL may determine if it may lawfully sell or deliver a firearm" and that "ATF also uses the information on the form to conduct firearm traces when requested by law enforcement officers."[106] These are not stale or superseded positions. Yet the ICR proposes to dilute certifications, weaken identity-verification requirements, delete fields important to tracing, and restructure the point-of-sale process in ways that directly undercut the screening and tracing objectives ATF itself identifies as central to the form. It does so without acknowledging any change in position, explaining why its prior view was wrong, or addressing the reliance interests that view created. Under *F.C.C. v. Fox Television Stations*, 556 U.S. at 515, and *Encino Motorcars, LLC v. Navarro*, 584 U.S. 79, 89 (2018), that unexplained reversal is arbitrary.

Additionally, several errors in the ICR's burden analysis demonstrate ATF has not engaged in reasoned decision-making. As noted above, ATF has provided conflicting numbers related to its burden analysis. *Supra* Section II. Combined with its failure to consider the States' reliance interests and its inadequate justification for the Proposed Form 4473's overhaul, the errors in ATF's burden analysis further "paint a picture of agency action that was not the product of reasoned decision-making, but of a rushed and pre-determined agenda."[107]

IV. Conclusion

In light of the foregoing, the undersigned Attorneys General on behalf of the States urge the withdrawal or rejection of Proposed Form 4473.

Sincerely,

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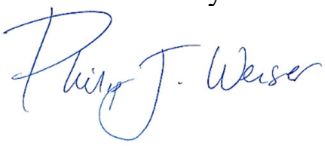
Arizona Attorney General

Rob Bonta
California Attorney General



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[105] *Id.* at "Top Violations Impacting Public Safety" (cleaned up); *see also* ATF, ATF O 5370.1H, Federal Firearms Administrative Action: Policy and Procedures (May 6, 2025) at §§ 7.a(2)(i), 8.e(1), 9.c(3), 9.c(9).

[106] Revising Firearms Transaction Record, "Form 4473," 91 Fed. Reg. 25432 at 25433.

[107] *Nat'l TPS All. v. Noem*, 166 F.4th 739, 774 (9th Cir. 2026) (Mendoza, J., concurring).

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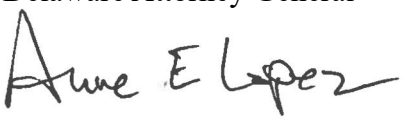

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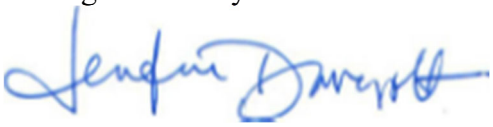

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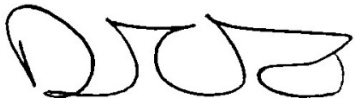

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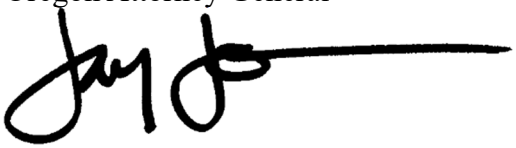

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