



DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR Part 478

[Docket No. ATF-2026-0001; ATF 2025R-01P]

RIN 1140-AA82

Revising Firearms Transaction Record, “Form 4473”

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”) is proposing to amend Department of Justice (“Department”) regulations governing ATF Form 5300.9, Firearms Transaction Record, (“Form 4473”). Specifically, ATF proposes streamlining identity and residence verification requirements and documents; doubling the performance timeframe for transactions under Form 4473 following a National Instant Criminal Background Check System (“NICS”) check; permitting electronic forms and notice, auto-populating, and attached copies; addressing private party transfers and firearms handler checks; incorporating ATF rulings and other guidance; further aligning regulations with statutory text; and making minor technical revisions.

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 RIN 1140-AA82, 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-AA82.*

Instructions: All submissions must include the agency name and number (RIN 1140-AA82) for this notice of proposed rulemaking (“NPRM” or “proposed rule”). ATF may post all properly completed comments received 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, ATF has promulgated regulations to implement the GCA in 27 CFR part 478.

The GCA prohibits certain persons from shipping, transporting, receiving, or possessing firearms. All persons, including federal firearms licensees (“FFLs” or “licensees”), are prohibited from transferring firearms to persons prohibited under the law from possessing firearms. FFLs, as well as non-licensed sellers, are also subject to other restrictions regarding disposing of a firearm to an unlicensed person under the GCA. For example, a person may be prohibited from receiving a firearm based upon the person’s age or residence state.

Prior to transferring a firearm, FFLs must determine if non-licensed transferees/buyers may lawfully receive the firearm. *See* 18 U.S.C. 922(b)–(d); 27 CFR 478.99. In addition, FFLs are generally required to conduct background checks —through the

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 the permanent import of defense articles and defense services and the Contraband Cigarette Trafficking Act.

Federal Bureau of Investigation’s (“FBI’s”) National Instant Criminal Background Check System (“NICS”) — on prospective firearm recipients to prevent prohibited persons from receiving firearms and to maintain transaction records for crime-gun tracing purposes. *See* 18 U.S.C. 922(t), 923(g)(1)(A). FFLs may do the background check directly through NICS or through a state point of contact (“POC”), depending on the requirements of the state in which the FFL has its business premises.

Within ATF’s implementing regulations, § 478.124, Firearms transaction record, implements these statutory requirements for FFLs and establishes Form 4473 as the means by which to meet these requirements. Currently, licensees use Form 4473 for firearm transfers when the seller is licensed under 18 U.S.C. 923 and the transferee is an unlicensed person, or when the FFL is facilitating a private-party transfer between two unlicensed persons.

The information and certification requested on Form 4473 are designed so that the FFL may determine if it may lawfully sell or deliver a firearm to the non-licensed transferee listed on the form, and to alert the transferee of certain restrictions about receiving and possessing firearms. *See* 27 CFR 478.124. The form also serves FFLs as a way to ensure they have the information required for the NICS background check and as a record that they collected the necessary information and performed the requisite checks to comply with the law and implementing regulations. Currently, FFLs complete section A of Form 4473 by recording identifying information for the firearm(s) the transferee is acquiring. The transferee completes section B to determine if they are eligible to receive the firearm. If those answers indicate that the transferee is not prohibited from receiving a firearm, the FFL completes section C and contacts NICS or, if applicable, their POC³ to determine if the firearm can be legally transferred to the transferee/buyer. ATF also uses the information on the form to

³ In states that are POC jurisdictions, when an FFL initiates a background check through the POC, the POC transmits the request for background check via the FBI’s National Crime Information Center (“NCIC”) which interfaces with NICS, rather than the licensee contacting NICS directly. *See, e.g.*, 28 CFR 25.6(d).

conduct firearm traces when requested by law enforcement officers.

II. Proposed Rule

If this rule is finalized as proposed, it would supersede ATF Rulings 2001-5, 2016-2, 2022-1, Procedure 2020-1, and 2020-2.⁴

In conjunction with this proposed rule, ATF is also proposing significant revisions to Form 4473 itself (which would include the electronic version). The form is being revised through the normal Paperwork Reduction Act process, and it is being published concurrently with this rule in the *Federal Register* as an information collection under Office of Management and Budget (“OMB”) control number 1140-0020, with a 60-day public comment period. After the public comment period for the notice and Form 4473 ends, ATF will address the comments and publish the information collection for a second notice, open for 30 days of additional public comments to OMB. Thereafter, OMB will review the information collection renewal request and determine whether to approve the proposed changes.

In addition, in conjunction with this proposed rule, ATF would update references to approved information collection requests within the sections that would be revised by this rule.

A. State of residence and county, political subdivision, or city limits

1. Definition of “identification document”

The GCA, throughout 18 U.S.C. 922, establishes certain requirements or limits

⁴ ATF Ruling 2001-5, *Identification of Transferee*, <https://www.atf.gov/firearms/docs/ruling/2001-5-identification-transferee/download> [<https://perma.cc/54LN-JSKB>]; ATF Ruling 2016-2, *Electronic ATF Form 4473*, <https://www.atf.gov/firearms/docs/ruling/2016-2-%E2%80%93-electronic-atf-form-4473/download> [<https://perma.cc/8JP3-2FN5>]; ATF Ruling 2022-1, *Electronic Storage of Forms 4473*, <https://www.atf.gov/firearms/docs/ruling/2022-01-electronic-storage-forms-4473pdf/download> [<https://perma.cc/7GXS-724Q>]; ATF Ruling, Procedure 2020-1, *Record-keeping Procedure for Non-Over-the-Counter Firearm Sales by Licensees to Unlicensed in-State Residents That Are NICS Exempt*, <https://www.atf.gov/rules-and-regulations/docs/ruling/atf-proc-2020-1-%E2%80%93-recordkeeping-procedure-non-over-counter-firearm/download> [<https://perma.cc/C2NR-7LA4>]; and ATF Ruling 2020-2, *Record-keeping and Background Check Procedure for Facilitation of Private Party Firearm Transfers*, <https://www.atf.gov/rules-and-regulations/docs/ruling/atf-proc-2020-2-%E2%80%93-recordkeeping-and-background-check-procedure/download> [<https://perma.cc/WE9M-AAZ8>].

certain activities on the basis of the state in which a person resides. For example, with certain exceptions, section 922(b)(3) makes it unlawful for an FFL to sell or deliver a firearm to a person who does not reside in (or, if a business entity, does not maintain a place of business in) the state in which the FFL's place of business is located. But one exception allows in-person sale of shotguns or rifles to a resident of another state if the sale does not violate the laws of either state. As a result, FFLs must determine in which state prospective transferees reside. Similarly, FFLs are required by section 922(b)(5) to record in their official firearms transaction records the buyer's place of residence (or equivalent information if the person is a business entity).

Therefore, ATF regulations at 27 CFR part 478 include requirements for FFLs to obtain information on the state in which a person resides. ATF's regulations at § 478.11 currently define an "identification document," in part, as a document that contains the holder's name, residence address, birthdate, and photograph. The identification document under this definition thus provides a source by which an FFL may verify both the person's identity and place (including state) of residence. However, it is not necessary for the identification document itself to serve both purposes. Under the statute, the identification document must include a photograph and be government-issued to serve identity verification purposes. 18 U.S.C. 922(t)(1)(D). Other documents, however, can be used to verify a person's residence, and in certain circumstances might be more accurate. For example, a member of the Armed Forces, a student studying out of state, or a person with two residences may have multiple states of residence for purposes of the GCA. In these circumstances, ATF has held that a person's residence state is the place where the person is actually living when the firearms transaction occurs. *See* ATF Ruling 2001-5.⁵ But such individuals are likely to have driver's licenses, voter registrations, and car registrations from the states in which they are domiciled rather than their second residence address where they are stationed or attending

⁵ *See* footnote 4, *supra*, ATF Ruling 2001-5.

school.

The current requirements narrowly restrict acceptable documents for proving residence, but the included documents need to be updated to align with recent technological and identification developments. To prove residence when a person has multiple residences (or otherwise needs to prove residence), ATF has accepted a combination of documents, but only if those documents are government-issued. *Id.* Thus, ATF accepts a recreation identification card or a fishing or hunting license issued by the government, even though not all issuing authorities verify a person's residence before issuing the document. On the other hand, ATF does not accept leases, telephone bills, or statements from financial institutions, even though these documents often provide the best primary evidence of residence and are routinely the evidentiary basis upon which state governments list a person's address on the driver's license or state identification card. Currently, ATF does accept a utility bill, but only if the utility is run by a government agency.

As a result, ATF is proposing to amend the "identification document" requirements in § 478.11 to align with the statutory requirements for verifying identity, and to allow an individual to use an updated set of non-government-issued documents in § 478.124 as primary evidence of residence, such as leases and utility bills. The statute requires that a person provide "a valid identification document" for transactions subject to the NICS check provisions. 18 U.S.C. 922(t)(1)(D). An identification document is defined elsewhere as a document made or issued by or under the authority of "the United States Government, a state, political subdivision of a State, a sponsoring entity of an event designated as a special event of national significance, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization" that must be of a type intended or commonly accepted for the purpose of identifying individuals when it is completed with information on a particular individual. 18 U.S.C. 1028(d)(3). Notably, that definition does not require the identification document to

have a person's residence address, and many common identification documents (e.g., passports) lack that information. Consequently, ATF is proposing to remove the words "residence address" from this definition, as a residence address is not required by the statute. The definitions do require that the identification document include a photo, so ATF is also proposing to add the word "photo" to the definition's title to help clarify this point and make it easier for persons to recognize the difference between documents for identity and documents for residence. Individuals could use a photo identification document to establish both identity and residence if the document includes their residence address, but they would no longer be required to do so. This would expand photo identification options to include those — like passports — that do not include the holder's residence address. As discussed below, ATF will still require proof of residence when a photo identification document lacks a residence address. But contrary to prior practice, ATF will allow primary and best evidence to prove residence, including leases, utility bills, and financial institution statements.

Due to advancements in technology, some states have begun issuing digital forms of photo identification documents. As a result of these developments, and in response to requests from industry, ATF is also adding digital identification documents to this definition if they are issued by one of the listed government or quasi-government authorities and if the state in which the licensee's business premises is located allows such digital documents as a commonly accepted document for identification purposes. ATF is also proposing to change the term from "identification document" to "photo identification document" as described below in section II.D.4 of this preamble.

2. Definition of "state of residence"

Section 478.11 also defines "state of residence" as the state in which an individual resides. This definition clarifies that individuals reside in a state if they are present and intend to make a home there. The GCA requires only residence; a person may be a resident of a state for purposes of the GCA even if the person is not domiciled in the state. It further

clarifies that, if individuals are members of the Armed Forces, their residence state is the state in which their permanent duty station is located, as stated in 18 U.S.C. 921(b). ATF has also stated that, if members of the Armed Forces maintain a home in one state and their permanent duty station is in a nearby state to which they commute each day, then the members have two states of residence and may, under federal law, purchase a firearm in either state. *See* ATF Licensee Quick Reference and Best Practices Guide, ATF Publication 5300.15, at p. 198 (2014). For example, if a military member is assigned to a base in North Carolina but lives in South Carolina, the member may purchase firearms in both states. However, this military-related information is not reflected in the regulatory definition.

ATF therefore proposes to amend the § 478.11 definition of “state of residence.” First, ATF proposes changing the term to “residence state” for plain writing purposes. Second, to avoid any confusion about applying the definition in military-related situations, ATF proposes to change, in the sentence about members of the Armed Forces, the phrase “state of residence is” to the phrase “residence states include.” Thus, for persons in the Armed Forces, their residence state would “include the state in which their permanent duty station is located.” The word “is” could mistakenly suggest that a military member’s residence state is limited to only that state. Substituting the word “includes” for “is” avoids any such implication. ATF is also proposing to add more examples in the definition to add clarity for Armed Forces personnel.

3. Political subdivision, county, and city limits information on Form 4473

ATF is proposing additional revisions to § 478.124(c)(1) that would make corresponding changes — resulting from the definitional changes described above — to the information elements that must be included on Form 4473. These proposed revisions would remove the requirements to include county and whether a person lives within city limits. Individuals would still enter their full residential address. See section II.D.2 of this preamble for detailed discussion of these proposed changes.

B. Amendments to § 478.102, sales or deliveries of firearms

1. Time limitation for transactions using completed Form 4473

Federal regulations require that a licensee initiate a NICS check (if one is required) when a potential transferee and the licensee complete the initial portions of Form 4473, in accordance with § 478.124 and instructions on the form. Form 4473 may be used for only a single transaction, and for 30 calendar days from the date the parties complete the initial portions of the form and the licensee initiates the background check with NICS. The regulations therefore also provide that the initiated Form 4473 and its accompanying NICS check may be relied upon by an FFL only for use in a single transaction, and only for a period not to exceed 30 calendar days from the date that the Form 4473 was initiated and the FFL initially contacted NICS. If the transaction is not completed within the 30-day period, the licensee must complete a new form and initiate a new NICS check prior to completing the transfer. 27 CFR 478.102(c).

Several circumstances also narrow the effective time period in which a person can retrieve a firearm after purchasing. For example, some states require FFLs to delay transactions for a longer period than the minimum 3-day (or ten-day, if the transaction involves a person under 21 years old) federal delay or until the FFL has received a response from NICS. Additionally, based on data from ATF records, while an average of 91 percent of transactions receive an instant response from NICS (based on NICS numbers for 2022–2024), some require more time.

Internal records also show that the 30-day time limit is causing many technical violations for FFLs. Over the past five years, 619 inspections have recorded 1,050 violations of the 30-day rule. This § 478.102(c) technical violation, which has been cited among other substantive violations, contributed to revoking 95 federal firearms licenses, with another 237 FFLs receiving warning conferences. Of the 1,050 violations, 78 percent were within two calendar months of the original check.

As a result, ATF is proposing to extend the time period during which an initiated Form 4473 and its accompanying NICS background check would continue to be valid for a purchase, from the current 30 days to two months. ATF does not believe that extending the validity of Form 4473 and its accompanying NICS check by approximately one more month will adversely impact public safety. In theory, there is a risk that a person could become prohibited between the first and second months after the background check, and there are no available statistics for how many purchasers who lawfully purchase firearms become prohibited persons between the first and second month after purchasing. But ATF has no evidence (even anecdotal evidence) suggesting that the risk is high. The proposed two-month validity of Forms 4473 and accompanying NICS checks is also far shorter than the Brady Act's provision for alternative permits, which can remain valid for up to five years from the date they were issued. 18 U.S.C. 922(t)(3)(A)(i)(II). Given that an additional month will prevent the majority of regulatory violations for stale forms and NICS checks, ATF thinks the two-month period strikes a better balance between avoiding unnecessary regulatory violations while preserving public safety.

In addition, ATF is proposing to simplify the method used to calculate this time period to avoid confusion that has, in the past, led to inadvertent mistakes. Specifically, this rule proposes to amend § 478.102(c) to replace the phrases "30 calendar days" and "30-day" with "two calendar months" and "two-month." This essentially doubles the length of time in which the transaction can occur once NICS has been contacted. It will also prevent errors calculating time periods that are caused by calendar months having different numbers of days.

To calculate two months, FFLs will use the same date on which they and the transferees complete the initial Form 4473 sections and the FFLs contact NICS to initiate the background check, such as the 4th, but apply it in the second month after the month in which they initiate the form. So, if the FFL and transferee complete the initial form steps and the

FFL contacts NICS on June 4, the transaction can be completed through August 4 without initiating a new form and a new NICS check. Likewise, if the FFL and transferee complete the initial form steps and the FFL contacts NICS on February 4, the FFL can complete the transaction through April 4.

The only potential sources of confusion under this proposed calculation method are forms and NICS contacts initiated at the end of December and July because the second month thereafter does not have the same number of days. Thus, ATF is clarifying that — under this proposed rule — if the FFL and transferee complete the initial form steps and the FFL contacts NICS on December 29, 30, or 31, the licensee can complete the relevant transaction through the last day of the following February (February 28 or, in a leap year, February 29) without requiring a new form and NICS check. Similarly, if the FFL and transferee complete the initial form steps and the FFL contacts NICS on July 31, the licensee can complete the relevant transaction through September 30.

To facilitate this change, the proposed rule also includes clarifying language in paragraph (c) to better show the relationship between Form 4473 and the NICS check, including a cross-reference to § 478.124 (which requires a Form 4473 for transfers to non-licensees along with the NICS check), and to reduce any confusion about whether the time limitation applies only to the background check or to both the check and the form that triggers it. In addition, the rule proposes to update Example 3 for paragraph (c) to more clearly illustrate the time limitation. Finally, ATF is proposing minor technical changes to update the years used in all the examples for paragraph (c) from 1998 or 1999 to 2024 or 2025, as the dates are more than 25 years old, and to make other minor technical edits in § 478.102(c) to improve readability.

2. Exceptions to NICS background checks

The proposed rule amends § 478.102(e) to add the paragraph heading “Documenting an exception to NICS check” to make it structurally consistent with the rest of part 478,

comply with CFR requirements, and identify the topic within the paragraph.

ATF is issuing a separate proposed rule on amending subsection (d), governing Brady alternative permits.

C. Amendments to § 478.96, non-over-the-counter transfers

ATF is proposing to revise and restructure § 478.96 to break up the long paragraph in § 478.96(b) to make it easier to read and to help better identify the requirements for non-over-the-counter (“NOTC”) transfers (when a licensee transfers a firearm to an unlicensed person who does not appear in person at the licensee’s business premises). These changes would include revising the applicability provisions in paragraph (a) to clarify when NOTC transfers may occur. It would also keep the requirements for conducting a NOTC transfer in paragraph (b) but would move the requirements for subsequent notice to law enforcement into paragraph (c) for easier reading. The rule then proposes redesignating the current paragraph (c) content on out-of-state transfers as paragraph (d). ATF is also proposing to revise the section heading to bring it up to date by removing the reference to mail order transactions and to reflect the order of the topics covered in the section. The rule also proposes minor plain language revisions, sub-divisions, and adding clarifying paragraph headings throughout the section.

In addition, ATF is proposing to amend the notification requirements currently in § 478.96(b). Currently, under the GCA at 18 U.S.C. 922(c), licensees conducting a NOTC firearms transfer must mail a copy of Form 4473 to the chief law enforcement officer (“CLEO”) in the jurisdiction in which the transferee resides, to notify the CLEO of the prospective transfer. Licensees must wait seven days after receiving a return receipt or notice of failed delivery from the U.S. Postal Service before they can ship or deliver the firearm to the transferee. 18 U.S.C. 922(c). ATF implemented these statutory requirements in §

478.96(b). However, in December 2024, Congress amended 18 U.S.C. 922(c)⁶ to permit licensees to electronically notify the CLEO and verify that the CLEO received the Form 4473 prior to shipping the firearm to the transferee. This rule proposes to include this change in the regulations under § 478.96(b) (which would now be under § 478.96(c) under this rule’s proposed restructuring) by adding the option to electronically submit the notice and receive confirmation from the CLEO. In addition, this rule proposes clarifying information on what to do when delivery fails, as that was implicit in the existing regulation but is less clear with electronic notice included. ATF proposes to add that, if delivery fails but is not refused, the licensee must take appropriate steps to resolve the situation until they receive the required return receipt, response, or refusal, or not complete the transaction. Such actions could include requesting corrected contact information from the transferee, looking up the CLEO’s email address online, calling the CLEO to get correct contact information, etc.

ATF also proposes to change this section to incorporate and rescind ATF Ruling 2020-1.⁷ This procedural ruling provided guidance to licensed importers, manufacturers, and dealers on completing Form 4473 and recording sales when selling to an unlicensed person in a NICS-exempt transaction. This rule proposes to reflect these procedures in § 478.96(b).

D. Amendments to § 478.124, firearms transaction records

1. Restructuring § 478.124

ATF proposes to structurally revise § 478.124, which addresses the firearms transaction record, to make it easier for people to follow. To that end, ATF is proposing to add paragraph headings to better identify topics of interest and to break apart longer paragraphs into sub-paragraphs. In addition, ATF is proposing to consolidate the content into the following paragraphs:

- (a) Overall requirement and exceptions – which contains the existing requirement that

⁶ Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025, § 5211, Pub. L. 118-159, 138 Stat. 1773, 2444 (Dec. 23, 2024) (“NDAA 2025”).

⁷ See footnote 4, *supra*, ATF Procedure 2020-1

FFLs must use Form 4473 for all firearms transactions, with certain exceptions, and includes those exceptions. ATF is also proposing to update the exceptions for clarity and readability.

(b) Transfers to other FFLs – which contains the existing provision on such transfers;

(c) Transfers to in-state residents – which combines the existing requirements for completing Forms 4473 that are common to both over-the-counter and NOTC transactions, thereby removing duplicative provisions and making it easier for people to determine what information they must provide and steps they must follow. This paragraph also incorporates updates to § 478.96 on notices to law enforcement in NOTC transactions described in section II.C of this preamble.⁸ This paragraph also groups together what information licensees must gather from purchasers — including the current paragraph (g), on who should provide such information for a purchaser that is not an individual — and the verification steps the FFLs must follow thereafter. In addition, this paragraph includes proposed sub-paragraphs that distinguish between verifying identity and verifying residence, in line with the proposed changes discussed in earlier parts of this preamble.

The proposed rule would also amend paragraph (c) to no longer require that FFLs include verification document information on Form 4473. While licensees may still re-write all such information (type of document, date issued, date expired, document number) by hand on Form 4473, ATF proposes adding a new sub-paragraph that also allows them to copy the document and attach the copy directly to Form 4473.

The proposed paragraph (c) would also remove the requirement that licensees certify that they do not know or have reason to believe the transferee intends to sell or dispose of the firearm to a prohibited person or intends to use the firearm in furtherance of a felony, terrorism, or drug trafficking. ATF proposes removing this certification because it is covered

⁸ ATF notes that it is publishing another proposed rule, “Revising Non-Over-the-Counter Transaction Requirements,” that proposes additional revisions to § 478.96. Section 478.96 currently permits NOTC transfers that are NICS-exempt. The proposed rule would permit and set out requirements for NOTC that are subject to NICS background checks. It would also include proposed cross-references to sections in this Form 4473 proposed rule, to both §§ 478.96 and 478.124. ATF expects to publish final rules on both at about the same time.

under the proposed new Form 4473's FFL general certification. In relevant part, the licensee certifies that "it is not unlawful for me to sell, deliver, transport, or otherwise dispose of the firearm(s) listed on this form." Retaining the additional certification requirement described above is unnecessary, redundant, and refers to only a single potential violation of law in a firearms transaction. Form 4473 does not identify every potential violation of law in a firearms transaction, so specifying one for certification is unnecessary and could lead to misunderstandings about whether licensees are certifying to only this one;

(d) Transfers to out-of-state residents – which contains the existing provisions itemizing the two types of transfers an FFL can make to out-of-state residents and clarifies that both must be made in compliance with paragraph (c). ATF also proposes streamlining edits to these provisions to remove duplicative language;

(e) Private-party transfers – which contains proposed new language on how FFLs can use Form 4473 to effectuate a NICS background check for a firearm transfer between two unlicensed persons (private parties). ATF proposes that licensees check a box at the top of the form to indicate that the form will be used for this purpose, which in turn would immediately inform ATF and the licensee that the form would not be subject to inspection by ATF.⁹ Although not included in this proposed rule because it is included in another notice of proposed rulemaking on retention periods, ATF would also require licensees to generally retain Forms 4473 used for private party transfers for 90 days, which corresponds with the period of time until the NICS system purges transaction information. During that period, NICS can research a "delayed" response and potentially resolve the check, so retaining the forms for that period could permit additional sales for checks that are delayed. But if the

⁹ ATF notes that licensees must conduct private-party transfers in accordance with this proposed rule and a pending upcoming FBI rule for such purposes. Although ATF would not routinely inspect Forms 4473 that are used for private-party transfers, ATF retains the authority to review the forms if needed within the 90-day period to clarify regulatory compliance. For example, ATF might need to clarify that a NICS check entry on an audit log from FBI correlates with the number on a private-party transfer form so the licensee does not appear to have run a NICS check without completing a Form 4473, or might need to see the private-party form to clarify that the licensee did not transfer a firearm without running a background check or completing a Form 4473.

background check results in a “denied” response from NICS, licensees would retain the denied Form 4473 for five years. This reflects the statute of limitations for unlawful possession and making a false statement and also provides adequate time for any state prosecutions.

Licensees may also need to comply with state law record-keeping requirements independently. ATF also includes proposed language to inform the licensee that they would still need to comply with paragraph (c) to ensure they have the necessary information to initiate a valid NICS check. If these rules are finalized, licensees could use Form 4473 to facilitate a private-party background check only if they do not take possession of the firearm and, thus, are not selling or delivering a firearm to the transferee;

(f) Voluntary firearms handler checks (“FHCs”) – which contains proposed new language on how licensees can use Form 4473 to effectuate a NICS background check on current or prospective FFL employees who would be handling firearms. The Department, through the FBI, are calling these background checks FHCs. ATF proposes that licensees check a box at the top of the form to indicate that the form will be used for an FHC, which in turn would immediately inform ATF and the licensee that the form would not be subject to inspection. Although not included in this proposed rule because it is included in another ATF notice of proposed rulemaking on retention periods, licensees would retain Forms 4473 used for this purpose for 90 days, which corresponds with the period of time until the NICS system purges transaction information. During that period, NICS can research a “delayed” response and potentially resolve the check, so retaining the forms for that period could permit additional resolution for employees. ATF also includes proposed language to inform the licensee and employee that they would still need to comply with paragraph (c) except that they would not need to include information on firearms, since the employee would not be purchasing firearms as part of this activity. The licensee would also need to attach a supplemental statement to Forms 4473 used for this purpose, demonstrating that the

employee gave informed, written consent for the FHC. *See* 34 U.S.C. 40901(b)(2)(B);

(g) Proving residence – which contains a new list of documents purchasers may provide to prove they are residents of the state (described in more detail below);

(h) Electronic Forms 4473 – which permits licensees to use electronic Forms 4473 and includes Form 4473-specific requirements from previous ATF rulings, in addition to requiring licensees to comply with electronic record-keeping system standards in a new § 478.130, which is concurrently being proposed in a separate rulemaking. The proposed section includes requirements to use the most current version of e-Form 4473, conduct daily back-ups of the forms, including pending and incomplete ones, to save e-Forms 4473 in an unalterable format and how to effectuate any necessary changes to a form, to print e-Form 4473 if the electronic signature does not work, and to make the forms available to ATF for inspection; and

(i) Record-keeping organization – which contains the existing requirement for licensees to retain their Forms 4473 in either alphabetical, chronological, or numerical order.

ATF is also proposing to remove the current provision at § 478.124(i), which contains information on ordering forms. This provision is obsolete and persons may obtain this and other forms from ATF’s website at <https://www.atf.gov/firearms/forms>.

2. Changes in conjunction with definitional changes

Section 478.124(c)(1) requires that FFLs obtain a Form 4473 from the transferee that includes, in relevant part, the transferee’s “name, sex, residence address (including county or similar political subdivision and whether they reside within city limits), . . . [and] the transferee’s state of residence” Form 4473 functions as a standardized mechanism by which FFLs collect all information required to make a legal transfer and to provide to NICS to facilitate a background check.

The requirement that the form include “county” has been in the regulations and on the form since 1988, but “similar political subdivision and whether they reside within city limits”

was added because of the 2022 NICS Denial Notification Act (“NDNA”), Pub. L. 117-103, 136 Stat. 49. The NDNA requires the Attorney General to report to the applicable state, local, or tribal law enforcement when NICS provides a “denied” response to a background check, meaning that it would violate the law for that person in their jurisdiction to receive a firearm. *See* 18 U.S.C. 925B. Identifying the subdivision or city limits in which a person resides allows ATF to identify the correct law enforcement authority to notify. As a result, ATF added this clause to the regulation to assist with this notification.

However, this addition to Form 4473 has led to many inadvertent form violations as transferees are often unsure how to answer the question or whether they live within formal city limits, in the county, or in another political subdivision. Many responses show that transferees often misread the word “county” as “country” as well. These issues make administering the form more complex and reduce the question’s usefulness. In addition, ATF and FBI do not need to have the information recorded on the form. There are many online sources that can provide necessary information about a person’s political subdivision using the person’s residence address. Using these sources will reduce errors and enable the agency to have more accurate information. Consequently, there is no investigative need to have the transferee record this information.

Therefore, ATF is proposing to remove the parenthetical from § 478.124(c)(1) that transferees must include the “county or similar political subdivision and whether they reside within city limits.” Because the FBI, through NICS, may still query the transferee’s subdivision, there is space on page four for the dealer to record it. But this is optional.

The proposed rule also amends paragraph (c)(1) to remove the phrase “the transferee’s state of residence” as one of the required information elements on Form 4473. ATF has determined that this no longer needs to be a separate item on the form from the person’s address, which already includes their state. It was included as a separate item originally because a person could have multiple homes in different states, creating the need

for the licensee to identify which state was their residence. This also applied in the context of military persons who live in a state pursuant to their military duty but also maintain their home state as their state of record. But the changes discussed in section II.A.2 of this preamble, allowing these persons to have multiple residence states under certain circumstances, means that the person can record the relevant address to meet both requirements and a separate entry is no longer necessary.

3. Auto-populating information

ATF recognizes that ATF Ruling 2016-2 and previous policy decisions were incomplete, in that they did not allow auto-populating fields on the electronic Form 4473. Accordingly, ATF proposes to add a provision to § 478.124, paragraph (c), clarifying that licensees may auto-populate information on Form 4473. This proposed rule would permit software that allows most data to automatically populate. For example, a dealer might scan a driver's license, thereby capturing a person's name and address. Or a software vendor might link its software to a database of addresses, allowing the address to automatically populate after a few keystrokes. A dealer might also have a person's information from previous transactions. Allowing licensees to auto-populate these fields would improve efficiency and eliminate errors caused by entering the information manually.

To allow licensees to auto-populate, the proposed rule requires certain safeguards concerning automatically populated data. The software must allow the user to view any data that will be populated automatically. The user must then certify that the information is complete and correct. The user must also have the opportunity to override any inaccurate information. For example, if a driver's license lacks a person's full name (e.g., "Smith, John D."), the person must have the opportunity to complete the entry ("Smith, John Doe"). A scannable driver's license, as another example, may contain an old address, and the jurisdiction that issued the driver's license may have issued a non-scannable paper update card. In that circumstance, the person must be able to update the address. Similarly, a person

with two residences may have a driver's license address at one residence and separate proofs of residence at the secondary residence. When the person buys a firearm while residing in the secondary residence, the electronic system must allow the person to enter the present residence address.

ATF had previously issued informal oral guidance to FFLs that they were not permitted to automatically populate data. This resulted from concerns that it might be difficult to prosecute individuals for making false statements if they did not personally enter the data. But these concerns are mitigated by these proposed requirements that any automatically populated data be clearly presented to the person, that the person must be able to revise any incorrect or incomplete auto-populated data, and that the person must certify that the data is both complete and accurate.

The regulation would bar some data from being automatically populated. Persons must themselves affirmatively enter signatures and certifications. Persons must also certify any question addressing whether the person is prohibited from possessing or purchasing a firearm under 18 U.S.C 922(g) or (n). For example, an electronic record-keeping system cannot automatically populate that a person has not been convicted of a crime punishable by more than one year. For these and similar questions, it must be clear that the person has read the statement, understood it, and affirmatively answered it.

4. Proving residence

The REAL ID Act¹⁰, passed in 2005, established minimum security standards for state-issued driver's licenses and identification cards. It also prohibited federal agencies from accepting licenses and IDs from states that do not meet these standards for official purposes. Since May 7, 2025, a REAL ID or another acceptable form of identification (such as a passport or military ID) has been required for domestic air travel and to access certain federal facilities. For this reason, many states have produced lists of acceptable identification

¹⁰ REAL ID Act of 2005, Pub. L. No. 109-13 (2005).

documents.

ATF proposed above to separate photo identification documents necessary to prove a person's identity from documents that can prove residence. This was, in part, because photo identification documents to prove identity must be issued by a government agency, and some primary documents for that purpose, such as passports, do not include a residence address. It was also in part because people might have multiple residence locations that would meet state and ATF requirements for residence, as discussed above. Finally, some of the documents included in previous ATF guidance for residence purposes are no longer sufficient. As a result, ATF is proposing to include in ATF's regulations a list of documents for proving residence that align with those accepted by most states for REAL ID compliance purposes.

Accordingly, this rule proposes to amend § 478.124(c) to reflect the change in terminology from "identification document" to "photo identification document" to verify a person's identity. In addition, this rule proposes to amend § 478.124(c) to account for situations in which someone does not have a valid, government-issued document with their residence address on it. The proposed new language would read, "verify proof of residence using the photo identification document, or the documents listed in paragraph (g) if the photo identification document does not contain a residence address or does not contain the current residence address that is the basis of the firearm purchase." The proposed rule adds new paragraph (g) to § 478.124 to list acceptable alternative documents by which a person may prove their residence.

5. Electronic Forms 4473

Pursuant to 18 U.S.C. 923(g) and regulations, ATF issued ATF Ruling 2016-2 authorizing FFLs to utilize an electronic version of Form 4473 in lieu of the ATF-furnished paper version when creating a record of a firearm transaction, provided certain requirements are met. Additionally, ATF issued ATF Ruling 2022-1 authorizing FFLs to retain

electronically completed Forms 4473 in electronic format, again provided certain requirements were met. Since implementing these rulings, a significant number of FFLs have chosen to use electronic Forms 4473 and to store forms electronically.

In issuing these rulings, ATF noted the myriad ways in which using an electronic system to complete Forms 4473 would benefit members of the regulated firearms industry. Allowing Form 4473 to be completed electronically, while a customer is present at the business premises, is convenient for both the FFL and the purchaser and may also facilitate better inventory accountability and reduce the potential for recording errors on Form 4473. Additionally, ATF recognized that electronically storing Forms 4473 saves space, time, and money in record-keeping and auditing expenses for FFLs. Most businesses computerize their inventory, sales, customer lists, and other business records. As businesses have moved to a paperless environment to store these important documents and business records, electronically storing Forms 4473 is convenient for FFLs. Further, electronically retained forms may be more secure from environmental damage, loss, or destruction and easier to access, sort, and review for many FFLs.

These factors continue to remain valid and have only increased since ATF issued those rulings. As a result, ATF is proposing to add a new paragraph (h) in § 478.124 to address using e-Form 4473. This new paragraph contains several of the requirements from the rulings, including requiring that licensees use the most current electronic version of e-Form 4473; that licensees print, use, and retain a paper form if some or all of the electronic form is not working; and that licensees provide e-Forms 4473 upon request by an ATF official in the requested format. ATF is issuing a separate proposed rule that adds a new § 478.130 allowing licensees to use electronic records. As a result, the new paragraph also includes a provision requiring that licensees maintain e-Forms 4473 in a system and manner that meets the requirements for electronic records in § 478.130. However, e-Forms 4473 must be backed up daily, including pending and incomplete forms, to a physical storage

device at the licensee's premises, instead of the combined backup requirements in the proposed § 478.130 (i.e., incremental backups on days when the licensee makes a change to their records and the general monthly backup) rule for other A&D records.

E. Rescinding § 478.131, Firearms transactions not subject to a NICS check

This rule proposes to remove and reserve § 478.131 in its entirety. ATF is proposing to remove this section because the content duplicates information contained in §§ 478.96, 478.102, and 478.124. The proposed revisions above, combined with removing this section, eliminate duplicative provisions and help incorporate information applicable to firearms transactions not subject to a NICS check.

F. Removing obsolete forms from § 478.134, selling firearms to law enforcement officers

ATF is proposing minor technical changes to this section to remove references in paragraphs (a) and (c) to the obsolete Form 5300.35 (Statement of Intent to Obtain a Handgun(s)), for the reasons discussed above, and to revise the section heading for plain writing purposes.

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 would amend 27 CFR part 478 to streamline and reduce requirements and limitations involved with completing Forms 4473. The proposed rule would also permit modernizing actions like electronic record-keeping, auto-populating, and electronic notifications to law enforcement, that further reduce burden on the public.

The Office of Management and Budget (“OMB”) has determined that this 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

This rule proposes several simplifying and deregulatory amendments related to Forms 4473. These proposed amendments are necessary to reduce burdens on the public and regulated industry and increase public understanding and compliance, while minimizing public safety implications.

2. Benefits

The proposed changes would reduce burdens involved in entering data on Form 4473, and would reduce potential confusion for licensees calculating the time in which they could transfer a firearm after transferees initiate a Form 4473 and licensees initiate accompanying NICS checks — by doubling the time period and using calendar months instead of counted days.

Time limitation for transaction under completed Form 4473

27 CFR 478.102(c) and 478.124 combined require that FFLs and transferees must complete certain portions of Form 4473 and then initiate a NICS background check, that FFLs may rely upon the Form 4473 and accompanying background check only for use in a single transaction, and for a period not to exceed 30 calendar days from the date that the form steps were completed and NICS was initially contacted. Expanding the validity of Forms 4473 and NICS background checks from 30 days to two months, as proposed, would eliminate situations in which transferees are afforded a narrow purchase window, such as when there is an extended background check delay. The extension allows a more flexible time period in which to complete transactions and lawfully transfer firearms.

Additional benefits include fewer instances in which FFLs must process repeat

submissions because applicants did not complete a transaction in the current 30-day window.

FFLs and their employees would also receive fewer § 478.102(c) violation notices for completing transactions beyond the currently permissible 30 days — which burden FFLs and their employees even though violation notices do not carry financial penalties. Based on ATF data in Table 1 below, ATF has identified an annual average of 132 violations of § 478.102(c) per year. These are violations for which ATF found an FFL transferred a firearm to a person after 30 days from the initial NICS check.

Table 1. Section 478.102(c) violations by year

| | 27 CFR 478.102(c) violations |
|----------------|---|
| 2020 | 151 |
| 2021 | 96 |
| 2022 | 73 |
| 2023 | 190 |
| 2024 | 148 |
| Average | 132 |

Proving residence – documentation and Real ID Act conformity

The proposed rule amends section 478.124(c)(3)(ii) to account for the situation in which someone does not have a valid, government-issued document with their residence address on it. The proposed rule would provide a list of acceptable documents to verify a transferee’s residence address in such a case. In addition, it would remove the requirement to specify the transferee’s county or similar political subdivision and whether they reside within city limits, as well as the duplicative question regarding the transferee’s residence state. These proposed changes would similarly add convenience and flexibility, particularly by expanding acceptable documents for verifying residence and simplifying the Form 4473 for individuals who have more than one residence state, such as members of Congress, university students, and military service members.

3. Costs

ATF expects the costs associated with the proposed rule to be minimal.

The primary cost impacts anticipated by ATF as a result of the proposed time extension during which Forms 4473 and accompanying NICS checks would remain valid for a purchase could be in the form of potential public safety risk associated with outdated background checks. Under the current baseline, the 30-day validity period may be inconvenient for buyers who want to pick up their firearms weeks after submitting their application while the background check is still pending. By contrast, the only potential downside of the proposed rule change is a minimal, though uncertain, risk of enabling prohibited persons to acquire firearms.

A longer validity period might increase the chance that a buyer could become prohibited (e.g. felony charge, restraining order, mental health commitment) after the initial check is completed but before the transfer occurs. However, the risk of this from the additional one-month extension is likely to be minor. Some persons who would not be denied during an initial background check could become prohibited sometime during the first 30 days. Under the current 30-day purchasing validity period, if those persons did not purchase the firearm by day 30, they would have to complete a new Form 4473 and undergo a second NICS check initiated on day 31 in order to purchase a firearm between days 31-60. If they became prohibited during the previous 30 days, that prohibition would be captured in the second NICS check and they would not be able to receive the firearm. Under the proposed rule, this segment of persons would not have to complete a new Form 4473 and undergo a second background check until after day 60, and could thus receive a firearm after becoming a prohibited person during the first 30 days. In such a case, a prohibited person who obtains a firearm under the proposed rule and, hypothetically, uses that firearm to inflict mass casualties, would have been prevented under the current baseline requirement to renew the background check. ATF does not have any data on persons who might fall into this situation. However, ATF believes the number of such persons is negligible because of other data ATF does have on denials.

For example, the number of “delayed denials” is very small. Delayed denials are cases in which the initial NICS background check resulted in a determination that the buyer was prohibited but the denial did not get completed until after the buyer had received the firearm.¹¹ These are persons who were already prohibited persons at the time the initial NICS check occurred, rather than the arguably smaller set of persons who might initiate transfer of a firearm and then become prohibited between that initial check and day 30.

NICS data on the number of delayed denials during the past five years is presented below in the first column of Table 2. Of those cases, only some would be impacted by having a two-month validity period instead of a one-month one (the other delayed denials are issued before or after the relevant time period affected by this rule). The number of prohibited persons that acquired firearms due to delayed background checks between 2020 and 2024 was 14,632. Of these, on average, 1,797, or 12 percent of delayed denials, were completed between 30 and 60 days. Under the current 30-day validity period, those prohibited persons could receive a firearm within the first 30 days because their denial did not arrive until after the validity period. Under the proposed rule, these prohibited persons would have more time in which to receive a firearm before the denial arrives. So, for example, a prohibited person whose denial arrived on day 40 would now be able to receive a firearm through day 39 instead of day 30. This would not include all prohibited persons whose denials arrive within the day 31-60 period, which for year 2020 was 468 persons, but some subset of that number (some might still receive the firearm within the first 30 days and others might not receive the firearm before their denial arrives, even within days 31-60). This data on delayed denials helps to illustrate the parallel likely small risk of a similar subset of persons becoming prohibited after initiating a firearms transfer during the first 30 days, but not being denied on the basis of the initial background check and not receiving the firearm during the first 30

¹¹ See 18 U.S.C. 922(t)(1)(A)–(B) (providing generally that a licensed importer, manufacturer, or dealer must not transfer a firearm before contacting NICS and either receiving an identification number or waiting three business days).

days, then receiving a firearm during days 31-60 on the basis of the initial NICS check without undergoing a second NICS check due to this proposed rule.

Both total delayed denials and those completed in this timeframe have declined yearly, with 30-to-60-day cases dropping from 468 in 2020 to 298 in 2024. Nevertheless, under the proposed rule, these cases, approximately 360 per year on average, out of an estimated 22.5 million firearms¹² transactions, demonstrate that the potential risk of prohibited persons receiving firearms by allowing a 60-day validity period is very small.

Table 2. Delayed denials between 31-60 days

| Year | Delayed denials | Cases between 31-60 days | % between 31-60 days |
|--------------|------------------------|---------------------------------|-----------------------------|
| 2020 | 4,484 | 468 | 10% |
| 2021 | 3,671 | 362 | 10% |
| 2022 | 2,621 | 325 | 12% |
| 2023 | 2,181 | 344 | 16% |
| 2024 | 1,679 | 298 | 18% |
| Total | 14,636 | 1,797 | 12% |

In addition, any such risk is also offset by other factors, similar to the likely offset to the estimated benefits discussed under section III.A.3 of this preamble. With respect to the potential risks involved by extending the validity of the initial Form 4473 and its accompanying NICS background check, individual states as well as individual vendors have imposed their own restrictions on firearm transfers. These restrictions often extend beyond the federally mandated three-day waiting period for NICS background checks that aren't instantly completed. For example, some vendors have set a policy that they will not transfer a firearm until they receive a "proceed" response on a NICS background check. Several states prohibit individuals from collecting firearms if a background check is delayed (or "open," see 28 CFR 25.2 defining "delayed" and "open" transactions). These states aim to prevent gun

¹² These estimates are based on responses and data from FBI NICS and internal ATF offices.

sales while a background check is pending.¹³ These states extend the time investigators have to complete background checks, ensuring that fewer firearms are transferred without a completed background check. These states have a combined population of 123,784,590, based on the 2024 Census, which was approximately 36 percent of the total US population in the same year. In such states, or with such vendors, extending the Form 4473 and accompanying NICS background check validity period would pose even less risk because the person would be prohibited by state or vendor policy from collecting their firearm while that delay is in place, or until they are cleared by NICS to do so.

4. Regulatory alternatives

The primary alternative considered to this proposed rule was to continue the status quo of requiring additional information fields on Forms 4473, maintaining a 30-day validity period for the forms and for the NICS background checks, limiting the forms of identification and proof of address accepted ahead of purchases, and not permitting electronic documents. This is also known as the no-action alternative, which was deemed to be more of a burden on the public while not materially increasing public safety.

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

¹³ States that have restricted the ability to transfer firearms after three business days without a completed background check include California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Hawaii, Illinois, Massachusetts, Maryland, Minnesota, New Jersey, New York, Pennsylvania, Rhode Island, Tennessee, Utah, Washington, and Wisconsin.

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 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. In addition, ATF expects this proposed rule, if finalized as proposed, to qualify as an Executive Order 14192 deregulatory action (defined in 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 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 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 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. That is because the proposed rule is primarily introducing difficult-to-quantify benefits to affected populations and does not impose quantifiable costs on any segment. In addition, ATF estimates that a significant percentage of the rule’s benefits would accrue to the benefit of small businesses, as the majority of FFLs are small businesses. This proposed rule is deregulatory, would not impose any additional costs on the industry as a whole, and would therefore not impose a significant economic impact on small businesses.

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. As

defined in 5 CFR 1320.3(c), an information collection includes any reporting, record-keeping, monitoring, posting, labeling, or other similar actions an agency requires of the public. This proposed rule creates the need to revise an existing information collection under the PRA. The title and description of the information collection follow.

Form 4473 is currently covered under OMB control number 1140-0020, which includes the requirement to complete and submit the form and examine and note the verification documents. This information collection would need to be revised if this rule is finalized as proposed. ATF is publishing the proposed revised information collection request (ICR) through the standard PRA process in conjunction with this proposed rule. The first ICR notice for this collection will publish concurrently with this proposed rule for a 60-day public comment period. In addition to substantive changes that would flow from the changes in this proposed rule if finalized as drafted, ATF is proposing revisions to the ICR that make the form easier to use and more streamlined. Those proposed changes include re-designing the form to allow transferees to fill out one page while licensees complete a separate page, thereby saving time, simplifying instructions throughout the form so they are faster and easier to read, grouping questions on the same topic together, eliminating unnecessary questions, reducing the number of check-boxes, and other similar changes. The combined changes flowing from this proposed rule and these additional revisions would reduce the time burden from 30 minutes to 15 minutes per form.

Title: Firearms Transaction Record

OMB control number: 1140-0020

Form number: ATF Form 5300.9 (“Form 4473”)

Summary of the information collection: Federal firearms licensees – manufacturers, importers, dealers, and collectors – must create and maintain a firearms transaction record for each firearm they transfer. Licensees use ATF Form 5300.9, Firearms Transaction Record (“Form 4473”), for this purpose, and to help them ensure they are complying with statutory

requirements and not transferring to prohibited persons.

Need for information: The Gun Control Act (GCA) requires FFLs to maintain, at their place of business, sale or other disposition records for firearms, one kind of which are Forms 4473, in accordance with prescribed regulations. Section 923(g)(1)(A) of the GCA requires licensed importers, manufacturers, and dealers to maintain these records in such form as prescribed by regulation. ATF regulations at 27 CFR 478.102 and 478.124 prescribe that licensees must use Form 4473 to meet this statutory requirement and establish the requirements for using the form.

Proposed use of information: ATF uses Forms 4473 for regulatory enforcement purposes to verify that licensees are complying with statutory and regulatory requirements on acquiring and disposing of firearms.

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-AA82 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 identifying 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-AA82. 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 in 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-AA82).

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. Amend § 478.11 by revising the definition “Identification document”, including its heading, and revising the definition “state of residence”, including its heading.

The revisions read as follows:

§ 478.11 Meaning of terms.

* * * * *

Photo identification document. A document that contains the name, birthdate, and photograph of the holder, that was made or issued by or under the authority of the United States government, a state, political subdivision of a state, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization, and that, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identifying individuals. The photo identification document may be a digital identification document if issued by one of the authorities above, and if the jurisdiction that issued the document considers it a commonly accepted document for identification purposes.

* * * * *

Residence state. The state in which an individual resides. An individual resides in a state if the individual is present in a state with the intention of making a home in that state. A person may be a resident of a state for purposes of the Gun Control Act even if the person is not domiciled in that state. For individuals on active duty as members of the Armed Forces, their residence states include the states in which their permanent duty stations are located. 18

U.S.C. 921(b). The following scenarios illustrate this definition:

Example (1) for residence state.

A maintains a home in state X. A travels to state Y on a hunting, fishing, business, or other type of trip. A does not become a resident of state Y because of such trip.

Example (2) for residence state.

A maintains a home in state X and a home in state Y. A resides in state X except for weekends or the summer months of the year and in state Y for the weekends or the summer months of the year. During the time that A actually resides in state X, A is a resident of state X, and during the time that A actually resides in state Y, A is a resident of state Y.

Example (3) for residence state.

A, an alien eligible to possess firearms, travels to the United States on a three-week vacation to state X. A is not a resident of state X because A does not have the intention of making a home in state X while on vacation. This is true regardless of the length of the vacation.

Example (4) for residence state.

A, an alien eligible to possess firearms, travels to the United States to work for three years in state X. A rents a home in state X, moves A's personal possessions into the home, and A's family resides with A in the home. A intends to reside in state X during the three-year period of A's employment. A is a resident of state X.

Example (5) for residence state.

A, a member of the Armed Forces on active duty, is assigned to a permanent duty station in state X. A also has A's residence in state X. A is a resident of state X. If A resides on base in state X, A should use A's on-base residence address on Form 4473. If A resides off base in state X, A should use A's off-base residence address on Form 4473.

Example (6) for residence state.

A, a member of the Armed Forces on active duty, is assigned to a permanent duty station in state Y. However, A resides off-base in state X, from which A commutes to duty in state Y. A is a resident of both state X and state Y.

Example (7) for residence state.

A maintains a home in state X. However, A is also a member of the Armed Forces on active duty and is assigned to a permanent duty station across the country, in state Y. During the time that A actually resides in state X, A is a resident of state X and state Y. During the time that A actually resides in state Y, A is a resident of state Y only. A should use A's residence address on Form 4473 and also either attach A's permanent change of station (PCS) orders showing the duty station or note the duty station address in the form's PCS section.

Example (8) for residence state.

A lives with A's parents at a home in state X but lives in state Y during the fall and spring semesters while enrolled as a student in college there. During the time that A actually

resides in state X, A is a resident of state X, and during the time that A actually resides in state Y, A is a resident of state Y.

* * * * *

3. Revise § 478.96, including its heading, to read as follows:

§ 478.96 Non-over-the-counter and out-of-state sales.

(a) *Applicability.* This section's provisions apply when a licensee transfers or delivers a firearm to a person not otherwise prohibited by the Act from purchasing or receiving it. Licensees must retain records of these transactions in accordance with §§ 478.124(h) and (i), as applicable.

(b) *Non-over-the-counter (NOTC) transactions.*

(1) Licensed importers, manufacturers, or dealers may transfer firearms to a non-licensee who is not subject to the provisions of § 478.102(a) due to an exception in § 478.102(d) and who does not appear in person at the licensee's business premises, if the non-licensee meets the following requirements:

- (i) Is a resident of the same state in which the licensee's business premises are located;
- (ii) Provides a Form 4473 to the licensee as required by § 478.124 of this part;
- (iii) Submits with Form 4473 an executed sworn statement in the form prescribed by 18 U.S.C. 922(c)(1); and
- (iv) Submits with Form 4473 a true copy of any permit and other information required pursuant to any statute of the state and published ordinance applicable to the locality in which the non-licensee resides.

(2) The licensee must ensure the transferee has completed all transferee portions of the form, and:

- (i) Document on the form the applicable NICS exception;
- (ii) Comply with requirements in §§ 478.124(c), (g), (h), and (i) of this part as applicable, including verifying the transferee's identity and residence;

(iii) Complete the rest of the form as applicable; and

(iv) Check the appropriate box on the form to indicate that this is a non-over-the-counter transaction.

(c) *Law enforcement notice for NOTC transfers.* Once the licensee receives all the information required under paragraph (b) of this section, and prior to shipping or delivering the firearm to a transferee who is receiving it through a NOTC transaction, the licensee must:

(1) Forward by registered or certified mail (return receipt requested) or by verified electronic notice as defined in 18 U.S.C. 921(a)(38), a copy of the Form 4473, true copies of the documents provided under paragraph (b) of this section, and the sworn statement required by statute, to the principal or chief law enforcement officer (“CLEO”) the transferee named in Form 4473.

(2) Receive a response showing that the CLEO accepted the notice documents or showing that delivery failed or was refused:

(i) For documents sent by mail, receive U.S. Postal Service return receipt or receive the Form 4473 copy back, along with notification that the delivery failed or that the CLEO refused delivery, in accordance with U.S. Postal Service regulations; or

(ii) For documents sent electronically, receive an electronic response from the law enforcement officer indicating the CLEO received or refused the transmission or receive a delivery failure notice (such as an email bounce-back).

(3) If delivery fails (but is not refused), take steps to resolve the situation, as appropriate, until receiving the required return receipt, response, or refusal, or do not complete the transfer. But if the CLEO refuses delivery, continue to complete the transfer.

(4) Delay shipping or delivering the firearm to the transferee for a period of at least seven days after receiving the return receipt or response under paragraph (c)(2) and (3) of this section.

(5) Retain the original Form 4473, sworn statement, true copies of any permit or

license, or other required information, and evidence that the CLEO received or did not accept the Form 4473 copy sent to the CLEO, as part of the records subpart H of this part requires licensees to keep.

(d) *Out-of-state transactions.*

(1) A licensed importer, manufacturer, or dealer may sell or deliver a rifle or shotgun, and a licensed collector may sell or deliver a rifle or shotgun that is a curio or relic, to a non-licensed resident of a state other than the state in which the licensee's place of business is located if:

(i) The purchaser meets with the licensee in person at the licensee's premises to transfer, sell, and deliver the rifle or shotgun;

(ii) The licensed importer, manufacturer, or dealer complies with the provisions of § 478.102;

(iii) The purchaser furnishes to the licensed importer, manufacturer, or dealer the firearms transaction record, Form 4473, required by § 478.124 and complies with other applicable provisions under § 478.124; and

(iv) Selling, delivering, and receiving the rifle or shotgun fully comply with the legal conditions of sale in both states.

(2) For purposes of paragraph (d)(1) of this section, any licensed manufacturer, importer, or dealer is presumed, in the absence of evidence to the contrary, to have actual knowledge of the state laws and published ordinances of both states.

(Approved by the Office of Management and Budget under control number 1140-0020)

4. Amend § 478.102 by revising the section heading and revising paragraphs (c) and (e) to read as follows.

§ 478.102 Selling or delivering firearms.

* * * * *

(c) *Time limitation on NICS checks and Forms 4473.* When a NICS check is required,

the licensee must initiate a NICS check once the transferee and licensee complete the initial portions of Form 4473, Firearm Transaction Record, in accordance with § 478.124 of this part and the instructions on the form. Form 4473 is valid for only a single transaction, and for a period of two calendar months from the date the parties complete these portions of Form 4473 and the licensee initiates the NICS check or until the form is used to complete a firearm transfer, whichever occurs earlier. As a result, the licensee may rely upon an accompanying NICS check conducted in accordance with paragraph (a) of this section only for use in the same single transaction, and for the same period, as the accompanying Form 4473. The two-month period ends on (and includes) the same date in that second month as the date the transferee certified Form 4473 and initiated the background check. For transactions that occur during the last three days of December, the two-month period concludes on the last day of February, either February 28 or 29. For transactions that occur on July 31, the two-month period concludes on September 30. If the transaction is not completed within the two-month period, the transferee and licensee must complete a new Form 4473 and the licensee must initiate a new NICS check prior to completing the transfer.

Example 3 for paragraph (c).

A purchaser and licensee initiate Form 4473 on December 15, 2024, and the licensee initiates a NICS check on that date. The licensee is informed by NICS three days later that the information available to the system does not indicate that it would violate law for the transferee to receive the firearm, and NICS provides a unique identification number. However, the purchaser does not return to pick up the firearm until February 21, 2025. The purchaser and licensee must initiate a new Form 4473 and the licensee must initiate another NICS check before transferring the firearm to the purchaser because the two-month period elapsed on February 15, 2025. The licensee and another purchaser initiate a Form 4473 on February 10, 2025, at which time the licensee also initiates a NICS check. The licensee receives a response from NICS on March 12 that the information available to the system does not indicate that it would violate law for the transferee to receive the firearm. The purchaser returns to buy the firearm on April 10, 2025. The purchaser and licensee do not have to initiate a new Form 4473 and the licensee does not have to initiate another NICS check before transferring the firearm to this purchaser because the purchaser returned on the last day of the two-month period.

Example 4 for paragraph (c).

Purchaser 1 and the licensee initiate Form 4473 on December 29 prior to a leap year, and the licensee initiates a NICS check on that date. In addition, purchaser 2 and the licensee initiate Form 4473 on December 30, again with a NICS check initiated on that date, and purchaser 3 and the licensee initiate Form 4473 on December 31, again with a NICS check initiated on that date. NICS informs the licensee that the information available to the system

does not indicate that it would violate law for any of these purchasers to receive the firearms, and NICS provides a unique identification number for each one. Purchaser 1 returns to purchase their firearm on February 29. The purchaser and licensee do not have to complete a new Form 4473 and the licensee does not have to conduct another NICS check before transferring the firearm to this purchaser because purchaser 1 returned on the last day of the two-month period as it applies to February in a leap year.

Purchasers 2 and 3, however, return to purchase their firearms on March 1. They and the licensee must each initiate a new Form 4473 and the licensee must initiate another NICS check for each of them before transferring firearms to these purchasers because they returned after the last date in February, the second month, on which they could purchase the firearm. Similarly, purchaser 4 and the licensee initiate Form 4473 on July 31, and the licensee initiates a NICS check on that date. NICS informs the licensee that the information available to the system does not indicate it would violate law for this purchaser to receive the firearm, and NICS provides a unique identification number. The purchaser returns to purchase the firearm on October 1. The purchaser and licensee must initiate another Form 4473 and the licensee has to initiate another NICS check before transferring a firearm to this purchaser because the purchaser returned after the last date in September, the second month, on which the purchaser could purchase the firearm.

Example 5 for paragraph (c).

A purchaser and licensee initiate Form 4473 on January 25, 2025, to purchase one firearm. The licensee initiates the NICS check on that date. NICS subsequently informs the licensee that the information available to the system does not indicate it would violate law for this purchaser to receive the firearm, and NICS provides a unique identification number. The state imposes a seven-day waiting period on all firearms transactions, and the purchaser returns to pick up the firearm on February 15, 2025. Before the licensee executes Form 4473 and the purchaser receives the firearm, the purchaser decides to purchase an additional firearm. The licensee may add the second firearm to Form 4473, and transfer that firearm without conducting another NICS check, because transferring these two firearms constitutes a single transaction under these circumstances and the two-month purchase period has not ended.

Example 6 for paragraph (c).

A purchaser and licensee initiate Form 4473 on February 15, 2025, and the licensee initiates a NICS check that same day. Within a few minutes, NICS informs the licensee that the information available to the system does not indicate it would violate law for this purchaser to receive the firearm, and NICS provides a unique identification number. A few minutes later, the licensee executes Form 4473, and the purchaser receives the firearm. On February 20, 2025, the purchaser returns to the licensee's premises and wishes to purchase a second firearm. Purchasing the second firearm in this case is a separate transaction; thus, the purchaser and licensee must complete a new Form 4473 and the licensee must initiate a new NICS check.

* * * * *

(e) *Documenting an exception to NICS check.* A licensed importer, manufacturer, or dealer who sells, delivers, or transfers a firearm pursuant to the alternative provisions of § 478.102(d) that is not subject to a NICS check prescribed by § 478.102(a), must retain a copy of the document referred to in paragraphs (d)(1) or (3) of this section, or must record the required information from the document in accordance with the provisions of §

478.124(c)(4)(iv).

(Approved by the Office of Management and Budget under control number 1140-0020)

5. Revise § 478.124 to read as follows:

§ 478.124 Firearms transaction record.

(a) *Overall requirement and exceptions.* A licensed importer, manufacturer, or dealer may not sell or otherwise dispose of, temporarily or permanently, any firearm to any person, unless the licensee records the transaction on either an electronic or paper ATF Form 5300.9, Firearms Transaction Record (“Form 4473”). However, this requirement does not apply to:

(1) Returning a firearm (or replacement firearm) to the person from whom the licensee received it, when the firearm was delivered to the licensee for the sole purpose of repairing or customizing it;

(2) Selling or disposing of a firearm —

(i) To another licensed importer, manufacturer, or dealer;

(ii) To a licensed collector, if the firearm is a curio or relic;

(iii) By a sole proprietor transferring a firearm to the proprietor’s personal collection or otherwise as a personal firearm in accordance with § 478.125a; or

(iv) To a governmental official, agent, or employee, or to a governmental agency, for official duty use. *See* § 478.134.

(b) *Transfers to other licensees.* When a licensee transfers a firearm to another licensee, the licensee must comply with the verification and record-keeping requirements in § 478.94 and this subpart.

(c) *Transfers to in-state residents.* Prior to transferring a firearm to a non-licensee who is a resident of the state in which the licensee’s business premises are located, the licensed importer, manufacturer, or dealer transferring the firearm must obtain Form 4473 from the transferee.

(1) *Required information.* Form 4473 must show the transferee’s:

- (i) Name, sex, residence address;
- (ii) Birthdate and birthplace;
- (iii) Height, weight, and race;
- (iv) Citizenship country;
- (v) DHS-issued alien number or admission number (if applicable);
- (vi) Certification that the transferee is not prohibited by the Act from

receiving a firearm which has been shipped or transported in interstate or foreign commerce, possessing a firearm in or affecting commerce, or transporting or shipping a firearm in interstate or foreign commerce; and

(vii) For non-over-the-counter transfers, the title, name, and address of the principal or chief law enforcement officer in the locality to which the firearm will be delivered (which the transferee may attach as a supplemental statement).

(2) *Auto-populating information.* When collecting data, licensees and their customers may enter data manually into Form 4473 or other record, or may have that data automatically populate (including by scanning documents or barcodes), subject to the following limitations:

(i) Before automatically populating data, the terminal in which a person is inputting such data must:

(A) Clearly display to the person executing the form (or recording the record) what information will be automatically populated;

(B) Provide the person executing the form (or record) with the opportunity to amend the data, including by adding necessary data and changing incorrect data; and

(C) Require the person executing the form (or record) to acknowledge that the information being auto-populated is complete and correct.

(ii) Persons may not auto-populate any signatures or certifications on the form or any part of the form (or other record). This includes certifying any fact (or answering any question) related to a person's eligibility to possess or acquire a firearm.

(iii) Paragraph (c)(2)(ii) of this section does not apply to auto-populating a person's name, address, and birthdate, including by scanning an identity document, provided the licensee and transferee auto-populated this information in compliance with paragraph (c)(2)(i).

(iv) Any information auto-populated from another document or an electronic file or system of any kind must be fully entered into Form 4473 (or other record) so that the form or record is complete on its own and does not have to connect back to the source to subsequently pull the information.

(3) *Optional information.* To facilitate transferring a firearm and enable NICS to verify the identity of the person acquiring the firearm, Form 4473 also requests certain optional information. This information includes the transferee's social security number.

(4) *Information from entities.* A licensee who sells or otherwise disposes of a firearm to a non-licensee who is other than an individual (i.e., an entity), must obtain from an individual authorized to act on behalf of the transferee the information required by this section. In addition, the licensee must obtain from the individual acting on behalf of the transferee a written statement, executed under the penalties of perjury, that the firearm is being acquired for the transferee's use and will be its property, and showing the transferee's name and address.

(5) *Licensee verifications.* After the transferee has executed the transferee portion of Form 4473, the licensee must:

(i) For over-the-counter transfers, verify the transferee's identity by examining their photo identification document (as defined in § 478.11 of this part), even if the transferee's identification document was used to auto-populate portions of the form;

(ii) For over-the-counter transfers, verify the transferee's residence using the photo identification document, permanent change of station ("PCS") orders, or two documents listed in paragraph (g) of this section if the photo identification document does

not contain a residence address or does not contain the current residence address that is the basis of the firearms purchase;

(iii) For all transfers in which the transferee is an alien admitted to the United States under a non-immigrant visa who states that the alien falls within an exception to, or has a waiver from, the prohibition in section 922(g)(5)(B) of the Act, examine applicable documents establishing the exception or waiver;

(iv) For non-over-the-counter transfers, ensure that the transaction meets the requirements of 18 U.S.C. 922(t)(3) and 27 CFR 478.102(d). Licensees must, as applicable, include a true copy of the permit or license, certify on Form 4473 that the transaction involves only an approved transfer of NFA firearms, or include the Director's certification under § 478.102(d)(3) of this part. Licensees must ensure they comply with all applicable requirements in § 478.96(b) and § 478.102(d) of this part; and

(v) For over-the-counter transfers, comply with the requirements of § 478.102 and record on the form the information the form requires about the date on which the licensee contacted NICS, as well as any response provided by the system, including any identification number provided by the system.

(6) *Documenting verifications.* When a transferee must provide a photo identification document, residence verification, or other document establishing eligibility to acquire a firearm, the licensee must either:

(i) Keep a legible copy of the document (whether in a paper or electronic form) together with Form 4473 in their records; or

(ii) Record on Form 4473 the type of document used, its identifying number, date it was issued, and expiration date, if included on the document.

(iii) In the case of a multiple-page document, such as a lease, the licensee may retain a copy only of the pages necessary to establish the transferee's residence.

(7) *Identifying firearms.* The licensee must identify the firearm being transferred by

listing on Form 4473 the manufacturer's name, the importer's name (if imported), and the firearm's type, model, caliber or gauge, and serial number (including any associated license number either as a prefix, or if remanufactured or imported, separated by a semicolon). When a privately made firearm has no manufacturer name identified on it, the licensee must record the words "privately made firearm" (or abbreviation "PMF") instead of the manufacturer's name.

(8) *Transferee final steps.* Prior to receiving the firearm, the transferee must:

(i) Complete all applicable sections of Form 4473, including those that establish the transferee meets eligibility requirements to possess or receive a firearm under federal law;

(ii) Sign or initial responses and form where required; and

(iii) Certify that all responses and data on the form are complete and correct.

(9) *Licensee signature and transfer.* The licensee must then sign and date the form and then may transfer the firearm described on the form, if the licensee does not know or have reasonable cause to believe that the transferee is disqualified by law from receiving the firearm.

(10) *Non-over-the-counter pre-notification.* For non-over-the-counter transfers, before shipping or delivering the firearm to the transferee, the licensee must comply with additional requirements in § 478.96 for notifying law enforcement and handling Form 4473.

(11) *Retaining records.* In all cases, after the licensee transfers the firearm, the licensee must comply with Form 4473 records retention requirements in this section and in § 478.129.

(d) *Transfers to out-of-state residents.* The Act permits the following transfers to out-of-state residents, but the licensee and transferee must comply with the requirements of paragraph (c) of this section:

(1) Transferring shotguns and rifles over the counter under the provisions contained

in § 478.96(d) to a non-licensee who is not a resident of the state in which the licensee's business premises are located; or

(2) Loaning or renting a firearm to use temporarily for lawful sporting purposes under the provisions in § 478.97(a) to any non-licensee who is not a resident of the state in which the licensee's business premises are located.

(e) *Private-party transfers.* To the extent permitted by 28 CFR part 25, a licensee may facilitate a background check for private-party transfers.

(1) A private-party transfer is a transfer between two persons who are not licensed importers, manufacturers, or dealers under the Gun Control Act, and does not involve the licensee in the transfer. Under this provision, the licensee provides services solely to facilitate the background check, not the transfer.

(2) If facilitating a background check for a private-party transfer, the licensee must check the appropriate box at the top of Form 4473 to designate the form is for that purpose. The licensee must comply with paragraph (c) of this section to ensure the licensee collects all the appropriate information for a background check.

(3) A licensee facilitating a background check may not take the firearm into the licensee's inventory, nor may the licensee sell, deliver, or otherwise transfer the firearm to the transferee or facilitate the transfer in any other way.

(4) A licensee may not provide background check services for a private-party transfer if federal law requires that the firearm first be transferred to a licensee, such as for transfers between residents of different states.

(5) Nothing in this subsection authorizes any licensee to facilitate a background check for a private-party transfer in violation of federal, state, or applicable local law.

(f) *Voluntary firearms handler checks (FHCs).* The licensee may voluntarily engage in conducting NICS background checks on the licensee's own employees. The employee must provide written informed consent on Form 4473 that the employee agrees to the

background check before the licensee initiates it. The licensee and employees must comply with the requirements of paragraph (c) of this section (except changes necessary to enable FHCs, including that a licensee would not enter any firearm information on the form). If the licensee is conducting an FHC, the licensee must check the appropriate box at the top of Form 4473 to designate the form is for that purpose.

(g) *Proving residence.*

(1) When the photo identification document presented to the dealer does not include a residence address or does not contain the current residence address that is the basis of the firearm purchase, a transferee may demonstrate residence by providing the licensee with two of the following documents that have the person's name and full residence address:

- (i) Bank statement dated within 90 days
- (ii) Canceled check, dated within 90 days, with imprinted name and address
- (iii) Voter registration
- (iv) Vehicle registration card or title
- (v) Vehicle insurance card or policy displaying the address
- (vi) Utility, telephone, cable, or satellite television bill dated within 90 days
- (vii) Checking, savings, or financial account statement
- (viii) Property tax bill or receipt
- (ix) Mortgage account statement, deed, or other proof of homeownership
- (x) Residential rental contract with signatures, including a lease
- (xi) Mail from a federal, state, or local government agency dated within 90 days
- (xii) Sales tax or business license
- (xiii) Credit card statement dated within 90 days
- (xiv) Residential service contracts dated within 90 days
- (xv) Selective Service Card

(xvi) Copy of a federal or state income tax filing

(xvii) Valid state-issued professional license

(2) Members of the Armed Forces on active duty who claim residence in the state in which their permanent duty stations are located may prove residence by submitting a copy of their PCS orders. They are not required to provide any other residence verification document.

(h) *Electronic Forms 4473*. A licensee may use and maintain electronic Forms 4473, known as e-Forms 4473, provided the licensee meets all of the following requirements:

(1) The licensee uses the most current electronic version of e-Form 4473 from the ATF website or from a qualifying provider (published annually in the *Federal Register* and on ATF's website), except that ATF may authorize licensees to use older forms temporarily when ATF is transitioning between versions of the form.

(2) The licensee maintains e-Forms 4473 in a system and in a manner that complies with the requirements for electronic records in § 478.130 of this part, except that licensees must back up e-Forms 4473, including pending and incomplete forms, to a physical storage device (e.g., hard drive, DVD, server) at the licensee's business premises at least daily and must retain the forms in the system when a transaction is completed or stopped for any reason. Licensees do not have to conduct the back-ups required under § 478.130(e)(1) for Forms 4473.

(3) The licensee saves Form 4473 in an unalterable format and may not delete, amend, replace, or otherwise alter it. If a licensee or transferee subsequently finds errors on the form, they may: make corrections to a copy of the original form (electronic or paper), note the date, time, reason for the correction and name and signature of the person who made the correction on the copy, then include the change copy in the same electronic file as the original (as required for any supplemental document under § 478.130(a)(4)), and comply with the data integrity and audit trail requirements of § 478.130(c).

(4) If the e-signature or any other part of e-Form 4473 is not available or fails to

function, the licensee must print a Form 4473 to complete it and then either retain the form on paper or scan and load it to a storage device; and

(5) If an ATF official requests access to required records pursuant to § 478.23 or other legal authority, the licensee must be able to provide e-Forms 4473 immediately and in the format requested by the official (e.g., in electronic form on a physical storage device, by email, or on paper).

(6) The licensee complies with all laws and other regulations applicable to paper Forms 4473 (except changes necessary to enable electronic use).

(i) *Record-keeping requirements.* A licensed manufacturer, importer, or dealer must retain in alphabetical (by name of purchaser), chronological (by date of disposition), or numerical (by transaction number) order, and as a part of their required records: each Form 4473; true copies of any permits or license; sworn statements; and other required information; evidence of CLEO notification when required, along with evidence that the CLEO received or did not accept the Form 4473; and all other documents or copies obtained in the course of transferring the firearms. The licensee must retain these records for the period required in § 478.129 as part of the records subpart H of this part requires the licensee to keep. This section's record-keeping requirements are in addition to any other record-keeping requirement contained in this part.

(Paragraph (c) approved by the Office of Management and Budget under control numbers 1140-0020 and 1140-0060; all other record-keeping approved by the Office of Management and Budget under control number 1140-0020.)

§ 478.131 [Reserved]

6. Remove and reserve § 478.131.

§ 478.134 [Amended]

7. Amend § 478.134 by revising the section heading to read “Selling firearms to law enforcement officers” and removing from paragraphs (a) and (c) the words “or Form

5300.35”.

Robert Cekada,
Director.

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