.
26 CFR 178.124: FIREARMS TRANSACTION RECORDS
(Also 178.123, 178.125, 178.147)

Form 4473 shall not be required to record disposition of a like replacement firearm when such firearm is delivered by a licensee to the person from whom the malfunctioning or damaged firearm was received, provided such disposition is recorded in the licensee's permanent records.

ATF Rul. 74-20

[Status of ruling: Active]

The Bureau of Alcohol, Tobacco and Firearms has been requested to state its position in regard to the requirement for the execution of a Firearms Transaction Record, Form 4473, when a defective, damaged or otherwise malfunctioning firearm is replaced by a federal licensee as an alternative to the repair and return to the purchaser of the defective firearm.

The proviso under 26 CFR 178.124(a) states that Form 4473 shall not be required to record the disposition made of a firearm that is delivered to a licensee for the sole purpose of repair or customizing when such firearm is returned to the person from whom received. No specific mention is made in that statement in regard to a "replacement" that may be furnished to the customer in lieu of repairing and returning the damaged or malfunctioning merchandise. However, 26 CFR 178.147 states ". . . notwithstanding any other provisions of this part, the . . . licensed manufacturer . . . may return in interstate commerce . . . a replacement firearm of the same kind and type." In view of the above, 26 CFR 178.147 may be so interpreted as to allow the disposition of such firearms without the execution of Form 4473 to record the transaction.

It is held, therefore, that a firearms transaction record, Form 4473, shall not be required to record the disposition of a replacement firearm of the same kind and type where such a firearm is delivered by a licensee to the person from whom the malfunctioning or damaged firearm was received.

It should be noted, however, that the licensee is required by 26 CFR 178.125 to maintain in his permanent records the disposition of such a replacement firearm.