

18 U.S.C. 923(g)(1)(A): RECORDS REQUIRED

18 U.S.C. 922(b)(5): RECORDS REQUIRED

27 CFR 478.22: ALTERNATE METHODS OR PROCEDURES

27 CFR 478.121: RECORDS REQUIRED

27 CFR 478.124: FIREARMS TRANSACTION RECORD

27 CFR 479.26: ALTERNATE METHODS OR PROCEDURES

27 CFR 479.131: RECORDS REQUIRED

Pursuant to 27 CFR 478.22 and 479.26, ATF authorizes an alternate method or procedure from the provisions of 27 CFR 478.121, 478.124, and 479.131 that require licensees to complete ATF Form 4473 (5300.9), Firearms Transaction Record Part I – Over-the-Counter, by handwriting the information. ATF authorizes licensees to use an electronic version of Form 4473, as an alternate method or procedure, provided all of the requirements stated in this ruling are met.

ATF Rul. 2008-3

The Gun Control Act of 1968 (GCA), 18 U.S.C. Chapter 44, provides, in part, that each licensed importer, licensed manufacturer, and licensed dealer (licensees) must maintain records of sale or other disposition of firearms at their place of business for such period, and in such form, as the Attorney General may by regulations prescribe. With certain exceptions, a licensee may not sell or otherwise dispose, temporarily or permanently, of any firearm to any person, other than another licensee, unless the licensee records the transaction on a Firearms Transaction Record, ATF Form 4473 (5300.9). The answers on Form 4473 must be handwritten, and contain the information specified by Title 27, Code of Federal Regulations (CFR), section 478.124.

Persons with a valid Federal firearms license may seek approval to use an alternate electronic system of recordkeeping. Title 27, Code of Federal Regulations, sections 478.22 and 479.26, provide that the Director may approve an alternate method or procedure in lieu of a method or procedure specifically prescribed in the regulations when he finds that: (1) Good cause is shown for the use of the alternate method or procedure; (2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure and that the alternate method or procedure is substantially equivalent to that specifically prescribed method or procedure; and (3) The alternate method or procedure will not be contrary to any provision of law and will not result in an increase in cost to the Government or hinder the effective administration of Parts 478 or 479, Title 27, CFR.

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) recognizes that, provided certain conditions are met, a computer generated and printed version of Form 4473 may reduce recordkeeping errors. ATF finds that there is good cause to authorize a variance to the provisions of 27 CFR 478.121, 478.124, and 479.131 requiring that Form 4473 be handwritten by the transferee (buyer) and transferor (seller), except for the signatures, dates, and the National Instant Criminal Background Check System (NICS) information.

ATF finds that the alternate method set forth in this ruling is consistent with the provisions of 27 CFR 478.121, 478.124, and 479.131 because it will ensure that all required information is captured on the electronic Form 4473, and that the answers are confirmed in writing. Further, this alternate method is not contrary to any provision of law, should not increase costs to ATF, and should not hinder the effective administration of the regulations.

Under the terms, conditions, and in the order set forth in this ruling, ATF authorizes an alternate method or procedure to the ATF Form 4473 (5300.9) requirements of 27 CFR 478.121, 478.124, and 479.131, when licensees comply with the following requirements:

- (1) The licensee will follow the Notices, Instructions, and Definitions governing the use of the OMB-approved version of the ATF Form 4473, and either: (a) acquires and uses his/her own electronic Form 4473 software; or (b) downloads from ATF's internet website and saves to his/her computer ATF's most current electronic version of Form 4473, known as ATF e-Form 4473.
- (2) The electronic Form 4473 displays clearly, either on the same screen as the questions, or upon mouse-clicking a conspicuously displayed screen item, all of the Notices, Instructions, and Definitions contained on the current Office of Management and Budget (OMB) approved ATF Form 4473.
- (3) The transferee (buyer) of the firearm(s) answers the questions for Section A of Form 4473 while physically present at the seller's premises. The questions presented on the computer screen must be legible, and contain the same wording as the current OMB-approved version of ATF Form 4473 (5300.9), Firearms Transaction Record Part I, Over-the-counter. Where Form 4473 requires "checking" or "marking," the transferee may mouse-click in an appropriate box to answer the question on the electronic Form 4473. Where Form 4473 requires "printing" or "handwriting" (except for signatures and dates), the transferee will enter the information on the electronic form.
- (4) The electronic Form 4473 must allow the transferee to review and amend his/her answers until he/she selects or mouse-clicks a statement on the screen that he/she "agrees with and certifies" the same transferee certification statement as the current OMB-approved ATF Form 4473 (5300.9). Once the statement has been selected or mouse-clicked, the transferee can no longer make revisions to his/her answers.
- (5) The transferor (seller) of the firearm(s) enters the information into the licensee's computer for Section B (except the NICS background check information) and Section D (except for the signature and date) of the electronic Form 4473. The questions presented on the computer screen must be legible, and contain the same wording as the current OMB-approved version of ATF Form 4473 (5300.9).
- (6) The electronic Form 4473 allows the transferor to review and amend his/her answers until he/she selects or mouse-clicks a statement on the screen that he/she

“agrees with and certifies” the same transferor certification as the current OMB-approved ATF Form 4473 (5300.9). Once the statement has been selected or mouse-clicked, the transferor can no longer make revisions to his/her answers.

(7) The transferor (seller) prints all pages of ATF Form 4473 on 8 1/2” x 11” or the previously prescribed 8 1/2” x 33” paper, 20 pound, matte finish, and paper of the same color of paper as the current edition (the printer and paper to be provided by the licensee); the ink or toner quality used in printing, whether ink-jet or laser, must remain visible and legible for the duration that the form is required to be kept by law and regulation. The entire printed Form 4473 must be a verbatim/exact image of the current OMB-approved ATF Form 4473 (5300.9). Each response to a question must be legibly printed and aligned in the particular space or box allotted for that question on ATF Form 4473. If paper is unavailable, licensees should use the current hardcopy of the OMB-approved version of the form available from ATF’s distribution center.

(8) The transferee (buyer) confirms his/her answers by handwriting (in ink) his/her signature and date on the printed form, certifying that his/her answers are true, correct, and complete, and that he/she has read, understood, and complied with the conditions, notices, definitions, and instructions for the form.

(9) The transferor (seller) contacts the NICS (or the State Point-of-Contact (POC)) for the background check, except where the buyer has a valid permit from the State where the transfer is to take place, or the transaction involves an ATF approved transfer of solely National Firearms Act (NFA) firearm(s), which qualify as exemptions to NICS. If applicable, the NICS/POC background check information is handwritten by the licensee in Section B of the printed form.

(10) The licensee/transferor reviews the entire form for completeness and accuracy, and confirms his/her answers by handwriting (in ink) his/her signature and date on the printed form, certifying that his/her answers are true, correct, and complete, and that he/she has read, understood, and complied with the conditions, notices, definitions, and instructions for the form.

(11) The licensee staples the printed pages together and retains the complete package, including all Notices, Instructions, and Definitions for ATF Form 4473, at his/her licensed premises in accordance with law and regulations.

The laws, regulations, policies, and procedures applicable to the handwritten version of ATF Form 4473 apply to electronic versions of Form 4473. Licensees who fail to abide by the terms and conditions set forth in this ruling may be advised by ATF that their privilege of utilizing an electronic Form 4473 has been terminated. Errors on printed forms may only be corrected prior to completion of the transaction by marking through the error, entering the correct information, and initialing and dating each correction. Licensees are not required to use an electronic Form 4473, and may continue to use the OMB-approved version of the ATF Form 4473 available through ATF’s Distribution Center. Licensees are

reminded of their responsibility to ensure accuracy and completeness of all of their required records.

This ruling does not apply to a licensee or computer software that gathers information other than that set forth on the current OMB-approved ATF Form 4473 (5300.9), Part I. Licensees who wish to collect additional information must clearly distinguish information requested by the licensee from information required by law and ATF. In no case shall any licensee or software make any representation contrary to law or regulation, or any representation that ATF has required a collection of any additional information.

Held, pursuant to 27 CFR 478.22 and 479.26, ATF authorizes an alternate method or procedure from the provisions of 27 CFR 478.121, 478.124, and 479.131 that require licensees to complete ATF Form 4473 (5300.9), Firearms Transaction Record Part I, Over-the-counter, by handwriting the information. ATF authorizes licensees to use an electronic version of Form 4473, including ATF's e-Form 4473, as an alternate method or procedure, provided all of the requirements stated in this ruling are met.

Held further, if legal or administrative difficulties arise due to the download and/or use of any electronic Form 4473, or if ATF finds for any reason that use of an electronic Form 4473 fails to meet the requirements of this ruling or 27 CFR 478.22 or 479.26, licensees may be required to discontinue use of the electronic Form 4473 and handwrite the answers on the Form 4473 available through ATF's Distribution Center.

Date approved: November 19, 2008

Michael J. Sullivan
Acting Director