



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Office of the Director

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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 478.102: SALES OR DELIVERIES OF FIREARMS ON AND AFTER
NOVEMBER 30, 1998**

27 CFR 478.121: RECORDS REQUIRED

27 CFR 478.124: FIREARMS TRANSACTION RECORD

27 CFR 478.129: RECORD RETENTION

27 CFR 478.131: FIREARMS TRANSACTIONS NOT SUBJECT TO NICS CHECK

27 CFR 479.26: ALTERNATE METHODS OR PROCEDURES

27 CFR 479.131: RECORDS REQUIRED

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) authorizes an alternate method or procedure from the provisions of Title 27, Code of Federal Regulations (CFR) 478.102(d), 478.121, 478.124, and 27 CFR 479.131 that require licensees to complete ATF Form 4473 (5300.9), Firearms Transaction Record, on a hard-copy and entering in the required information by hand. Specifically, ATF authorizes licensees to use an electronic version of Form 4473, instead of the paper format, provided the conditions set forth in this ruling are met. This ruling supersedes ATF Rul. 2008-3, Electronic Version of Form 4473.

ATF Rul. 2016-2

ATF has received inquiries from members of the firearms industry seeking to complete their required ATF Form 4473 (5300.9), *Firearms Transaction Record*, electronically via a computer at the licensed business premises, rather than in paper form.

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.

The regulation at 27 CFR 478.102 states that licensees must conduct background checks and receive confirmation from NICS that the purchaser is not prohibited under Federal and/or State law from being in possession of the firearm prior to the disposition of a firearm to a nonlicensee. The regulation also requires that the licensee verify the identity of the purchaser by examining the purchaser's identification document. The licensee must also record any transaction number received from NICS on the ATF Form 4473. The regulation also provides a time limitation of 30 days for the NICS checks. Under this regulation certain firearms transactions are exempt from the background check provisions. These include cases in which the transferee presents to the licensee a valid permit or license issued not more than 5 years earlier by the State in which the transfer is to take place that allows the transferee to possess, acquire, or carry a firearm. In order to qualify as an exemption to the background check, the law of the State must also provide that the permit or license was issued only after an authorized government official verified that the possession of a firearm by the transferee would not be in violation of Federal, State, or local law. The licensee must retain a copy of this permit or license or copy the information onto the firearms transaction record ATF Form 4473 and retain the information in accordance with the provisions of §478.131. An exemption also exists for firearms which are subject to the provisions of the National Firearms Act and which have been approved for transfer under 27 CFR 479. The final exemption exists for situations in which on application of the licensee, in accordance with the provisions of §478.150, the Director has certified that compliance with the background check requirement is impracticable.

The regulation at 27 CFR 478.124 requires licensees transferring a firearm to an unlicensed person to record the transaction on an ATF Form 4473, which requires, among other things the transferee's name, sex, residence address (including county or similar political subdivision), date and place of birth; height, weight and race of the transferee; the transferee's country of citizenship; the transferee's INS-issued alien number or admission number; the transferee's State of residence; and certification by the transferee that the transferee is not prohibited by the Act from transporting or shipping a firearm in interstate or foreign commerce or receiving a firearm which has been shipped or transported in interstate or foreign commerce or possessing a firearm in or affecting commerce. It also requires that the licensee record the firearm information, information related to the required background check and a certification by the transferor.

The regulation at 27 CFR 479.131 requires each manufacturer, importer, and dealer in National Firearms Act (NFA), 26 U.S.C., Chapter 53, firearms to keep and maintain records regarding the manufacture, importation, acquisition (whether by making, transfer, or otherwise), receipt, and disposition of NFA firearms as described by 27 CFR Part 478.

Licensees may seek ATF approval to use an alternate electronic system of recordkeeping. The regulations at 27 CFR 478.22 and 27 CFR 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 or she 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 27 CFR Part 478 or 479.

ATF understands that using computers to complete the ATF Form 4473 saves time and money in bookkeeping and auditing expenses. Most businesses computerize inventory, sales, customer lists, and other business records. Permitting for electronic completion of the ATF Form 4473 while a customer is present at the business premises is convenient for both the licensee and the purchaser and may also facilitate better accountability of inventory and reduce the potential for recording errors on the ATF Form 4473. Therefore, ATF finds that there is good cause to authorize a variance from the requirements of the Federal firearms regulations as they relate to completion of the ATF Form 4473.

ATF also finds that, provided certain conditions are met, the alternate method set forth in this ruling is consistent with the provisions of 27 CFR 478.102(d), 478.121, 478.124, and 27 CFR 479.131 because the same required information will be captured on the electronic Form 4473. 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.

Held, pursuant to 27 CFR 478.22, 478.102, 478.121, 478.124 and 27 CFR 479.26 , ATF authorizes an alternate method or procedure to the ATF Form 4473 (5300.9) requirements of 27 CFR 478.102(d), 478.121, 478.124, and 27 CFR 479.131. Specifically, ATF authorizes licensees to use an electronic ATF Form 4473 (5300.9) *provided* all of the following requirements are met:

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 website and saves to his/her computer ATF's most current electronic version of Form 4473, known as ATF e-Form 4473.
2. The e-Form 4473 displays clearly, on the same screen, 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 computer software must allow for a new e-Form 4473 to be created and completed upon each transaction. The system cannot populate Section A from previous transfers from the same transferee (buyer).
4. The transferee (buyer) of the firearm(s) must answer the questions for Section A of e-Form 4473 while physically present at the seller's premises (to include a qualifying gun show or event). 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*. Where Form

4473 requires “checking” or “marking,” the transferee may mouse-click in an appropriate box to answer the question on the e-Form 4473. Where Form 4473 requires “printing” or “handwriting” the transferee may enter the information on the e-Form 4473.

5. The e-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.
6. The transferee (buyer) confirms his/her answers with his/her signature and date on the 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.
7. The transferor (seller) of the firearm(s) enters the information into the licensee’s computer for Section B and Section D of the e-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.
8. The transferee and transferor signatures on the e-Form 4473 may be electronic signatures captured via an electronic signature pad prior to printing or may be handwritten (ink) signatures on the printed copy of the e-Form 4473.
9. If the electronic signature pad breaks or fails to operate properly, the licensee must discontinue use of electronic signatures and obtain handwritten (ink) signatures on the OMB-approved ATF Form 4473 or the printed copy of the e-Form 4473.
10. If the transferee (buyer) cannot read and/or write, another person, excluding the licensee or any employee of the licensee, may complete the answers. Two persons, other than the licensee or any employee of the licensee, must then sign as witnesses to the buyer’s answers and signature. The person who cannot read and/or write may electronically sign or mark the e-Form 4473. The two additional persons’ signatures must be handwritten in ink on the printed e-Form 4473.
11. All NICS or State POC related information must be entered accurately on the e-Form 4473 in the applicable fields. These entries can be made via electronic population (auto-population of the fields) or manual electronic entry (typing the information into the fields). They may also be handwritten onto the form after it is printed.
12. In order to electronically populate information related to the NICS background check, the FFL must contact the FBI NICS or appropriate State agency to request

authorization to transfer specific NICS data from e-Check into the computerized system.

13. Pursuant to 27 CFR 478.102(d) and 27 CFR 478.131(a)(2), if an exception to the NICS or State POC check exists, the licensee must record such information on the ATF Form 4473 (*i.e.*, if a transferee possesses a NICS or State POC exempt permit) in the applicable fields.
14. If the licensee wishes to maintain e-Forms 4473 for pending transactions, the forms must be downloaded from the system to a physical storage device (*e.g.*, hard drive, Digital Versatile Disc (DVD), server) at the licensee's business premises, or printed and maintained at the licensee's business premises:
 - a. At least daily, in a format that is unencrypted with the required information readily apparent;
 - b. Upon request of an ATF officer (must be provided within 24 hours);
 - c. Prior to discontinuance or change of: the software (program); the database system, whether or not maintained by a host facility (*e.g.*, remote server or cloud storage provider; and/or the host facility (if applicable); and
 - d. Prior to discontinuance of the licensee's firearms business.
15. If the licensee wishes to maintain e-Form 4473 for pending transactions, the forms may be stored on a computer server or device owned and operated by the licensee, or contracted/leased by the licensee through a host facility (*e.g.*, remote server or cloud storage provider), provided that:
 - a. The e-Forms 4473 are readily accessible through a computer server or device located at the licensed premises during regular business hours.
 - b. The e-Forms 4473 documenting a pending transaction must be printed out upon request by any ATF officer.
 - c. The e-Forms 4473 documenting a pending transaction must be searchable by the transferee's (buyer's) last name, address, and by firearms information, such as by serial number, manufacturer, and importer (if applicable).
 - d. The licensee's server is located within the United States or its territories, or if a host facility is used, that facility must have a business premises within the United States or its territories, and must be subject to U.S. legal process.
 - e. Each licensee must maintain its stored e-Form 4473 on a separate/partitioned database that cannot be intermingled with another licensee's records.
 - f. The storage system must back-up the stored e-Form 4473 on at least a daily basis to protect the data from accidental deletion or system failure.

- g. Licensees are strongly encouraged to ensure that there are proper and robust security protection measures in place (*e.g.*, encryption) to ensure all data is protected.
16. If the licensee contracts with, leases from, or changes a host facility (*e.g.*, remote server or cloud storage provider), the licensee must, within 30 days, notify his/her respective ATF Area Office of the name and address of the host facility.
17. If the transfer of the firearm(s) takes place on a different day from the date that the transferee (buyer) signed Section A, the transferee must complete Section C immediately prior to the transfer of the firearm(s). The computer software cannot allow the electronic signature to be automatically populated in the form from a previously captured signature or information in the software.
18. The e-Form 4473 must be printed, including instructions, at the time the transfer of the firearm is complete and prior to the transferee departing the business premises. The transferor must verify that the signature and date are present and in the appropriate fields on the printed ATF Form 4473.
19. In the case of “denied,” no sale or cancelled transactions, the ATF Form 4473, including instructions, must be printed and the printout retained pursuant to 27 CFR 478.129(b).
20. If the transaction is not completed within 30-day period after initially contacting NICS, the ATF Form 4473, including instructions, must be printed and the printout retained pursuant to 27 CFR 478.129(b).
21. The licensee must print all ATF Forms 4473, including the Notices, Instructions and Definitions, on 8 1/2” x 11” white paper. The pages must be stapled together. The entire printed ATF 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 the licensee is unable to print the ATF Form 4473, he/she must use the current hardcopy of the OMB-approved version of the form. The pages may be printed either single-sided or double-sided.
22. The licensee must retain the printed ATF Forms 4473 at the licensed premises in accordance with 27 CFR 478.124(b) and 129.

This ruling does not apply to a licensee who uses computer software that gathers additional information other than that set forth on the current OMB-approved ATF Form 4473 (5300.9). 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 who uses software to collect additional data make any representation contrary to law or regulation, or any representation that ATF has required a collection of any additional information.

All laws, regulations, rulings, procedures, and policies applicable to the paper ATF Form 4473 (5300.9), *Firearms Transaction Record*, also apply to an e-Form 4473. Licensees are not required to use an e-Form 4473 and may continue to use the paper ATF Form 4473 as prescribed by the regulation. Licensees are reminded of their responsibility to ensure accuracy and completeness of all of their required records.

Held further, if the licensee fails to abide by the conditions of this ruling, uses any procedure that hinders the effective administration of the Federal firearms laws or regulations, or any legal or administrative difficulties arise due to the use of an e-Form 4473, the licensee is no longer authorized to maintain an ATF e-Form 4473 under this ruling and must revert back to using the OMB-approved ATF Form 4473 (5300.9), *Firearms Transaction Record*, paper document until all conditions of this ruling are met.

Held further, this ruling supersedes all previously approved variances covering the use of electronic ATF Form 4473 and previous ruling regarding alternate method or procedures for use of electronic ATF Form 4473, ATF Rul. 2008-3, *Electronic Version of Form 4473*, are hereby replaced to reference this ruling.

Date approved: April 29, 2016

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Deputy Director