



This document is scheduled to be published in the Federal Register on 08/04/2014 and available online at <http://federalregister.gov/a/2014-18392>, and on FDsys.gov

(Billing Code: 4410-FY-P)

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR Part 478

[Docket No. ATF 19F; AG Order No. 3451-2014]

RIN 1140-AA34

Elimination of Firearms Transaction Record, ATF Form 4473 (Low Volume) (2008R-21P)

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice is amending the regulations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) by eliminating the Firearms Transaction Record, ATF Form 4473 (Low Volume (LV)), Parts I and II. Federally licensed firearms dealers used this form as an alternate record for the receipt and disposition of firearms. Because licensees rarely use Form 4473 (LV), ATF has determined that continued use of this form is unwarranted and it should be eliminated. Licensees will be required to use the standard Form 4473 for all dispositions and maintain a record of the acquisition and disposition of firearms in accordance with the regulations.

DATES: This rule is effective [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Denise Brown, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives, U.S. Department of Justice, 99 New York Avenue, NE., Washington, DC 20226; telephone: (202) 648-7070.

SUPPLEMENTARY INFORMATION:

I. Background

The Attorney General is responsible for enforcing the provisions of the Gun Control Act of 1968 (“the Act”), 18 U.S.C. Chapter 44. Among other things, the Act authorizes the Attorney General to establish license and recordkeeping requirements. The Attorney General has delegated authority to administer and enforce the Act to the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), subject to the direction of the Attorney General and the Deputy Attorney General. 28 CFR 0.130(a). Regulations that implement the provisions of the Act are contained in 27 CFR Part 478.

Section 478.125(e) requires that each federally licensed firearms dealer enter into a record each receipt and disposition of a firearm. Licensed dealers must maintain the record in bound form under the format prescribed in the regulations. Regarding the purchase or other acquisition of a firearm by a licensed dealer, the record must show the date of receipt, the name and address or the name and license number of the person from whom it was received, the name of the manufacturer and importer (if any), the model, serial number, type, and the caliber or gauge of the firearm. Licensed dealers must also record certain information regarding the sale or other disposition of a firearm, e.g., the

date of the sale or other disposition of the firearm, the name and address of the person to whom the firearm is transferred, or the name and license number of the person to whom the firearm is transferred if such person is a licensee.

Section 478.124a, which became effective August 1, 1988, provides for alternate records for the receipt and disposition of firearms by licensed dealers. This section generally provides that a licensed dealer acquiring firearms and contemplating the disposition of not more than 50 firearms within a succeeding 12-month period to licensees or nonlicensees could maintain a record of the acquisition and disposition of such firearms on a firearms transaction record, Form 4473 (LV) Part I, Firearms Transaction Record Part I—Low Volume—Over-The-Counter, or Form 4473 (LV) Part II, Firearms Transaction Record Part II Low Volume—Intrastate Non-Over-The-Counter, in lieu of the records prescribed by § 478.125(e). A licensed dealer who maintains alternate records pursuant to § 478.124a, but whose firearms dispositions exceeded 50 firearms within a 12-month period, is required to make and maintain the acquisition and disposition records required by § 478.125(e) with respect to each firearm exceeding 50.

The standard Form 4473, Firearms Transaction Record, is the form commonly used by firearms licensees to record distributions of firearms to nonlicensed individuals. This form is supplemented by the licensee's acquisition and disposition record. The Form 4473 (LV) combined the acquisition and disposition record into the form for use by low volume licensees (*i.e.*, dealers distributing not more than 50 firearms per year).

II. Notice of Proposed Rulemaking

On August 5, 2010, ATF published in the **Federal Register** a notice of proposed rulemaking (NPRM) soliciting comments from the public on the Department's proposal to amend the regulations to eliminate the Firearms Transaction Record, Form 4473 (Low Volume (LV)), Parts I and II (Notice No. 30P, 75 FR 47254). The NPRM noted that firearms licensees rarely use Form 4473 (LV), and that the costs of updating and printing Form 4473 (LV) were not an efficient use of ATF's resources.

The NPRM also noted that if the proposed rule was adopted, licensees would be required to use the standard ATF Form 4473 for all dispositions and maintain a record of the acquisition and disposition of firearms in accordance with the provisions of § 478.125. The comment period for the NPRM closed on November 3, 2010.

III. Analysis of Comments and Decision

Seven comments were received in response to the Department's proposal to eliminate Form 4473 (LV). Of those, three offered either general or specific support for the Department's proposal. One of the commenters stated that all nonessential paperwork and recordkeeping should be eliminated. One commenter stated that the Form 4473 (LV) was confusing and "borderline obsolete" without offering any further explanation. One commenter stated that having multiple systems of recording acquisitions and dispositions unnecessarily complicated the recordkeeping process, and that requiring all licensees to use a single system of records (the standard Form 4473 and bound book) would reduce confusion and improve recordkeeping accuracy. This commenter went on to state that a single recordkeeping system would make enforcement of firearms regulations simpler. All three commenters concurred with the proposed elimination of Form 4473 (LV).

Four commenters objected to the Department's proposal. One of the objecting commenters stated that Form 4473 (LV) was useful. The remaining three commenters misunderstood the proposed amendment and assumed that the Department was proposing to eliminate the Firearms Transaction Record entirely. As stated in the NPRM, the Department was only proposing to eliminate Form 4473 (LV). The standard Form 4473, Firearms Transaction Record, was not proposed for elimination. With respect to the objecting commenter who found Form 4473 (LV) useful, the Department notes that the proposed elimination of that form was not based upon a determination that it served no purpose. Rather, because it was used so infrequently ATF concluded that the costs of maintaining the form outweighed the benefits it conferred.

Accordingly, this final rule adopts without change the proposed amendment eliminating Form 4473 (LV). Upon the effective date of this final rule, licensees will be required to use the standard Form 4473 for all dispositions and maintain a record of the acquisition and disposition of firearms in accordance with the regulations in 27 CFR Part 478. These recordkeeping requirements apply to the disposition of firearms to all nonlicensed persons.

How This Document Complies With the Federal Administrative Requirements for Rulemaking

A. Executive Order 12866 and Executive Order 13563

This rule has been drafted and reviewed in accordance with Executive Order 12866, "Regulatory Planning and Review," section 1(b), The Principles of Regulation, and Executive Order 13563, "Improving Regulation and Regulatory Review." The Department of Justice has determined that this rule is a "significant regulatory action"

under Executive Order 12866, section 3(f), and accordingly this rule has been reviewed by the Office of Management and Budget. However, this rule will not have an annual effect on the economy of \$100 million or more, nor will it adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

Because ATF Form 4473 (LV), Parts I and II, have rarely been used by federal firearms licensees, the rule will have a negligible effect on the economy.

B. Executive Order 13132

The rule will not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, the Attorney General has determined that the rule will not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

C. Executive Order 12988

The rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 605(b). Small entities

include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. The Attorney General, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this rule and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

Because ATF Form 4473 (LV), Parts I and II, have rarely been used by federal firearms licensees, the rule will have a negligible effect on small businesses.

E. Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

F. Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

G. Paperwork Reduction Act

This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

Disclosure

Copies of the notice of proposed rulemaking, all comments received in response to the NPRM, and this final rule will be available for public inspection by appointment during normal business hours at: ATF Reading Room, Room 1E-062, 99 New York Avenue, NE., Washington, DC 20226; telephone: (202) 648-8740.

Drafting Information

The author of this document is Denise Brown, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives.

List of Subjects in 27 CFR Part 478

Administrative practice and procedure, Arms and ammunition, Authority delegations, Customs duties and inspection, Domestic violence, Exports, Imports, Law enforcement personnel, Military personnel, Nonimmigrant aliens, Penalties, Reporting and recordkeeping requirements, Research, Seizures and forfeitures, and Transportation.

Authority and Issuance

Accordingly, for the reasons discussed in the preamble, 27 CFR Part 478 is amended as follows:

PART 478--COMMERCE IN FIREARMS AND AMMUNITION

1. The authority citation for 27 CFR Part 478 continues to read as follows:

Authority: 5 U.S.C. 552(a); 18 U.S.C. 847, 921–931; 44 U.S.C. 3504(h).

§ 478.124a [Removed]

2. Section 478.124a is removed.

3. Section 478.125 is amended by revising the first sentence in paragraph (e) to read as follows:

§ 478.125 Record of receipt and disposition.

* * * * *

(e) *Firearms receipt and disposition by dealers.* Each licensed dealer shall enter into a record each receipt and disposition of firearms. * * *

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Dated: July 29, 2014.

Eric H. Holder, Jr.
Attorney General

[FR Doc. 2014-18392 Filed 08/01/2014 at 8:45 am; Publication Date: 08/04/2014]