



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Assistant Director

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Washington, DC 20226

OPEN LETTER TO ALL FEDERAL FIREARMS LICENSEES

The purpose of this Open Letter is to provide guidance to Federal firearms licensees (FFLs) regarding firearms transferees whose only identification documents indicate only a Post Office (P.O.) Box or Rural Route number as a residence address.

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has received questions from FFLs concerning unlicensed firearms purchasers who present a State-issued driver's license or other government-issued identification document that shows a P.O. Box or Rural Route number as their residence address. The Firearms Transaction Record, ATF Form 4473, provides that the form may not be completed to indicate a P.O. Box number as the purchaser's residence address. FFLs ask whether this means that purchasers who have a P.O. Box or Rural Route number as their only legal address may not lawfully purchase a firearm from them.

The Brady Law, 18 U.S.C. 922(t), provides, in part, that an FFL shall not transfer a firearm to an unlicensed purchaser unless (1) before completion of the transfer, the FFL contacts the national instant criminal background check system (NICS); (2) NICS provides the FFL with a unique identification number; (3) the transferor has verified the identity of the transferee by examining a valid identification document (as defined in 18 U.S.C. 1028(d)) of the transferee containing a photograph of the transferee. The provisions of section 922(t) are implemented by regulations in 27 CFR 478.102(a)(3), which restate the requirement that the FFL verify the identity of the transferee by examining an "identification document."

Section 923(g)(1)(A) of the Gun Control Act requires that FFLs maintain such records of importation, production, shipment, receipt, sale, or other disposition of firearms at their place of business for such period, and in such form, as the Attorney General may by regulations prescribe. Implementing regulations in 27 CFR 478.124 requires FFLs to record firearms transactions with nonlicensed purchasers on a firearms transaction record, ATF Form 4473. The regulations further require that the Form 4473 include, among other things, the transferee's name, sex, date of birth, and residence address. The term "residence address" is not defined in the law or regulations.

Section 1028(d)(3), Title 18, U.S.C., defines the term "identification document" to mean a document 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 which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals. The term is further defined in 27 CFR 478.11 as a document that contains "the residence address" of the holder that is a "type intended or commonly accepted for the purpose of identification of individuals."

In implementing the statutory definition of "identification document" in the regulations, ATF has interpreted the language requiring that the document be of a type commonly accepted for the purpose of identification, meaning that the document must include a photograph of the individual, date of birth, and residence address. The requirement of a residence address was included in the definition in light of the requirement that the Form 4473 include a residence address. Because nonlicensed purchasers are generally restricted to their State of residence in acquiring firearms, it is important that an FFL be able to verify that the purchaser is a resident of the State where the FFL's premises are located. ATF requires that the residence address provided on the Form 4473 be sufficient to identify the physical location of the purchaser's residence in the event the firearm is the subject of a trace request. The Form 4473 includes language stating that a P.O. Box is not an acceptable residence address.

ATF has been advised that a number of States issue driver's licenses with only a P.O. Box or Rural Route number as the residence address of the holder. ATF has also been advised that persons in rural and undeveloped areas may have only a P.O. Box or Rural Route number as their only legal address. In those jurisdictions, States view such an address as the person's legal address, and that address is sufficient for purposes of "identification documents" issued by those States.

In issuing regulations that require identification documents to include a residence address, it was not ATF's intention to impose firearms purchase restrictions on persons holding driver's licenses indicating only a P.O. Box or Rural Route number. ATF's intention was to assist FFLs in verifying that a particular purchaser resides in a jurisdiction where purchase and possession of the firearm is lawful. ATF has determined that this purpose can be achieved through the issuance of a variance requested by the FFL who may transfer firearms to customers who are able to provide an identification document listing only a P.O. Box or Rural Route number.

Accordingly, ATF will issue a variance to Federal firearms licensees where:

- (1) The FFL has information indicating that a purchaser or purchasers reside in a State or locality where a P.O. Box and/or Rural Route number is considered by the jurisdiction to be a legal residence address;
- (2) The licensee has inquired of the purchasers if the address indicated on the identification document is the actual residence address, has received an affirmative response, and the licensee has no reason to believe the address on the identification document is not the actual, legal residence address of the purchaser;
- (3) The "identification document" presented meets all the requirements of 18 U.S.C. 1028(d) and 27 CFR 478.11; and
- (4) After the variance is approved, the FFL requires the purchaser to complete the ATF Form 4473 to indicate the actual physical location of his or her residence in section 2, "Current Residence Address," including county or similar political subdivision. If the space provided on the form in section 2 is not sufficient, the information should be provided on a separate sheet of paper and attached to the ATF Form 4473. If an attachment is necessary, the FFL must indicate in section 2 that a physical address description is attached by writing "physical address attached" or "PA attached." This may include a metes and bounds description such as that appearing on a property deed or may be directions from the nearest U.S. Post Office or other well-known landmark. The residence address shown on the Form 4473 need not match the residence address on the identification document presented by the purchaser.

The variance will not authorize transfer of a firearm to a purchaser who chooses to list a P.O. Box for privacy and security concerns and the P.O. Box is not the actual residence address as recognized under State law. FFLs wishing to request authority to use the alternate method or procedure outlined in this Open Letter should submit a request in writing to:

ATF
Firearms Programs Division
Room 7400
650 Massachusetts Avenue, NW.
Washington, DC 20226

The request should include a discussion of all the criteria for alternate methods or procedures as set forth in 27 C.F.R. § 478.22.

A handwritten signature in black ink, appearing to read "L. P. Raden", written in a cursive style.

Lewis P. Raden
Assistant Director
Enforcement Programs and Services