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Manager, Airspace and Rules Group.

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## DEPARTMENT OF JUSTICE

### Bureau of Alcohol, Tobacco, Firearms, and Explosives

#### 27 CFR Part 478

[Docket No. ATF 30P; AG Order No. 3182-2010]

RIN 1140-AA34

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

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Department of Justice is proposing to amend the regulations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) by eliminating the Firearms Transaction Record, ATF Form 4473 (Low Volume (LV)), Parts I and II. These forms may be used by federally licensed firearms dealers as an alternate record for the receipt and disposition of firearms. Because licensees rarely use Forms 4473 (LV), ATF has determined that continued use of these forms is unwarranted and they should be eliminated. The standard Form 4473, Firearms Transaction Record, is being retained. If the proposed rule is adopted, licensees will be required to use the standard Form 4473 for all dispositions and maintain a record of the acquisition and disposition of firearms in accordance with the regulations.

**DATES:** Written comments must be postmarked and electronic comments must be submitted on or before November 3, 2010. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after midnight Eastern Time on the last day of the comment period.

**ADDRESSES:** Send comments to any of the following addresses—

- Scott P. Armstrong-Cezar, Industry Operations Specialist, Room 6N-602, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives, U.S. Department of Justice, 99 New York Avenue, NE.,

Washington, DC 20226; *Attn:* ATF 30P. Written comments must appear in a minimum 12-point size of type (.17 inches), include your mailing address, be signed, and may be of any length.

- 202-648-9741 (facsimile).
- <http://www.regulations.gov>. Federal eRulemaking portal; follow the instructions for submitting comments.

You may also view an electronic version of this proposed rule at the <http://www.regulations.gov> site.

See the Public Participation section at the end of the **SUPPLEMENTARY INFORMATION** section for instructions and requirements for submitting comments, and for information on how to request a public hearing.

#### FOR FURTHER INFORMATION CONTACT:

Scott P. Armstrong-Cezar, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives, U.S. Department of Justice, 99 New York Avenue, NE., Washington, DC 20226; *telephone:* (202) 648-7119.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Attorney General is responsible for enforcing the provisions of the Gun Control Act of 1968 (“the Act”), 18 U.S.C. chapter 44. Among other things, the Act authorizes the Attorney General to establish license and record-keeping requirements. Enforcement responsibility under the Act has been delegated to the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), subject to the direction of the Attorney General and the Deputy Attorney General. 28 CFR 0.130(a). Pursuant to an earlier delegation from the Secretary of the Treasury before ATF became a part of the Department of Justice in 2003, ATF has promulgated regulations that implement the provisions of the Act in 27 CFR part 478.

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

person to whom the firearm is transferred, or the name and license number of the person to whom the firearm is transferred if such person is a licensee.

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

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

##### II. Proposed Rule

ATF has determined that firearms licensees rarely use the Firearms Transaction Record, Form 4473 (LV), Parts I or II. According to ATF’s Distribution Center, of the approximately 70,000 orders it receives annually for various forms, there are rarely, if ever, requests for Form 4473 (LV). The form has not been printed since 2005 and, in the most recent six-month reporting period (August 2008 to February 2009), ATF has received no requests for the form. Because of Form 4473 (LV)’s infrequent use, ATF believes the form should be eliminated.

In addition, since § 478.124a became effective, there have been several legislative amendments to the Gun Control Act, which have resulted in numerous revisions to the Form 4473 (LV). ATF has determined that updating and revising this form, along with the

associated printing costs, is not an efficient use of its resources.

Accordingly, this proposed rule amends the regulations by removing the Firearms Transaction Record, Form 4473 (LV), Parts I and II, as an alternate record for the receipt and disposition of firearms by federally licensed firearms dealers. The standard Form 4473, which is currently used by licensees who have annual firearms dispositions of more than 50, is being retained.

If the proposed rule is adopted, licensees will be required to use the standard ATF Form 4473 for all dispositions and maintain a record of the acquisition and disposition of firearms in accordance with the provisions of § 478.125.

#### **How This Document Complies With the Federal Administrative Requirements for Rulemaking**

##### *A. Executive Order 12866*

This proposed rule has been drafted and reviewed in accordance with Executive Order 12866, "Regulatory Planning and Review," section 1(b), The Principles of Regulation. The Department of Justice has determined that this proposed rule is a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and accordingly this proposed rule has been reviewed by the Office of Management and Budget. However, this proposed rule will not have an annual effect on the economy of \$100 million or more, nor will it adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

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

##### *B. Executive Order 13132*

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

##### *C. Executive Order 12988*

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

##### *D. Regulatory Flexibility Act*

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. See 5 U.S.C. 605(b). Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. The Attorney General, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this proposed rule and, by approving it, certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

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

##### *E. Small Business Regulatory Enforcement Fairness Act of 1996*

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

##### *F. Unfunded Mandates Reform Act of 1995*

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

##### *G. Paperwork Reduction Act*

This proposed rule does not impose any new reporting or recordkeeping

requirements under the Paperwork Reduction Act.

#### **Public Participation**

##### *A. Comments Sought*

ATF is requesting comments on the proposed rule from all interested persons. ATF is also specifically requesting comments on the clarity of this proposed rule and how it may be made easier to understand.

All comments must reference this document docket number (ATF 30P), be legible, and include your name and mailing address. ATF will treat all comments as originals and will not acknowledge receipt of comments.

Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

##### *B. Confidentiality*

Comments, whether submitted electronically or in paper, will be made available for public viewing at ATF, and on the Internet as part of the eRulemaking initiative, and are subject to the Freedom of Information Act. Commenters who do not want their name or other personal identifying information posted on the Internet should submit their comment by mail or facsimile, along with a separate cover sheet that contains their personal identifying information. Both the cover sheet and comment must reference this docket number. Information contained in the cover sheet will not be posted on the Internet. Any personal identifying information that appears within the comment will be posted on the Internet and will not be redacted by ATF.

Any material that the commenter considers to be inappropriate for disclosure to the public should not be included in the comment. Any person submitting a comment shall specifically designate that portion (if any) of his comments that contains material that is confidential under law (*e.g.*, trade secrets, processes, etc.). Any portion of a comment that is confidential under law shall be set forth on pages separate from the balance of the comment and shall be prominently marked "confidential" at the top of each page. Confidential information will be included in the rulemaking record but will not be disclosed to the public. Any comments containing material that is not confidential under law may be disclosed to the public. In any event, the

name of the person submitting a comment is not exempt from disclosure.

### C. Submitting Comments

Comments may be submitted in any of three ways:

- **Mail:** Send written comments to the address listed in the **ADDRESSES** section of this document. Written comments must appear in a minimum 12 point size of type (.17 inches), include your mailing address, be signed, and may be of any length.

- **Facsimile:** You may submit comments by facsimile transmission to (202) 648-9741. Faxed comments must:

- (1) Be legible and appear in a minimum 12 point size of type (.17 inches);

- (2) Be on 8½" x 11" paper;

- (3) Contain a legible, written signature; and

- (4) Be no more than five pages long. ATF will not accept faxed comments that exceed five pages.

- **Federal eRulemaking Portal:** To submit comments to ATF via the Federal eRulemaking portal, visit <http://www.regulations.gov> and follow the instructions for submitting comments.

### 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 of ATF 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 will be available for public inspection by appointment during normal business hours at: ATF Reading Room, Room 1E-063, 99 New York Avenue, NE., Washington, DC 20226; telephone: (202) 648-7080.

### Drafting Information

The author of this document is Scott P. Armstrong-Cezar; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives.

### List of Subjects in 27 CFR Part 478

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

### Authority and Issuance

Accordingly, for the reasons discussed in the preamble, 27 CFR part 478 is proposed to be amended as follows:

### PART 478—COMMERCE IN FIREARMS AND AMMUNITION

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

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

2. Section 478.124a is removed.

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

#### § 478.125 Record of receipt and disposition.

\* \* \* \* \*

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

\* \* \* \* \*

Dated: July 22, 2010.

Eric H. Holder, Jr.,

Attorney General.

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 271 and 272

[EPA-R06-RCRA-2009-0570; FRL-9172-7]

#### Louisiana: Final Authorization of State-Initiated Changes and Incorporation by Reference of State Hazardous Waste Management Program

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** During a review of Louisiana's regulations, EPA identified a variety of State-initiated changes to Louisiana's hazardous waste program under the Resource Conservation and Recovery Act, as amended (RCRA), for which the State had not previously sought authorization. EPA proposes to authorize the State for the program changes. In addition, the EPA proposes to codify in the regulations entitled "Approved State Hazardous Waste Management Programs", Louisiana's authorized hazardous waste program. The EPA will incorporate by reference into the Code of Federal Regulations (CFR) those provisions of the State regulations that are authorized and that EPA will enforce under RCRA.

**DATES:** Send written comments by September 7, 2010.

**ADDRESSES:** Send written comments to Alima Patterson, Region 6, Regional Authorization Coordinator, or Julia Banks, Codification Coordinator (6PD-O), Multimedia Planning and Permitting Division at the address shown below. You can examine copies of the materials that form the basis for this authorization and incorporation by reference during normal business hours at the following location: EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, phone number (214) 665-6533 or (214) 665-8178. You may also submit comments electronically or through hand delivery/courier; please follow the detailed instructions in the **ADDRESSES** section of the direct final rule which is located in the Rules section of this **Federal Register**.

#### FOR FURTHER INFORMATION CONTACT:

Alima Patterson or Julia Banks at (214) 665-8533 or (214) 665-8178.

**SUPPLEMENTARY INFORMATION:** In the "Rules and Regulations" section of this **Federal Register**, the EPA is authorizing the changes to the Louisiana program, and codifying and incorporating by reference the State's hazardous waste program as a direct final rule. The EPA did not make a proposal prior to the immediate final rule because we believe these actions are not controversial and do not expect comments that oppose them. We have explained the reasons for this authorization and incorporation by reference in the preamble to the direct final rule. Unless we get written comments which oppose this authorization and incorporation by reference during the comment period, the direct final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose these actions, we will withdraw the direct final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time. For additional information, please see the direct final rule published in the "Rules and Regulations" section of this **Federal Register**.

**Authority:** This action is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).