

18 U.S.C. 923(g)(1)(A): RECORDS REQUIRED FOR FIREARMS LICENSEES
27 CFR PART 478, SUBPART H: RECORDS
27 CFR 478.22, 478.121, 478.122, 478.123, 478.125(e): LICENSEE ACQUISITION
AND DISPOSITION RECORDS, ALTERNATE METHODS OR PROCEDURES

Under specified conditions, approval is granted to utilize computerized records as required records under 27 CFR 478.121, 478.122, 478.123, and 478.125(e), Subpart H.

ATF Rul. 2008-2

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has received inquiries from members of the firearms industry about maintaining their required acquisition and disposition dealer's records in computerized form rather than paper form.

Section 923(g)(1)(A) states that each licensed importer, licensed manufacturer, and licensed dealer shall maintain such records of importation, production, shipment, receipt, sale, or other disposition of firearms at his place of business and in such form as the Attorney General may by regulations prescribe.

The pertinent regulations involved in this ruling implementing section 923(g) are in 27 CFR Part 478, Subpart H. The regulations in this subpart specify general guidance regarding the records that must be maintained under this subpart (§ 478.121).

Section 478.121 sets forth the general recordkeeping requirements for all licensees. This section requires that records be maintained on licensed premises in the manner and for the length of time prescribed in the regulations.

Section 478.122 sets forth recordkeeping requirements for licensed importers. Section 478.122(a) requires that importers, within 15 days of the date of importation or other acquisition, record the type, model, caliber or gauge, manufacturer, country of manufacture, and the serial number of each firearm imported or otherwise acquired, and the date the importation or other acquisition was made. Section 478.122(b) requires that licensed importers record the disposition of firearms to other licensees showing the quantity, type, manufacturer, country of manufacture, caliber or gauge, model, serial number, the name and license number to whom the firearm is transferred, and the date of the transfer. Section 478.122(b) also provides that the information must be entered in "the proper record book" not later than the seventh day following the date of the transaction and specifies the format to be used for the record. Section 478.122(c) gives the Director of Industry Operations the discretion to authorize alternate records when it is shown that such records will accurately and readily disclose the information required by the regulations. Finally, § 478.122(d) provides that licensed importers must maintain separate records of dispositions of firearms to nonlicensees, and that such records shall be maintained in the form and manner prescribed by §§ 478.124 and 478.125 (dealer records).

Section 478.123 sets forth recordkeeping requirements for licensed manufacturers. Section 478.123(a) requires that licensed manufacturers record the type, model, caliber or gauge, and serial number of each complete firearm manufactured or otherwise acquired, and the

date the manufacture or acquisition was made. This section further provides that the information must be recorded not later than the seventh day following the date of manufacture or acquisition. Section 478.123(b) requires that manufacturers record the disposition of firearms to other licensees showing the quantity, type, model, manufacturer, caliber, size or gauge, serial number, the name of the licensee to whom transferred, and the date of the transaction. Section 478.123(b) further provides that the information shall be recorded in “the proper record book” not later than the seventh day following the date of the transaction, and the format used must be as specified in § 478.122. Section 478.123(c) gives the Director of Industry Operations discretion to authorize alternate records when it is shown by the licensed manufacturer that such records will accurately and readily disclose the information required by the regulations. Finally, § 478.123(d) requires that licensed manufacturers maintain separate records of dispositions of firearms to nonlicensees in the format specified by §§ 478.124 and 478.125 (dealer records).

Section 478.125(e) sets forth recordkeeping requirements for acquisition and disposition records maintained by licensed dealers. This section requires that licensed dealers record each receipt and disposition of firearms and states that the record shall be maintained in bound form under the format specified. This section further states that the acquisition of a firearm shall, except as provided in paragraph (g) (relating to delaying entry of curio or relic firearms into the acquisition record in specified circumstances), be recorded not later than the close of the next day following the date of the acquisition. In addition, the regulation requires that the record include 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. For disposition records, the regulation requires that the disposition of a firearm be recorded not later than 7 days following the date of the transaction. When the disposition is made to a nonlicensee, the regulations require the dealer to obtain and complete ATF Form 4473, and to retain the form separately from the dealer's Form 4473 file until the transaction is recorded. When the disposition is made to a licensee, the commercial record of the transaction must be retained, separate from other commercial records, until the transaction is recorded. The disposition record must show the date of the disposition, the name and address of the transferee, or, if the transferee is a licensee, the name and license number of the transferee. Alternatively, the regulations permit the dealer to record the serial number of the Form 4473, if the licensed dealer serially numbers the Forms 4473 and files them numerically.

Regulations at 27 CFR 478.22 allow for the approval and use of an alternate method or procedure in lieu of a method or procedure specifically prescribed in Part 478. ATF may approve an alternate method or procedure when it is found that—

- (1) Good cause is shown for the use of the alternate method or procedure;
- (2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure and that the

alternate method or procedure is substantially equivalent to that specifically prescribed method or procedure; and

- (3) The alternate method or procedure will not be contrary to any provision of law and will not result in an increase in cost to the Government or hinder the effective administration of part 478.

With advances in technology and the dramatic decrease in the cost of computers, many businesses rely upon computers to maintain records of their inventory, sales, customer lists, and other business information. Even the smallest home-based business utilizes computers to record and maintain business information. Creating and maintaining records in a computer database, rather than paper form, makes it easier to ensure accuracy of records and makes it less likely that records will be lost or misplaced. In addition, maintaining records via computer generally saves time and money in bookkeeping and auditing expenses. This utilization of computers has allowed companies to automate inventories, utilizing technology such as bar codes or RFID (radio frequency identification) chips. This facilitates better accountability of product overall, reducing the potential of everyday accounting errors. Over the years, ATF has seen a significant increase in the number of requests from firearms licensees for authorization to utilize computerized records rather than paper records of acquisition and distribution. ATF routinely approves requests to utilize computerized records, with certain conditions, finding that the use of such records is substantially equivalent to methods of record keeping set forth in the regulations in 27 CFR Part 478, Subpart H.

Several firearms industry members have asked whether computerized records may be maintained without obtaining written approval from ATF if they contain all the required information specified in the regulations and are maintained in a permanent form. Additionally, industry members have questioned whether computer records in combination with paper records may be maintained if they are permanent and contain all the information required by the regulations.

ATF has determined that acquisition and disposition records required by 27 CFR Part 478, Subpart H, and §§ 478.121, 478.122, 478.123, and 478.125(e), in computerized form, satisfy the standard of permanency and are substantially equivalent to paper records if they meet the following criteria:

1. All data entered into the computer system must be recorded into the database and cannot be capable of being edited or modified at a later date without generating an audit trail. The software system must retain any correction of errors as an entirely new entry, without deleting or modifying the original entry. The system may allow for entries in a notes column to explain any correction.
2. The system must have a reliable daily memory backup capability to protect the data from accidental deletion or other system failure.

3. The system must meet the regulatory requirements for recording pertinent information.
4. The system must allow queries by serial number, acquisition date, and name of the manufacturer or importer. Commonly recognized trade names may be used when recording the manufacturer/importer in the firearm description.
5. The FFL must periodically print all records from the system. Specifically, the records must be printed:
 - (a) at least semiannually,
 - (b) upon request of an ATF officer,
 - (c) when the database is purged, and
 - (d) when the license is terminated

Printouts must be retained until the next printout is prepared.

The printouts must be limited to only the information required and specified by regulation.

6. The FFL may download the required acquisition and disposition records to portable storage devices such as Compact Discs (CDs), Digital Versatile Discs (DVDs), and USB Flash Drives, instead of conducting the periodic printout of those records, provided that the FFL presents the records in a printed format at ATF's request. ATF recognizes that printed records take up space and are not as easy to search as records maintained in a digital format.
7. The computer printouts must contain firearms in inventory as well as all firearms transferred during the period covered, sequentially by date of acquisition.
8. The system must record both the manufacturer **and** the importer of foreign-made firearms.
9. Printouts may include antique firearms, but cannot include other merchandise. However, antique firearms must be identified as "ANT" in the "firearm type" column.
10. The name and FFL number (if licensee) or name and address (if non-licensee) of the supplier/consigner and the purchaser/transferee must be included in the computer data. An ATF Form 4473 transaction number may be used in lieu of the address for recording the transfer of a firearm to a non-licensee if the Forms 4473 are filed numerically.
11. The system cannot rely upon invoices or other paper/manual systems to provide any of the required information.

12. All required records including acquisition and disposition records, must remain at the licensed premises.
13. Upon termination of a license, the FFL must provide an American Standard Code for Information Interchange (ASCII) text file (in conformity with industry standards) and a file description, in addition to printouts of all records, to the ATF Out-of-Business Records Center. The printout and ASCII text file must contain the information as prescribed by regulation. All records must be forwarded to the ATF Out-of-Business Records Center in accordance with 27 CFR 478.127, including complete printouts, and ASCII text file (and file description) of the A&D records, and all ATF Forms 4473.

As indicated above, FFLs must provide complete printouts and an ASCII text file (and file description) of A/D records and all ATF Forms 4473 to the ATF Out-of-Business Records Center upon discontinuance of business. The records should be submitted to the following location:

ATF Out of Business Records Center
244 Needy Road
Martinsburg, West Virginia 25405

ATF Rul. 2007-4, which allowed a FFL who had an approved variance to use computerized acquisition and disposition records to periodically download the required records to portable storage devices instead of printing out such records, is superseded by this ruling.

ATF finds that good cause exists for authorizing the use of a computers and portable storage devices to create and maintain the records required by 27 CFR Part 478, Subpart H, as the use of computers is accepted throughout the business community as a reliable, cost-efficient means of maintaining business records. ATF also finds that the use of a computer to maintain required records, contingent upon the requirements outlined above, is consistent with the effect intended by the requirements of Subpart H, as it will result in a permanent, reliable record that will accurately indicate acquisitions and dispositions of firearms. Finally, ATF finds that the use of computer records properly containing all the required information should not hinder the effective administration of the Federal firearms laws or regulations – use of such records generally makes it easier for ATF to conduct inventories of firearms on hand and to audit required records. Accordingly, ATF concludes that the requirements for approval of an alternate method or procedure in accordance with 27 CFR 478.22 are met.

Held, licensed manufacturers, licensed importers, and licensed dealers may use computers to create and maintain acquisition and disposition records required by 18 U.S.C. 923(g)(1)(A) and 27 CFR 478.121, 478.122, 478.123, and 478.125(e), Subpart H, if the system meets the above stated criteria.

Held further, licensees who wish to use computers to create and maintain their acquisition and disposition firearms records in accordance with the requirements set forth in this ruling are not required to obtain advance approval in accordance with 27 CFR 478.22.

Held further, if administrative difficulties arise through the use of portable storage media instead of printouts, the FFL will be required to provide periodic paper printouts of such records at the request of the Director, Industry Operations.

ATF Rul. 2007-4, approved June 26, 2007, is hereby superseded.

Date approved: August 25, 2008

Michael J. Sullivan
Acting Director