

Location of Records

“The records pertaining to firearms transactions” and “ammunition” required under the Gun Control Act regulations “shall be retained on the licensed premises.”⁶

Electronic Acquisition and Disposition Records

ATF Ruling 2013-5 that provided detailed requirements for electric acquisition and disposition records was superseded by ATF Ruling 2016-1. Under the new ruling, the ATF continues to authorize “an alternate method or procedure to the paper bound firearms acquisition and disposition recordkeeping requirements” but only if “all” of fourteen conditions are met.⁷ In addition to these fourteen conditions, “All laws, regulations, rulings, procedures, and policies applicable to the paper form of the firearms acquisition and disposition records also apply to electronic versions.”⁸

1. Required Information. The licensee must record in the computer system “all of the acquisition and disposition information required by [the regulations], as applicable.”⁹ This required information “includes a record of both the manufacturer and the importer (if any).”¹⁰ The licensee may use additional columns “to capture certain additional information (e.g., inventory number, new/used, etc.), so long as the additional information is separate from the required information and the required information is readily apparent.”¹¹ In addition, an “ATF Form 4473 serial number may be used instead of the address for recording the transfer of a firearm to a non-licensee if such forms are filed numerically.”¹²

2. Tracking of Corrections. One of the primary concerns of Ruling 2016-1 is the potential for “corrections” destroying the original entry and preventing an adequate records’ trail. Accordingly, a licensee’s “electronic

⁶ 27 C.F.R. § 478.121(a).

⁷ ATF Ruling 2016-1.

⁸ ATF Ruling 2016-1.

⁹ 2 ATF Ruling 2016-1 (citing 7 CFR §§ 478.121, 478.122, 478.123, 478.125(e), 478.125(f), and 27 CFR 479.131).

¹⁰ ATF Ruling 2016-1.

¹¹ ATF Ruling 2016-1.

¹² ATF Ruling 2016-1.

acquisition and disposition bound book software must track corrections and changes utilizing” one of the following three methods.¹³

Option A. “The system must retain any correction as an entirely new entry, without deleting or modifying the original entry. When the software generates the bound book, the system must be able to quickly and easily change views of the bound book” as follows:

1. View only the original entries;
2. View only the corrected entries; and
3. View both the original and corrected entries in the same bound book.¹⁴

Option B. “The system must be able to print the corrections as a separate report containing the same parameters as are required for a paper bound book, including the firearm information, acquisition details, and disposition details. The format of the correction report may follow the traditional bound book format, or may be presented in any column format as long as the necessary information outlined above exists in the report (which may include a notes column).”¹⁵

Option C. If a spreadsheet program is being utilized, the electronic system must be able to track any edits, corrections, or amendments in a “notes” column. Any edits, corrections, or amendments may overwrite the original entry so long as the “notes” column explains any edits, corrections, or amendments and/or tracked changes. These notes should explained, for example, “what was changed, who made the change, and why the change was needed.”¹⁶

3. *Inclusive Electronic System.* The electronic acquisitions and dispositions system must include all of the required information and cannot “rely upon invoices or other paper/manual systems to provide any of the required information.”¹⁷ Also, if an electronic recordkeeping system is used for any of a licensee’s

¹³ ATF Ruling 2016-1.

¹⁴ ATF Ruling 2016-1.

¹⁵ ATF Ruling 2016-1.

¹⁶ ATF Ruling 2016-1.

¹⁷ ATF Ruling 2016-1.

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acquisition and disposition records, then “all acquisition and disposition records, regardless of type (e.g., gunsmithing, sales, NFA), must also be in the electronic format as prescribed” by the ruling.¹⁸

4. *Query Capability.* The electronic system “must allow queries by firearm serial number, acquisition date, name of the manufacturer or importer, name of the purchaser, address of purchaser or other transferee, and ATF Form 4473 transferor’s transaction serial number (if any).”¹⁹

5. *Downloaded/Printed A&D Records Kept on Business Premises.* The licensee is required to “download all records from the system” by either downloading them to an electronic storage device such as a hard drive, Compact Disc (CD), Digital Versatile Disc (DVD), or Universal Serial Bus (USB) Flash Drive” or printing them.²⁰

The downloads or printouts must meet the following requirements:

- Include all firearms in inventory
- Include all firearms transferred during the period covered
- List these firearms “sequentially by date of acquisition”
- Display “only the information required by the applicable regulations,” but “may contain additional columns capturing certain additional information, provided that the required information is readily apparent.” These two requirements contradict each other.²¹ Apparently, only the required information may be included in the required columns, but additional columns may be included if these columns are “readily” distinguishable from the required columns.

The downloaded data or printed copies must be kept “at the licensee’s business premises.”²² The downloading or printing is required to be performed at the following times:

- At least semiannually. However, if the original records are maintained at a “host facility (e.g., remote server or cloud storage provider) contracted/leased by the licensee” as provided under restriction number 9 (below), the licensee is required to download the electronic records “at least daily.” The downloaded records “must be

¹⁸ ATF Ruling 2016-1.

¹⁹ ATF Ruling 2016-1.

²⁰ ATF Ruling 2016-1.

²¹ ATF Ruling 2016-1.

²² ATF Ruling 2016-1.

downloaded in a format that is unencrypted with the required information readily apparent.”²³

- Upon request of an ATF officer and within 24 hours of the request.²⁴
- Prior to discontinuance or change of any of the following
 - the software (program);
 - the database system, whether or not maintained by a host facility (e.g., remote server or cloud storage provider); and/or
 - the host facility (if applicable).²⁵
- Prior to discontinuance of the licensee’s firearms business.²⁶

6. *Storage Device Retention and Access.* If the electronic records are downloaded “onto a physical storage device (e.g., hard drive, CD, DVD, or USB Flash Drive), the download must be retained on the physical storage device until the next download is prepared.”²⁷ The licensee “must be able to present the most current version of the requested records in a printed format at ATF’s request.”²⁸

7. *Printout Retention.* If the electronic records are printed, “the printout must be retained until the next printout is prepared.

8. *Limited to Firearms and Antique Firearms.* While downloads or printouts may include antique firearms, they cannot include other merchandise. If antique firearms are included, they “must be identified as such in the ‘firearm type.’ column”²⁹

9. *Offsite Storage of Electronic Records.* “Electronic firearms acquisition and disposition records may be stored on a computer server or device owned and operated by the licensee, or contracted/leased by the licensee through a host facility (e.g., remote server or cloud storage provider), but only under both of the following conditions:

²³ ATF Ruling 2016-1.

²⁴ ATF Ruling 2016-1.

²⁵ ATF Ruling 2016-1.

²⁶ ATF Ruling 2016-1.

²⁷ ATF Ruling 2016-1.

²⁸ ATF Ruling 2016-1.

²⁹ ATF Ruling 2016-1.

- The acquisition and disposition records are readily accessible through a computer or device located at the licensed premises during regular business hours; and
- The licensee’s server is located within the United States or its territories, or if a host facility is used, that facility must have a business premises within the United States or its territories, and must be subject to U.S. legal process.³⁰

The ATF “strongly encourage[s]” licensees “to ensure that there are proper and robust security protection measures in place (e.g., encryption) to ensure all data is protected.”³¹

10. *Change in Host Facility.* If the licensee begins using a host facility (e.g., remote server or cloud storage provider), whether pursuant to a contract or lease, or changes a host facility, “the licensee must, within 30 days, notify his/her respective ATF Area Office of the name and address of the host facility.”³²

11. *No Intermingling.* “Each licensee must maintain its firearms acquisition and disposition records on a separate/partitioned database that cannot be intermingled with the records associated with another licensee.”³³

12. *Backups.* “The storage system must back-up the firearms acquisition and disposition records on at least a daily basis to protect the data from accidental deletion or system failure.”³⁴ This backup requirement is in addition to the download/print requirements under requirement 5.

13. *Retention of Records.* Licensees are required to “retain all records in accordance with 27 CFR 478.129 [record retention requirements], ATF Rul. 2010-8, Consolidation of Required Records for Manufacturers, and ATF Rul. 2011-1, Consolidation of Required Records for Importers (as applicable).”³⁵ The ATF also “strongly recommend[s] that upon reaching 20 years, those electronic firearms acquisition and disposition records be either permanently maintained by the licensee or forwarded to the ATF Out-of-Business Records Center for preservation.”³⁶

³⁰ ATF Ruling 2016-1.

³¹ ATF Ruling 2016-1.

³² ATF Ruling 2016-1.

³³ ATF Ruling 2016-1.

³⁴ ATF Ruling 2016-1.

³⁵ ATF Ruling 2016-1.

³⁶ ATF Ruling 2016-1.

14. **Discontinuance of Business.** If a licensee discontinues its business, it “must send required records to the ATF Out-of-Business Center in accordance with 27 CFR 478.127. The licensee must print out the required records or download them to a physical storage device [see requirement number 5, above] or, at the discretion of the licensee, both.” The ATF further requires that the “complete printout or download must provide an American Standard Code for Information Interchange (ASCII) text file (in conformity with industry standards) containing all acquisition and disposition records, and a file description. The complete printout or downloaded ASCII text file (and file description) must contain all information prescribed by regulation.”³⁷ The ATF notes, “The NTC converts these files into image files not searchable by name.” However, NTC (Nikon’s Capture Camera Curves Information File) format is not the only type of unsearchable image file.

Electronic Records Not Required. Electronic records are “not required” and licensees “may continue to use a paper record in the format prescribed by regulation.”³⁸

Loss of Right to Use Electronic Records. The ATF warns that “if the licensee fails to abide by the conditions of [Ruling 2016-1], uses any procedure that hinders the effective administration of the Federal firearms laws or regulations, or any legal or administrative difficulties arise due to the use of an electronic acquisition and disposition record, the licensee is no longer authorized to maintain acquisition and disposition records electronically under this ruling until all conditions of this ruling are met.”³⁹

Sales Information Required to be Collected

Identifying Information

It is “unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or deliver . . . any firearm or armor-piercing ammunition to any person unless the licensee notes in his records, required to be kept pursuant to [18 U.S.C. § 923], the name, age, and place of residence of such person if the person is an individual, or the identity and principal and local places of business of such person if the person is a corporation or other business entity.”⁴⁰

ATF Form 4473

Form 4473 has three important requirements. First, this form controls the process for transferring firearms. Second, it is used to collect information and process the required background checks. The use

³⁷ ATF Ruling 2016-1.

³⁸ ATF Ruling 2016-1.

³⁹ ATF Ruling 2016-1.

⁴⁰ 18 U.S.C. § 922(b)(5).