



DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR part 478

[Docket No. ATF-2026-0003; ATF 2025R-08P]

RIN 1140-AA95

Firearm Records Retention Periods

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”) proposes to amend Department of Justice (“Department”) regulations establishing records retention periods for federal firearms licensees’ (“FFLs” or “licensees”) acquisition and disposition (“A&D”) records, and the retention period for records the National Tracing Center (“NTC”) receives. Specifically, ATF is proposing these records be retained for a specific period rather than indefinitely, and is considering either 20 or 30 years for the specified period. ATF is also proposing a brief retention period for forms used to facilitate private-party transfers or to conduct voluntary firearm handlers checks.

DATES: Comments must be submitted in writing, and must be submitted on or before (or, if mailed, must be postmarked on or before) [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Commenters should be aware that the federal e-rulemaking portal comment system will not accept comments after midnight Eastern Time on the last day of the comment period.

ADDRESSES: You may submit comments, identified by docket number RIN 1140-AA95, by either of the following methods —

- *Federal e-rulemaking portal:* <https://www.regulations.gov>. Follow the

instructions for submitting comments.

- *Mail:* 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-AA95.*

Instructions: All submissions must include the agency name and number (RIN 1140-AA95) for this notice of proposed rulemaking (“NPRM” or “proposed rule”). ATF may post all properly completed comments it receives from either of the methods described above, without change, to the federal e-rulemaking portal, <https://www.regulations.gov>. This includes any personally identifying information (“PII”) or business proprietary information (“PROPIN”) submitted in the body of the comment or as part of a related attachment they want posted. Commenters who submit through the federal e-rulemaking portal and do not want any of their PII posted on the internet should omit it from the body of their comment and any uploaded attachments that they want posted. If online commenters wish to submit PII with their comment, they should place it in a separate attachment and mark it at the top with the marking “CUI//PRVCY.” Commenters who submit through mail should likewise omit their PII or PROPIN from the body of the comment and provide any such information on the cover sheet only, marking it at the top as “CUI//PRVCY” for PII, or as “CUI//PROPIN” for PROPIN. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Participation” heading of the SUPPLEMENTARY INFORMATION section of this document. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at <https://www.regulations.gov>. Commenters must submit comments by using one of the methods described above, not by emailing the address set forth in the following paragraph.

FOR FURTHER INFORMATION CONTACT: Office of Regulatory Affairs, by email at ORA@atf.gov, by mail at Office of Regulatory Affairs; Enforcement Programs

and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave, NE; Washington, DC 20226, or by telephone at 202-648-7070 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Attorney General is responsible for enforcing the Gun Control Act of 1968 (“GCA”), as amended. This responsibility includes the authority to promulgate regulations necessary to enforce the provisions of the GCA.¹ *See* 18 U.S.C. 926(a). Congress and the Attorney General have delegated the responsibility for administering and enforcing the GCA to the Director of ATF (“Director”), subject to the direction of the Attorney General and the Deputy Attorney General. *See* 28 U.S.C. 599A(b)(1), (c)(1); 28 CFR 0.130(a)(1)–(2); Treas. Order No. 221(2)(a), (d), 37 FR 11696–97 (June 10, 1972).² Accordingly, the Department and ATF have promulgated regulations to implement the GCA in 27 CFR part 478.

Since its enactment, the GCA has required FFLs to maintain, at their place of business, importing, producing, shipping, receiving, selling, and other disposition records for firearms (“A&D records”), in accordance with prescribed regulations. Section 923(g)(1)(A) of the GCA requires licensed importers, manufacturers, and dealers to maintain these records for “such period” and in such form as prescribed by regulation. Licensed collectors, pursuant to 18 U.S.C. 923(g)(2), are required to maintain the records in a bound volume, the nature of which may be prescribed by regulation. Section

¹ Some GCA provisions still refer to the “Secretary of the Treasury.” However, the Homeland Security Act of 2002, Pub. L. 107–296, 116 Stat. 2135, transferred the functions of ATF from the Department of the Treasury to the Department of Justice, under the general authority of the Attorney General. 26 U.S.C. 7801(a)(2); 28 U.S.C. 599A(c)(1). Thus, for ease of reference, this proposed rule refers to the Attorney General where relevant.

² In Attorney General Order Number 6353-2025, the Attorney General delegated authority to the Director to issue regulations pertaining to matters within ATF’s jurisdiction, including under the GCA, National Firearms Act, and Title XI of the Organized Crime Control Act. ATF’s jurisdiction also includes those portions of sec. 38 of the Arms Export Control Act pertaining to permanently importing defense articles and services and the Contraband Cigarette Trafficking Act.

923(g)(4) of the GCA requires licensees, upon absolutely discontinuing a business,³ to deliver required records to the Attorney General within 30 days after discontinuing business. Regulations implementing the record-keeping requirements of sections 923(g)(1)(A), 923(g)(2), and 923(g)(4) are contained primarily in 27 CFR part 478, subpart H. Requirements for retaining records and for handling a discontinued business's records are in 27 CFR 478.129 and 478.127, respectively.

With certain exceptions, an FFL may not sell or otherwise dispose of, temporarily or permanently, any firearm to any unlicensed person unless the FFL records the transaction on ATF Form 5300.9, Firearms Transaction Record ("Form 4473"). *See* 27 CFR 478.124. Forms 4473 are therefore one of the records licensees are required to retain under 18 U.S.C. 923(g)(1). Specifically, § 478.129(b) currently requires licensees to retain each Form 4473 until they discontinue the business or licensed activity.

Prior to July 29, 1985, the GCA's implementing regulations required FFLs to permanently retain records of firearms transactions and deliver those records, with limited exception, to ATF when they discontinued a firearms business. *See* 26 CFR 178.121(a), 178.127 (1969). On June 28, 1985, ATF published a final rule,⁴ effective July 29, 1985, amending the record retention requirements codified at 27 CFR 478.129 to eliminate the permanent retention requirement for licensed dealers and collectors and to reduce the retention period to not more than 20 years, dating back to December 16, 1968. The 1985 final rule also authorized licensed manufacturers and importers to destroy their disposition records after retaining such records for 20 years beginning December 16, 1968. The final rule provided that "[b]ecause of the diminished frequency in utilizing records over 20 years of age in tracing firearms used in crimes, the requirement to

³ Section 923(g)(4) differentiates between licensed businesses succeeded by a new licensee, and a licensed business that discontinues absolutely — having no successor licensee. In the case of a licensed business with a successor, the discontinuing licensee must reflect that in the ATF-required A&D records and deliver them to the successor.

⁴ ATF final rule, "Commerce in Firearms and Ammunition," 50 FR 26702 (June 28, 1985).

maintain permanent records of all firearms transactions is not justifiable based on the cost and administrative burden to both the firearms industry and the Government.”⁵

Manufacturers and importers, however, were required to retain, on a permanent basis, their manufacturing, importing, and other firearms acquisition records, including those from prior to 1968. These records proved helpful for a variety of purposes. They were relevant for criminal prosecutions because they helped prove that a firearm moved in or affected interstate or foreign commerce. The records could also be used to establish the age of a firearm and, thus, its classification as an antique or curio and relic. The records also lacked the privacy concerns raised by dealer records because they did not record the ultimate owner of most manufactured or imported firearms.

In 2022, ATF published a final rule,⁶ effective on August 24, 2022, that amended the record retention requirements in 27 CFR 478.129. Specifically, it amended § 478.129(b) to require that licensees retain each ATF Form 4473 until they discontinue the business or licensed activity. Section 478.129(d) continued to require licensees to retain manufacturing, importing, or other acquisition records for firearms until they discontinue the business or licensed activity, but it imposed the same records retention requirement on licensed importers’ and licensed manufacturers’ sale or other disposition records. Section 478.129(e) was also amended to require licensed dealers and collectors to retain their sale or other disposition records for firearms and the corresponding receipt record for such firearm until they discontinue the business or licensed activity. These amendments remain in effect today. When FFLs absolutely discontinue a business, 18 U.S.C. 923(g)(4) and 27 CFR 478.127 continue to require them to deliver the required records within 30 days after they discontinue business to the ATF Out-of-Business Records Center. The GCA and its regulations do not address how long ATF retains out-

⁵ *Id.*

⁶ ATF final rule, “Definition of ‘Frame or Receiver’ and Identification of Firearms,” 87 FR 24652 (April 26, 2022).

of-business records (“OOB records”). Currently, ATF maintains all OOB records indefinitely.

Table 1 summarizes the records retention requirements for each type of licensee over time.

Table 1. Summary of records retention periods over time, by licensee type*

	1969	1985	Current (since 2022)	Proposed	
Manufacturers	Retain all records until business or licensed activity is discontinued.	<ul style="list-style-type: none"> • Retain acquisition records permanently • Retain Forms 4473 for 20 years • Retain other disposition records for 20 years 	<ul style="list-style-type: none"> • Discard disposition records 1968 or older • Retain all A&D records 1969 on until FFL discontinues business • Can store closed records over 20 years old off site 	<ul style="list-style-type: none"> • Retain all acquisition records permanently, including records prior to 1968 • Retain all other records for 20 (or 30) years • Can store closed records over 20 years old off site 	
Importers					
Dealers			<ul style="list-style-type: none"> • Discard all records 1968 or older • Retain Forms 4473 from 1969 onward for 20 years • Retain other transaction records for 20 years 	<ul style="list-style-type: none"> • Discard all records 1968 or older • Retain all A&D records 1969 on until FFL discontinues business • Can store closed records over 20 years old off site 	<ul style="list-style-type: none"> • Retain all records for 20 (or 30) years • Retain all records at business premises
Collectors					
Manufacturers, importers, and dealers			<ul style="list-style-type: none"> • Retain Forms 3310.4 (multiple sales reports, pistols/revolvers) for five years • Retain Forms 3310.11 (theft/loss reports) for five years 	<ul style="list-style-type: none"> • Retain Forms 3310.4 and 3310.12 (multiple sales reports, pistols/revolvers and certain rifles) for five years • Retain Forms 3310.11 (theft/loss reports) for five years • Retain Forms 4473 initiated, but not completed, for five years 	

*Acquisition records in this table include all methods of acquisition pertinent to the type of licensee, including manufacturing and importing records. Similarly, disposition records include all methods of disposition pertinent to the type of licensee, including sales. Acquisition records from 1985 onward also include Forms 4473 unless specifically mentioned in a bullet point.

The record retention requirements imposed on most licensee records have been based on two principles. For investigating criminal activity, records retained by FFLs

allow ATF to trace, by firearm serial number and firearm identifying information, ownership of firearms recovered at or used in crimes, a function particularly important in support of federal, state, and local law enforcement. Retained records also help enforce federal regulatory requirements. When prosecuting criminal cases for violations of the GCA, the government may also rely on licensee records to establish through record-keeping that the firearm has moved between FFLs of different states or countries. More importantly, licensed importer and manufacturer acquisition (“I&M acquisition”) records identify the location from which the firearm was manufactured or imported to demonstrate the firearm’s introduction and movement in commerce and the firearm’s age.

Likewise, ATF uses OOB records submitted to ATF and maintained by NTC to respond to crime gun trace requests. NTC converts OOB records into digital images after it receives them and stores them in the Enterprise Content Management (“ECM”) Image Repository for use in the tracing process. All images that are electronically stored in the ECM repository are retrievable in accordance with law, regulation, and policy, but are not searchable by an individual’s name or other personal identifiers or through character recognition. For fiscal year (“FY”) 2024, NTC conducted 614,995 traces and as of June 11, 2025 when this proposed rule was first drafted, had conducted 420,762 traces for FY 2025. At that same time, NTC held approximately 1.3 billion images of records and as of June 11, 2025, NTC received approximately 6.8 million OOB records per month in FY 2025. The NTC estimates that 500 million images in the OOB records are older than 20 years.

II. Proposed Rule

ATF is proposing revisions to §§ 478.127 and 478.129 to adjust the records retention periods for licensee A&D records, Forms 4473, other licensee records, and NTC’s out-of-business records, as discussed in detail below. In addition, ATF is proposing some structural changes to the sections to better clarify the different record

provisions, and is proposing some minor technical edits to conform with plain writing requirements and updates to ATF forms, numbers, and titles.

A. Reducing licensee A&D records retention periods

As of FY 2024, there were 128,960 active FFLs faced with the costs of retaining, on a permanent basis, A&D records for firearms. Electronic record-keeping systems compliant with ATF’s past requirements often require a financial investment in computer hardware, software, and training. The older the firearm, the more likely it has been transferred on the secondary market. As a result, the ability to trace crime guns to a purchaser or determine their movement in interstate or foreign commerce decreases with time because licensee records do not cover transfers on the secondary market. As a result, the utility of older records for tracing firearms does not outweigh the increased cost of permanently retaining electronic or paper records.

Statistical data maintained by NTC establishes that there has been a steady increase since FY 2014 in the percentage of completed traces to a purchaser using records up through 20 years old. In FY 2014, approximately 73 percent (153,629 of 210,312) of completed traces identified a purchaser using records up through 20 years old. Tables 2, 3, and 4 below show the remaining total number of traces completed using records over 20 years old in FY 2014, FY 2019, and FY 2024 and 2025, respectively. Column two in each table contains the subset of column 1’s traces that use records over 25 years old, and column three contains the subset of column 2’s traces that use records over 30 years old, illustrating the diminishing number of records used in traces as firearms get older.

Table 2. FY 2014

Over 20 years FY 2014	Over 25 years FY 2014	Over 30 years FY 2014
56,620	35,162	23,758

In FY 2019, approximately 82 percent (253,239 of 308,660) of traces identified a purchaser using records less than 20 years old.

Table 3. FY 2019

Over 20 years FY 2019	Over 25 years FY 2019	Over 30 years FY 2019
55,421	40,871	25,710

More recent data, for FY 2024 and FY 2025, shows a further decline in records over 20 years old used in traces, as approximately 89 percent (414,405 of 464,325) of successful traces in FY 2024 identified a purchaser using records less than 20 years old, and the same in FY 2025 (426,429 of 477,401).

Table 4. FY 2024 and FY 2025

FY	Over 20 years	Over 25 years	Over 30 years
2024	49,920	39,229	29,377
2025	24,885	19,374	14,880

Thus far, NTC's most recent data indicates that this trend has continued in FY 2026, with approximately 89 percent (203,927 of 228,812) of successful traces in the first half of FY 2026, as of March 31, 2026, requiring records less than 20 years old.

Similarly, prior to implementing 2022's expanded permanent retention period, the small percentage of traces that could not be completed due to lack of records over 20-years old showed an overall decline. ATF uses a specific closure designation for traces when a licensee informs ATF that it does not have records for that firearm because the records were more than 20 years old and had been destroyed. In FY 2014, ATF conducted 350,063 traces. Of these, 0.34 percent, or 1,175, were closed for this reason. Of 469,842 total traces in FY 2020, only 0.31 percent, or 1,463, traces were closed for the above reason, and FY 2021 saw another decline in traces closed with this designation to 0.26 percent, or 1,349, out of 528,058 traces.

The declines in both the percentage of traces using records over 20 years old and those closed because the dealer did not maintain records beyond the 20-year requirement indicate a diminishing need to access records older than 20 years. This is attributable, in

part, to an increase in the share of traced firearms with a time-to-crime interval (“TTC”) less than 20 years. A firearm’s TTC is the length of time between the date of a firearm’s last known purchase to the date law enforcement recovers it as a crime gun. ATF calculated the TTC for nearly all (1,479,046) of the 1,482,861 firearms traced to a purchaser between 2017 and 2021. For the entire period, over 87 percent of the traced crime guns had a TTC of 20 years or less. The median TTC for all firearms was 1,293 days or slightly more than three years, meaning that half of the traced crime guns were purchased within this time period. And approximately 24 percent of all firearms were purchased within one year of their recovery. Between 2017 and 2021, the percentage of firearms with a TTC of less than one year and less than three years steadily increased. In 2017, 19.3 percent of recovered firearms had a TTC of less than one year and 40 percent had a TTC of less than three years. By 2021, those percentages increased to 32.3 percent of recovered firearms with a TTC of less than one year and 53.9 percent with a TTC of less than three years.⁷

The decreasing need to utilize records over 20 years old, and the even greater decrease in utility of records more than 30 years old, to trace a firearm to a purchaser — caused in part by shorter TTC periods and lower median age of recovered firearms — demonstrate that a 20-year or 30-year records retention period and reducing the volume of older records maintained by NTC would not have a significant impact on ATF’s capability to trace crime guns. As a result of these facts and the administrative burdens on the firearms industry and the government from retaining records indefinitely, ATF is proposing to reduce the records retention periods in § 478.129 for all firearms acquisition and disposition records except I&M acquisition records⁸ to 20 or 30 years. ATF is

⁷ ATF, *National Firearms Commerce and Trafficking Assessment (NFCTA): Crime Gun Intelligence and Analysis - Volume Two*, part III (March. 27, 2024), <https://www.atf.gov/firearms/docs/report/nfcta-volume-ii-part-iii-crime-guns-recovered-and-traced-us/download> [<https://perma.cc/5TJX-3P5W>].

⁸ As noted above, because these records are needed for prosecutions and collectible classifications, I&M acquisition records have had a permanent retention period since the GCA was passed in 1968, and FFLs

considering whether to establish the retention period at 20 years or 30 years as an appropriate balance between the cost of maintaining records for longer periods and the public safety interest in being able to trace more crime guns and to more quickly apprehend perpetrators of crimes involving firearms. Although fewer records 26–30 years old or over 30 years old have been necessary to trace crime guns in recent years, there are still traces that involve these older records. For example, the data in Table 4 shows that in 2024, roughly 39,229 traces involved records over 25 years old and 29,377 traces involved records over 30 years old. This means that, in 2024, the percentage of successful crime gun traces increased from 89 to 94 percent when records up to 30 years old were available, resulting in almost 10,000 additional successful traces.

ATF seeks comments on whether the costs of retaining these records for an extra ten years (30 years instead of 20) would be sufficiently offset by the public safety benefit of maintaining this traceability. See further discussion in this section (above) and in section III.A of this preamble for more information on the age distribution of records used for firearms tracing over the past ten years.

1. Paragraph 478.129(b), Forms 4473

This rule proposes to remove the requirement in § 478.129(b) that FFLs must retain Forms 4473 permanently and replace it with a requirement that FFLs retain Forms 4473 for either 20 or 30 years. Currently, § 478.129(b) states that “Licensees shall retain each Form 4473 until business or licensed activity is discontinued, either on paper, or in an electronic alternate method approved by the Director, at the business premises readily accessible for inspection under this part.” ATF proposes to replace this provision with “FFLs must retain each Firearms Transaction Record (ATF Form 4473) for no less than 20 [or 30] years from the date on which they sell or otherwise dispose of a firearm.”

were also required to retain such records from before 1968. The need for these older records still exists, so they would remain under a permanent retention period. These records also do not identify the ultimate owner of the firearm in most cases.

Paragraph § 478.129(b) also states that the records must be maintained in either paper or an electronic alternate method approved by the Director, at the business premises, and readily accessible for inspection under this part. These requirements would remain but in separate sentences that include some minor plain writing edits for readability.

In addition, ATF is proposing to separate into two sub-paragraphs the general requirements for retaining the Forms 4473 mentioned above and the existing records provisions for retaining Forms 4473 associated with non-completed transactions, including headings to help distinguish them. The requirements for retaining forms associated with non-completed transactions would remain the same but would have minor plain writing edits to make them easier to read.

In another rulemaking, ATF is proposing to incorporate into its regulations the ability for licensees to use Forms 4473 when they conduct background checks for private parties transferring a firearm between themselves, and when licensees conduct voluntary firearm handler background checks (“FHCs”) of certain current or prospective employees. Although licensees may use Forms 4473 when they facilitate private-party transfers, that has not been in ATF’s regulations, and the FHC use is new. ATF proposes to clarify, as part of incorporating these uses into the regulations, that these records are not part of a licensee’s required A&D records and are thus not subject to other regulatory and enforcement requirements. This has been a source of confusion for licensees using Forms 4473 for private-party transfers.

As a result, ATF also proposes adding two new sub-paragraphs that would specify the minimum length of time FFLs must retain Forms 4473 used to facilitate a private-party transfer process or to conduct a voluntary FHC. In both cases, ATF proposes that licensees would retain those Forms 4473 for no less than 90 days (three months) from the date on which they initiate the associated background check. Three months corresponds

with the time until the Federal Bureau of Investigation's National Instant Criminal Background Check System ("NICS") purges transaction information. During that period, NICS can research a "delayed" response and has that period to research and resolve the check, so retaining the forms for that period would be consistent with the time to resolve open FHC or private party checks. ATF would also be able to research issues in other contexts, for example, an FBI NICS audit log that shows an extra background check the licensee conducted but for which there is no Form 4473 in the licensee's records; ATF would be able to use these temporary forms to clarify that the licensee conducted the background check to facilitate a private-party transfer. Similarly, ATF would be able to clarify that a transaction involving a missing firearm from licensee inventory was incorrectly checked as a private-party transfer on the form and verify that the licensee did indeed complete the required form and background check for that transaction. However, ATF would not inspect these forms as records in their own right (unless they happen to be erroneously marked as private-party transfers when they are not) because they do not involve FFL transactions, and licensees therefore do not need to retain them longer than three months.

ATF believes that allowing licensees to destroy these records after 90 days would best provide for public safety. A short retention period would encourage more individuals to perform voluntary background checks before transferring firearms on the secondary market. A longer, or permanent, sales record retention period could raise privacy concerns among private party sellers and purchasers. This privacy interest could cause private parties to choose to sell their firearms without a background check if licensees were required to retain them for longer periods. These transactions have also not historically been subject to any records retention period under federal law, so a short retention period does not materially change the status quo when it comes to tracing.

However, the paragraph on private-party transfers would also include a five-year

retention period for Forms 4473 associated with NICS background checks that receive a “denied” response from NICS because the prospective transferee would be a prohibited person under law. This five-year retention period for transactions with a “denied” response is consistent with the relevant statute of limitations under federal law, 18 U.S.C. 3282, and would facilitate investigations and prosecutions for unlawful possession, disposition, or attempted unlawful purchase or possession under applicable federal, state, and local laws.

2. Paragraphs 478.129(d) and (e), licensee A&D records (importers, manufacturers, dealers, and collectors)

Paragraph (d) of § 478.129 addresses I&M acquisition records, which, as discussed above, would continue to have an indefinite, or permanent, retention period under this proposed rule for the legal process reasons discussed in the preamble. ATF would retain this paragraph essentially as is but would incorporate into it the requirement implicit in § 478.129(a) that such records include those from prior to 1968, because ATF is proposing to remove § 478.129(a). These sentences would include some minor plain writing edits to make them easier to read, and to remove old language.

Similarly, to Forms 4473, ATF is proposing to remove the requirement in § 478.129(e) that licensees must retain firearms A&D records permanently and is instead proposing that FFLs would retain all such records (other than those covered under § 478.129(d)) for either 20 or 30 years. Currently, § 478.129(e) requires licensed dealers and collectors to retain firearm sales or disposition records and corresponding acquisition records until the business or licensed activity is discontinued. ATF proposes to replace this provision with “Licensees must retain records required by this part for no less than 20 [or 30] years from the date on which they sell or otherwise dispose of a firearm.” ATF also proposes to add a second sentence with language that helps better clarify the types of records covered by this provision, but that does not substantively change the content

currently in this paragraph: “For each firearm, retained records include the firearm’s acquisition records (purchase, receipt, or other acquisition), and corresponding disposition records (sale or other disposition).” The paragraph would also continue to require that “Licensees must maintain the records in either paper or an electronic alternate method approved by the Director, at the business premises, and readily accessible for inspection under this part.” These sentences also include some minor plain writing edits to make them easier to read, and to remove old language.

Along with these changes, ATF also proposes removing the off-site storage provision from § 478.129(d) if ATF changes the records retention period for these records to 20 years but would revise it if ATF changes the records retention period to 30 years. The provision currently allows FFLs to store paper records at a separate location provided the records have no open dispositions and do not have a disposition recorded within 20 years. If ATF changes the retention period to 20 years, this provision would no longer be necessary because FFLs would no longer retain these records longer than 20 years. If ATF elects to establish a 30-year retention period instead, ATF would revise the sentence to read, “Licensees may store paper records that do not contain any open entries and with no acquisitions recorded within 20 years at a separate warehouse, which ATF will consider as part of the business premises for this purpose and which will be subject to inspection under this part.”

However, because licensees expressed confusion in the past — when records were previously retained for 20 years — about how to determine the 20-year point for a record containing multiple transactions, which often span years, ATF is proposing a replacement provision to address this subject, which would apply to either retention period. ATF therefore proposes adding a sentence clarifying that the 20-year-point [or 30-year-point] for such records would be 20 years [or 30 years] after the most recent disposition date in the record.

B. Removing obsolete provisions and adding an existing form in § 478.129

1. Paragraph 478.129(c), reports of multiple sales or other disposition and theft/loss

Although § 478.129(c) is not undergoing a change to the records retention period for these reports, ATF is proposing to add ATF Form 3310.12, Report of Multiple Sale or Other Disposition of Certain Rifles, and to remove references to ATF Form 5300.35, Statement of Intent to Obtain a Handgun. Form 3310.12 already has a five-year retention period, as do the other forms in this paragraph, but it has not been specifically listed with the other multiple sale report for pistols and handguns, ATF Form 3310.4, because it was not in place when the regulatory provision was last drafted. ATF proposes rectifying this for clarity. In § 478.129(c), ATF therefore proposes to amend the paragraph by adding “and Form 3310.12 (Report of Multiple Sale or Other Disposition of Certain Rifles)” to the sentence “Licensees must retain each copy of Form 3310.4 (Report of Multiple Sale or Other Disposition of Pistols and Revolvers) for no less than five years after the date they sell or otherwise dispose of the firearms.” In addition, ATF proposes to amend the paragraph heading to remove the clause “of pistols and revolvers” to reflect that it would include both kinds of multi-sale reports.

With regard to removing references to Form 5300.35, ATF proposes to further amend the heading of § 478.129(c) by removing the clause “Statement of intent to obtain a handgun” and proposes to remove from the paragraph the sentence, “Licensees shall retain each Form 5300.35 (Statement of Intent to Obtain a Handgun(s)) for a period of not less than 5 years after notice of the intent to obtain the handgun was forwarded to the chief law enforcement officer, as defined in § 478.150(c).” ATF is proposing these changes because Form 5300.35 was a predecessor form to Form 4473 and is obsolete.

2. Paragraphs 478.129(a) and (f), records prior to GCA and records of semiautomatic assault weapon transactions

ATF is also proposing to remove § 478.129(a) and (f) because they are obsolete.

Paragraph (a) was included in the regulation to clarify which A&D records generated prior to 1968 were subject to the provisions of the GCA passed that year. It has been almost 60 years since this paragraph was added, and this provision is no longer necessary for most records, especially because ATF is also proposing to reduce the retention period for most records to 20 [or 30] years. ATF proposes to remove paragraph (a) and to move the portion of paragraph (a) that pertains to I&M acquisition records to paragraph (c), which covers such records. Along with removing § 478.129(a), this proposed change would include redesignating the subsequent paragraphs from (b) through (e) to (a) through (d).

Paragraph (f), on semiautomatic assault weapon records, was added in 1994, to reflect the assault weapons ban incorporated in subtitle A of title XI of the Violent Crime Control and Law Enforcement Act of 1994 (Pub. L. 103-322, § 110101, 108 Stat. 1796, 2011 (1994)). However, the assault weapons ban expired ten years later, in 2004, at which time the statutory requirements ceased. As a result, this corresponding regulatory provision is obsolete, and ATF proposes removing it.

C. Reducing retention period for NTC's out-of-business records in § 478.127

The GCA's requirement that licensees provide their records to ATF when they discontinue business has historically been subject to considerable scrutiny and legislative activity. For 33 years, FY 1979 to FY 2011, ATF's annual appropriations included a proviso prohibiting ATF to expend appropriated funds in connection with consolidating or centralizing firearms records maintained by FFLs. In FY 2012, the restriction was made permanent.⁹ In 1986, the Firearms Owners' Protection Act amended the GCA to prohibit a registry of firearms, firearms owners, or firearms traffic.¹⁰ Pub. L. 99-308, 100 Stat. 449, 459 (1986). A 2016 Government Accountability Office ("GAO") audit

⁹ Consolidated and Further Continuing Appropriations Act, 2012, Pub. L. 112-55 (November 18, 2011), 125 Stat. 552, 609.

¹⁰ Pub. L. 99-308 (May 19, 1986), 100 Stat. 449, 459.

examined ATF's compliance with these, and other, registry prohibitions. The audit was initiated due to perceptions that ATF's Out-of-Business Record Imaging System ("OBRIS") was not in compliance with the laws and prohibitions, though GAO found otherwise.¹¹ Despite this finding, recent bills, such as the Shall Not Be Infringed Act of 2023¹² (preventing registry expansion through eTrace modernization efforts) and the No Retaining Every Gun In a System That Restricts Your Rights Act¹³ (requiring destruction of all OOB records) highlight ongoing concerns with ATF retaining OOB records and trace information. Changing the current retention period would significantly reduce the volume of records retained by ATF and alleviate concerns that ATF might have established or will establish a registry of firearms, firearms owners, or firearms transactions.

ATF records indicate that the number of OOB traces that use OOB records over 20 years old has decreased steadily since 2011. In 2011, approximately 39 percent (41,652) of OOB traces used records over 20 years old. In 2024, approximately 21 percent (48,319) of OOB traces used records over 20 years old, and approximately 12 percent (29,060) of OOB traces used records over 30 years old. In 2025, approximately 20 percent (50,869) of OOB traces used records over 20 years old and approximately 12 percent (30,934) of OOB traces used records over 30 years old. The trend since 2011 has been a decrease in the percentage of OOB records used that are more than 20 or 30 years old.

ATF is therefore proposing to limit the period NTC retains OOB records to no longer than 20 years [or 30 years] from the date it receives the records. Specifically, ATF proposes revising § 478.127 to include this retention period for OOB records and to

¹¹ U.S. Gov't Accountability Office, *GAO-16-552, Firearms Data: ATF Did Not Always Comply with the Appropriations Act Restriction and Should Better Adhere to Its Policies* (2016), <https://www.gao.gov/assets/gao-16-552.pdf> [<https://perma.cc/XX3V-VAD4>].

¹² H.R. 3212, 118th Cong. (2023).

¹³ H.R. 563, 119th Cong. (2025).

update the existing language to be more streamlined and in plain writing. This proposed section would continue to state that licensees that discontinue operations do not have to transfer records to ATF when a successor assumes the business, but it would maintain the requirement that FFLs that discontinue business absolutely must transfer their records. It would also continue to include the location to which the business must transfer the records and specify that the chief of ATF's Federal Firearms Licensing Center may arrange for the records to instead be delivered to another authority when required by state law or local ordinance. This information is not changing in substance from current requirements. However, the 20[or 30]- year retention period would not apply to I&M acquisition records, for the legal reasons described above. These records also lack the concerns raised by some parts of the public about gun owner privacy and having a de facto sales registry. This is because I&M acquisition records in general reflect disposition to a wholesaler or retail dealer, but rarely to a consumer, and I&M acquisition records in particular reflect acquisition from or manufacture by another FFL or company, not a consumer. These records, thus, have no utility for determining which citizens own particular firearms. In addition, ATF would include the provision discussed above on retaining such records at ATF: "ATF will retain records delivered to and maintained at ATF's Out-of-Business Records Center for no longer than 20 [or 30] years from the date they receive the records." ATF seeks comments on the length of the proposed records retention period, whether 20 or 30 years, for licensee records.

III. Statutory and Executive Order Review

A. Executive Orders 12866 and 13563

Executive Order 12866 (Regulatory Planning and Review) directs agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits.

Executive Order 13563 (Improving Regulation and Regulatory Review)

emphasizes the importance of agencies quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting public flexibility.

This proposed rule amends 27 CFR 478 to reduce the current requirement for licensees to retain firearms A&D records permanently down to retaining such records for 20 [or 30] years. A similar 20-year retention period existed before 2022, and this change represents a cost savings to industry. The proposed rule also establishes a similar retention period for out-of-business records transferred to ATF, which does not have a cost on regulated industry but may have a cost impact on the public in the form of marginally greater public safety risk.

The Office of Management and Budget (“OMB”) has determined that this proposed rule would not be a “significant regulatory action” under Executive Order 12866. Therefore, it did not review this rule. ATF provides the following analysis to comply with Executive Orders 12866 and 13563.

1. Need statement

While existing federal regulations (§ 478.129(b), (c), and (d)) require licensees to retain manufacturing, importing, or other acquisition records, and sale or other disposition records, for firearms until they discontinue the business or licensed activity, the requirements were term-limited to 20 years for all records — except importer and manufacturer acquisition records, which were indefinite — from 1985 until ATF’s 2022 rulemaking that began requiring indefinite periods for other A&D records as well.

Records retained by licensees allow ATF to trace ownership of firearms recovered at or used in crimes, a function particularly important in support of federal, state, and local law enforcement. However, statistical data maintained by NTC establishes that there has been a steady increase since FY 2014 in the percentage of completed traces to a purchaser using records less than 20 years old, and a corresponding decrease in the need to utilize records over 20 years old to trace a firearm to a purchaser — caused in part by

short TTC periods and lower median age of recovered firearms. Since 2022, however, approximately 128,960 active FFLs have been facing costs of retaining, on a permanent basis, A&D records for firearms. The older the firearm, the more likely it has entered the secondary market and may have been transferred multiple times. As a result, the ability to trace crime guns through licensee records decreases over time because licensee records do not cover transfers on the secondary market. As a result, the utility of older records does not outweigh the increased cost of permanently retaining electronic or paper records.

2. Benefits

Reducing the records retention period for licensee A&D records and Forms 4473 from permanent to 20 or 30 years would benefit FFLs. Based on current ATF data on active FFLs, out of 79,378 licensees, only 13,729 had their license originally issued prior to December 31, 2005 (20 years ago). Accordingly, only 17 percent of all FFLs have been licensed for 20 years or more. This minority of licensees were also offered several accommodations when regulations were finalized in 2022 requiring a permanent records retention period, including an accommodation for electronic storage of records older than 20 years, and allowance for off-site storage to accommodate the printed records that they would start to retain. These accommodations make it less likely that this proposed rule would help licensees recover sunk costs, such as those for expanding storage facilities or converting to digitized retention or electronic records, of compliance with the current rule. Further, ATF estimates only a de minimis number of FFLs incurred these costs because it is likely that large dealers maintain established record-keeping systems capable of complying with the current or proposed regime equally. On the other hand, smaller dealers — though having faced less than three years of new records (which would not be impacted by the proposed rule because they are still younger than 20 years) — would have facilitated their compliance by using digital or off-site accommodations based on

their level of operations and storage needs. The cost savings are thus difficult to quantify precisely as many costs associated with increased storage would have been incurred going forward under the current rule but may not have yet accrued. Therefore, ATF expects a qualitative benefit to accrue to the industry, yet of unknown magnitude and number of beneficiaries.

3. Costs

ATF expects that reducing the required record retention period from permanent to the 20-year [or 30-year] limit that was in effect prior to 2022 would have a limited number of costs and potential risks to public safety.

The primary source of any potential risk would be the possibility that ATF is unable to complete a small portion of firearm trace requests from federal, state, and local law enforcement if they pertain to a firearm sold over 20 [or 30] years ago. These failed trace requests may include high-profile urgent traces. However, firearms of that age may be more commonly involved in inheritance transfers and secondhand sales, for which ATF has no data, and thus a lesser ability to trace.

To better determine this potential risk, ATF must first examine the frequency of such traces that stem from firearms over 20 [or 30] years old.

Based on data from ATF's National Tracing Center, Table 4 shows the distribution of firearm tracing requests based on the age of the firearm records utilized to identify a purchaser.

Table 4. Age of firearm records required to identify a purchaser

FISCAL YEAR	<5 Yrs	5-10 Yrs	10-15 Yrs	15-20 Yrs	20-25 Yrs	25-30 Yrs	30-35 Yrs	35-40 Yrs	40-45 Yrs	45-50 Yrs	50-55 Yrs	55+ Yrs
2015	82,919	41,958	20,981	17,912	20,605	11,296	9,032	6,980	5,372	1,529	105	117
2016	100,167	45,388	22,559	17,908	20,196	11,920	8,500	7,509	5,714	2,226	226	189
2017	116,408	52,635	24,244	17,244	18,772	13,068	8,288	7,510	5,531	2,848	315	247
2018	127,692	64,411	27,232	17,473	17,230	15,497	8,737	7,720	5,559	3,699	546	339
2019	137,627	69,977	29,768	15,867	14,550	15,161	8,268	7,034	5,379	4,045	715	269
2020	162,273	74,082	30,464	15,476	13,077	14,394	7,861	6,106	4,959	3,783	804	46
2021	217,873	84,446	30,465	14,834	11,480	12,897	7,510	5,309	4,824	3,687	1,256	77
2022	253,062	93,476	36,075	15,979	11,346	12,550	8,707	5,451	5,285	3,797	2,060	149

2023	259,614	100,002	43,215	17,741	11,334	11,353	10,144	5,833	5,540	4,102	2,620	416
2024	246,592	101,391	46,370	20,052	10,691	9,852	10,686	5,911	5,172	4,036	2,983	589

Based on the above distribution, the age of the firearms being traced is predominantly less than five years old, followed by those aged between five and ten years, 10 to 15 years, and 15 to 20 years. After 20 years, firearms are generally traced less frequently, but inconsistently so, and the reduction is not always linear. For example, in 2024 more traces involved firearms between 30 and 35 years old than those aged 25 to 30 years, and in 2022 there were more traces for firearms aged 25 to 30 years old than for those aged 20 to 25 years, while in 2019 there were more aged 25 to 30 years old than aged 20 to 25 years. Generally, however, the older the gun, the fewer the traces received for it. Presented as a percentage, Table 5 includes this distribution in more aggregate terms.

Table 5. Age of firearm records required to identify a purchaser by aggregates

FISCAL YEAR	Total traces to purchaser	0-20 Y total traces	Percentage using 0-20 Y	0-25 Y total traces	Percentage using 0-25 Y	0-30 Y total traces	Percentage using 0-30 Y
2015	218,806	163,770	75%	184,375	84%	195,671	89%
2016	242,502	186,022	77%	206,218	85%	218,138	90%
2017	267,110	210,531	79%	229,303	86%	242,371	91%
2018	296,135	236,808	80%	254,038	86%	269,535	91%
2019	308,660	253,239	82%	267,789	87%	282,950	92%
2020	333,325	282,295	85%	295,372	89%	309,766	93%
2021	394,658	347,618	88%	359,098	91%	371,995	94%
2022	447,937	398,592	89%	409,938	92%	422,488	94%
2023	471,914	420,572	89%	431,906	92%	443,259	94%
2024	464,325	414,405	89%	425,096	92%	434,948	94%

As shown in Table 5, the vast majority of traces requested used records within the 20-year-old age group. In 2024, 89 percent of traces requested used records under 20 years old, 92 percent used records under 25 years old, and 94 percent used records under 30 years old. The percentage of successful crime gun traces increased from 89 to 94 percent when records up to 29 years old were available, resulting in almost 10,000 additional successful traces.

Table 6. Age of firearm records required to identify a purchaser by percentage

FISCAL YEAR	Traces beyond 0-20 Y	Traces beyond 0-25 Y	Traces beyond 0-30 Y	Percentage of traces beyond 0-20 Y	Percentage of traces beyond 0-25 Y	Percentage of traces beyond 30 Y
2015	55,036	34,431	23,135	25%	16%	11%
2016	56,480	36,284	24,364	23%	15%	10%
2017	56,579	37,807	24,739	21%	14%	9%
2018	59,327	42,097	26,600	20%	14%	9%
2019	55,421	40,871	25,710	18%	13%	8%
2020	51,030	37,953	23,559	15%	11%	7%
2021	47,040	35,560	22,663	12%	9%	6%
2022	49,345	37,999	25,449	11%	8%	6%
2023	51,342	40,008	28,655	11%	8%	6%
2024	49,920	39,229	29,377	11%	8%	6%

Table 6 calculates the inverse, with the numbers and percentage of firearm traces that were received that used records older than 20 years, 25 years, and 30 years, which in 2024 amounted to 11 percent, 8 percent, and 6 percent, respectively. Therefore, based on volume from the most recent 2024 fiscal year, under a 20-year retention limit, 49,920 additional traces would be unsuccessful because they would need records over 20 years old (Table 6). If there was a 25-year retention period, then the additional unsuccessful traces would be reduced from 49,920 to 39,229. And finally, if there was a 30-year retention period, the number would be 29,377 unsuccessful traces. While inference on risks to public safety are difficult to make definitively, and most traces occur within the first 20 years as shown above, the remaining traces that would be unsuccessful as a result of the proposed rule could delay or hinder federal, state, and local law enforcement efforts to track and stop violent offenders.

4. Regulatory alternatives

Alternatives 1 and 2: Guidance or no action (keeping indefinite retention period)

ATF considered issuing guidance on records retention periods, as well as not issuing a rulemaking on the issue, also known as the no-action alternative. The decreasing need to utilize records over 20 years old — caused in part by short TTC

periods and lower median age of recovered firearms — demonstrate that a 20-year or 30-year records retention period and reducing the volume of older records maintained by NTC would not have a significant impact on ATF's capability to trace crime guns. Accordingly, the requirement to maintain permanent records of all firearms transactions is not justifiable based on the cost and administrative burden to both the firearms industry and the government. ATF also considered the alternative of affecting the proposed change through guidance instead of rulemaking. However, because the requirement is already in a regulation, revising the requirement must also be accomplished via rulemaking.

Alternative 3: 20-year retention period versus 30-year retention period

ATF considered reducing the records retention period to 20 years, as it was prior to 2022, or to 30 years. Considerations in favor of 20 years were predominantly based on the longstanding practice and precedent that had been in place prior to 2022, except for I&M acquisition records. Returning to this retention period would offer familiarity and thus greater ease of compliance to industry. Alternatively, proposing a 30-year retention requirement would similarly reduce storage burdens compared to the current post-2022 baseline of indefinite records, but would secure an additional ten years of records to facilitate possible traces for ATF and federal, state, and local law enforcement. The difference in estimated benefits and costs between the 20- and 30-year retention periods appears to be marginal, according to ATF tracing data presented above. ATF invites public comment on these two possible retention periods to further inform ATF's decision between these options. ATF will decide on one of these periods for the final rule.

B. Executive Order 14192

Executive Order 14192 (Unleashing Prosperity Through Deregulation) requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed or revised when the agency publicly proposes for notice and comment or

otherwise promulgates a new regulation that qualifies as an Executive Order 14192 regulatory action (defined in OMB Memorandum M-25-20 as a final significant regulatory action under section 3(f) of Executive Order 12866 that imposes total costs greater than zero). In furtherance of this requirement, section 3(c) of Executive Order 14192 requires that any new incremental costs associated with such new regulations must, to the extent permitted by law, also be offset by eliminating existing costs associated with at least ten prior regulations. However, this proposed rule would not be an Executive Order 14192 regulatory action because it is not a significant regulatory action as defined by Executive Order 12866 and it would not impose total costs greater than zero. ATF therefore expects this rule, if finalized as proposed, to qualify as an Executive Order 14192 deregulatory action (defined by OMB Memorandum M-25-20 as a final action that imposes total costs less than zero).

C. Executive Order 14294

Executive Order 14294 (Fighting Overcriminalization in Federal Regulations) requires agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the mens rea standard applicable to each element of those offenses. This proposed rule would not create a criminal regulatory offense and is thus exempt from Executive Order 14294 requirements.

D. Executive Order 13132

This proposed rule would not have substantial direct effects on the states, the relationship between the federal government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132 (Federalism), the Director has determined that this proposed rule would not impose substantial direct compliance costs on state and local governments, preempt state law, or meaningfully implicate federalism. It thus does not

warrant preparing a federalism summary impact statement.

E. Executive Order 12988

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

F. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (“RFA”), 5 U.S.C. 601–612, agencies are required to conduct a regulatory flexibility analysis of any proposed rule subject to notice-and-comment rulemaking requirements unless the agency head certifies, including a statement of the factual basis, that the proposed rule would not have a significant economic impact on a substantial number of small entities. Small entities include certain small businesses, small not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Director certifies, after consideration, that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule is deregulatory in nature and would provide savings to the regulated industry. It reduces the length of time persons would have to store records, which reduces costs to small entities, and it imposes no additional burdens or costs.

G. Unfunded Mandates Reform Act of 1995

This proposed rule does not include a federal mandate that might 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 would not significantly or uniquely affect small governments. Therefore, ATF has determined that no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

H. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (“PRA”), 44 U.S.C. 3501–3521,

agencies are required to submit to OMB, for review and approval, any information collection requirements a rule creates or any impacts it has on existing information collections. An information collection includes any reporting, record-keeping, monitoring, posting, labeling, or other similar actions an agency requires of the public. *See* 5 CFR 1320.3(c). If this proposed rule is finalized, ATF would create an information collection request associated with 27 CFR 478.127 because the requirement contained in § 478.127 requires FFLs to transfer acquisition and disposition records to ATF's Out-of-Business Records Center when the FFL discontinues business absolutely, and would constitute an information collection under the PRA.

In addition, if this rule is finalized as proposed, ATF would revise four existing information collections. The information collection requirements in § 478.129 are the FFL record-keeping retention requirements in current paragraphs (b) through (e) of that section (which would be redesignated as paragraphs (a) through (d) under this proposed rule). These record retention requirements are subject to the PRA and would need to be updated to reflect the new retention period. They were previously established as an information collection under OMB control numbers 1512-0544, 1512-0520, 1512-0006, 1512-0524, and 1512-0129, from prior to when ATF transferred to the Department of Justice from the Treasury Department. But it appears they were not continued under a Department of Justice information collection action after the transfer and remain cited in the regulation under the old Treasury number. As a result, ATF would also update these information collections to reflect ATF OMB control numbers as part of the same process. ATF expects to combine these § 478.129 records-retention period requirements into existing information collection requests for the corresponding records: 1140-0020, Firearms Transaction Record (ATF Form 4473); 1140-0031, Records of Acquisition and Disposition, Registered Importers of Arms, Ammunition, and Defense Articles on the US Munitions Import List; 1140-0032, Records of Acquisition and Disposition, Dealers of

Type 01/02 Firearms, and Collectors of Type 03 Firearms; and 1140-0067, Licensed Firearms Manufacturers' Records of Production, Disposition, and Supporting Data.

Although this rule involves the existing ICRs, the proposed changes would not add to the burdens imposed on the respondent beyond existing, OMB-approved requirements because ATF is proposing to reduce the retention periods.

I. Congressional Review Act

This proposed rule would not be a major rule as defined by the Congressional Review Act, 5 U.S.C. 804.

IV. Public Participation

A. Comments sought

ATF requests comments on the proposed rule from all interested persons. ATF specifically requests comments on the clarity of this proposed rule and how it may be made easier to understand. In addition, ATF requests comments on the costs or benefits of the proposed rule and on the appropriate methodology and data for calculating those costs and benefits.

All comments must reference this document's RIN 1140-AA95 and, if handwritten, must be legible. If submitting by mail, you must also include your complete first and last name and contact information. If submitting a comment through the federal e-rulemaking portal, as described in section IV.C of this preamble, you should carefully review and follow the website's instructions on submitting comments. Whether you submit comments online or by mail, ATF will post them online. If submitting online as an individual, any information you provide in the online fields for city, state, zip code, and phone will not be publicly viewable when ATF publishes the comment on <https://www.regulations.gov>. However, if you include such personally identifiable information ("PII") in the body of your online comment, it may be posted and viewable online. Similarly, if you submit a written comment with PII in the body of the comment,

it may be posted and viewable online. Therefore, all commenters should review section IV.B of this preamble, “Confidentiality,” regarding how to submit PII if you do not want it published online. ATF may not consider, or respond to, comments that do not meet these requirements or comments containing excessive profanity. ATF will retain comments containing excessive profanity as part of this rulemaking’s administrative record but will not publish such documents on <https://www.regulations.gov>. ATF will treat all comments as originals and will not acknowledge receipt of comments. In addition, if ATF cannot read your comment due to handwriting or technical difficulties and cannot contact you for clarification, ATF may not be able to consider your comment.

ATF will carefully consider all comments, as appropriate, received on or before the closing date.

B. Confidentiality

ATF will make all comments meeting the requirements of this section, whether submitted electronically or on paper, and except as provided below, available for public viewing on the internet through the federal e-rulemaking portal, and subject to the Freedom of Information Act (5 U.S.C. 552). Commenters who submit by mail and who do not want their name or other PII posted on the internet should submit their comments with a separate cover sheet containing their PII. The separate cover sheet should be marked with “CUI//PRVCY” at the top to identify it as protected PII under the Privacy Act. Both the cover sheet and comment must reference this RIN 1140-AA95. For comments submitted by mail, information contained on the cover sheet will not appear when posted on the internet, but any PII that appears within the body of a comment will not be redacted by ATF and may appear on the internet. Similarly, commenters who submit through the federal e-rulemaking portal and who do not want any of their PII posted on the internet should omit such PII from the body of their comment and any uploaded attachments. However, PII entered into the online fields designated for name,

email, and other contact information will not be posted or viewable online.

A commenter may submit to ATF information identified as proprietary or confidential business information by mail. To request that ATF handle this information as controlled unclassified information (“CUI”), the commenter must place any portion of a comment that is proprietary or confidential business information under law or regulation on pages separate from the balance of the comment, with each page prominently marked “CUI//PROPIN” at the top of the page.

ATF will not make proprietary or confidential business information submitted in compliance with these instructions available when disclosing the comments that it receives but will disclose that the commenter provided proprietary or confidential business information that ATF is holding in a separate file to which the public does not have access. If ATF receives a request to examine or copy this information, it will treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). In addition, ATF will disclose such proprietary or confidential business information to the extent required by other legal process.

C. Submitting comments

Submit comments using either of the two methods described below (but do not submit the same comment multiple times or by more than one method). Hand-delivered comments will not be accepted.

- *Federal e-rulemaking portal:* ATF recommends that you submit your comments to ATF via the federal e-rulemaking portal at <https://www.regulations.gov> and follow the instructions. Comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that is provided after you have successfully uploaded your comment.
- *Mail:* Send written comments to the address listed in the ADDRESSES section of

this document. Written comments must appear in minimum 12-point font size, include the commenter's first and last name and full mailing address, and may be of any length. See also section IV.B of this preamble, "Confidentiality."

D. Request for hearing

Any interested person who desires an opportunity to comment orally at a public hearing should submit his or her request, in writing, to the Director within the 90-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing is necessary.

Disclosure

Copies of this proposed rule and the comments received in response to it are available through the federal e-rulemaking portal, at <https://www.regulations.gov> (search for RIN 1140-AA95).

Severability

Consistent with the Administrative Procedure Act, the issues raised in this proposed rule may be finalized, or not, independently of each other, after consideration of comments received. ATF has determined that this proposed rule implements and is fully consistent with governing law. However, in the event this proposed rule is finalized, if any provision of that final rule, an amendment or revision made by that rule, or the application of such provision or amendment or revision to any person or circumstance, is held to be invalid or unenforceable by its terms, the remainder of that final rule, the amendments or revisions made by that rule, and application of the provisions of the rule to any person or circumstance shall not be affected and shall be construed so as to give them the maximum effect permitted by law.

List of subjects in 27 CFR part 478

Administrative practice and procedure, Arms and munitions, Exports, Freight, Imports, Intergovernmental relations, Law enforcement officers, Military personnel,

Penalties, Reporting and record-keeping requirements, Research, Seizures and forfeitures, Transportation.

For the reasons discussed in the preamble, ATF proposes to amend 27 CFR part 478 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).

2. Revise § 478.127, including the section heading, to read as follows:

§ 478.127 Discontinued business records.

(a) When a licensed business is discontinued but is succeeded by a new licensee, the records prescribed by this subpart must appropriately reflect these facts and be delivered to the successor. The successor licensee may retain them or deliver them within 30 days following the date the business was discontinued, to one of the locations described in paragraph (b) of this section.

(b) When a licensed business is discontinued with no successor licensee, the records must be delivered within 30 days after the date the business is discontinued to the ATF Out-of-Business Records Center; 244 Needy Road; Martinsburg, West Virginia 25405, or to any ATF office in the area in which the business was located. However, if state law or local ordinance requires the licensee to deliver records to another responsible authority, the Chief, Federal Firearms Licensing Center, may permit records required by this subpart to be delivered to such authority.

(c) ATF will retain records delivered to and maintained at its Out-of-Business Records Center for no longer than 20 [or 30] years from the date they receive the records.

(d) The retention periods in paragraph (c) of this section do not apply to importer and manufacturer acquisition records, which ATF retains indefinitely.

3. Amend § 478.129 by:

- a. Revising the section heading;
- b. Removing paragraphs (a) and (f) and redesignating paragraphs (b) through (e) as paragraphs (a) through (d);
- c. Revising newly designated paragraphs (a) through (d); and
- d. Revising the OMB approval statement at the end of the section.

The revisions read as follows:

§ 478.129 Records retention requirements.

(a) *Firearms Transaction Record*. Licensees must retain each Firearms Transaction Record, ATF Form 5300.9 (“Form 4473”), for no less than 20 [or 30] years from the date on which they sell or otherwise dispose of a firearm. FFLs must maintain Forms 4473 as either paper forms or e-Forms 4473, at the business premises, readily accessible for inspection under this part, and as provided in § 478.124(h) and (i), except:

(1) *Not-completed transactions*. If a Form 4473 is initiated but a sale, delivery, or transfer does not take place, the FFL must retain the associated Form 4473 separately in alphabetical (by name of transferee) or chronological (by date of transferee's certification) order for no less than five years after the potential transferee initially signs the form to initiate the NICS check.

(2) *Private-party transfers*. FFLs must retain Forms 4473 used for private-party transfers for no less than 90 days from the date on which they initiate the associated background check. They must retain them alphabetically (by name of transferee) or chronologically (by date of transferee's certification). However, licensees must retain Forms 4473 used for this purpose that receive a “denied” response from NICS for no less than five years and may then dispose of them. These records do not constitute licensee firearms records, and the licensee therefore does not send them to ATF's Out-of-Business records center when the FFL absolutely discontinues its business.

(3) *Voluntary firearms handler checks*. FFLs must retain Forms 4473 used for

voluntary firearms handler checks for no less than 90 days from the date on which they initiate the associated background check. They must retain them alphabetically (by name of employee) or chronologically (by date of employee's certification). These records do not constitute licensee firearms records, and the licensee therefore does not send them to ATF's Out-of-Business records center when the FFL absolutely discontinues its business.

(b) *Reports of multiple sales or other disposition and theft/loss reports.* Licensees must retain each copy of Form 3310.4 (Report of Multiple Sale or Other Disposition of Pistols and Revolvers) and Form 3310.12 (Report of Multiple Sale or Other Disposition of Certain Rifles) for no less than five years after the date they sell or otherwise dispose of the firearms. Licensees must retain each copy of Form 3310.11 (Federal Firearms Licensee Theft/Loss Report) for no less than five years after the date they report the theft or loss to ATF.

(c) *Importer and manufacturer acquisition records.* Licensed importers and manufacturers must retain acquisition records required by this part until they discontinue business, including those from prior to 1968. These acquisition records include documents on importing, manufacturing, or other acquisition methods, including ATF Forms 6 and any corresponding ATF Forms 6A as required by subpart G of this part. These licensees must maintain the records in either paper or an authorized electronic method, at the business premises, and readily accessible for inspection under this part. Licensees may store paper records that do not contain any open entries and with no acquisitions recorded within 20 years at a separate warehouse, which ATF will consider as part of the business premises for this purpose and which will be subject to inspection under this part.

(d) *All other acquisition and disposition records.* Except for records described in paragraph (c) of this section, licensees must retain records required by this part for no less than 20 [or 30] years from the date on which they sell or otherwise dispose of a firearm.

This includes importer and manufacturer disposition records. For each firearm, licensees must retain the acquisition records (purchase, other receipt, or other acquisition), and the corresponding disposition records (sale or other disposition), for the firearm. Licensees must maintain the records in either paper or an authorized electronic method, at the business premises, and readily accessible for inspection under this part. Licensees must retain a record containing multiple sale or other disposition dates in its entirety for no less than 20 [or 30] years after the date of the most recent sale or other disposition contained in that record.

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(Paragraph (a) is approved by the Office of Management and Budget under control number 1140-0020; paragraph (c) is approved under control numbers 1140-0031 and 1140-0067; 1140-0032, and paragraph (d) is approved under control number 1140-0032.)

Robert Cekada,
Director.

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