5300.35 is executed at the time the prospective purchaser informs the licensee of an intent to acquire a handgun. Form 4473 is executed when the handgun is delivered. A considerable lapse of time may separate the two events. Consequently, the purchaser's certification on Form 5300.35 that he or she is not within a category of persons prohibited from receiving or possessing firearms must be made again on Form 4473 when the firearm is delivered to the purchaser. During the period between execution of the two forms, the purchaser may have been indicted, convicted of a felony, or otherwise fallen within one of the categories of persons who are prohibited by law from receiving or possessing firearms. In addition, it is impractical to use a combined form as the Form 4473 contains information that may not be provided to the CLEO, including a description of the handgun to be purchased. The Brady law expressly limits the information that may be required on Form 5300.35. Finally, a combination of the two forms would be overly complicated and confusing to licensees and handgun purchasers.

Two commenters requested that the regulations be revised to include as optional information on Form 5300.35 the transferee's race in order to assist law enforcement officials in verifying the transferee's eligibility to possess a handgun. ATF agrees with the commenters that race would be helpful in identifying the transferee. However, ATF believes that the other information on the form, including social security number and date of birth, is adequate for law enforcement officials to conduct a criminal records check. Accordingly, ATF is not amending the regulations and the form to include the transferee's

Another modification to Form 5300.35 was requested by the Immigration and Naturalization Service (INS) of the Department of Justice. In order to provide assistance to CLEOs in identifying ineligible applicants for handguns, the INS has suggested that a transferee who is a lawful permanent resident alien of the United States include his or her alien registration number (Alien #A ) on Form 5300.35 (Item 5g, "Are you illegally in the United States?"). The registration number will enable INS to conduct computer checks. Without this information, it would be impossible for INS to grant the assistance requested by CLEOs. In light of INS's request, ATF is amending § 178.130(a)(2) to include the alien registration number on Form 5300.35 as optional information.

Some commenters suggested that the regulations prescribe a maximum time period between the completion of Form 5300.35 and delivery of the handgun. The Brady law is silent on this issue. It requires licensees to execute Form 5300.35 after the most recent proposal of transfer by the transferee and before transferring the handgun. The law would not prohibit a licensee from transferring a handgun even though there is a long lapse of time between execution of the form and delivery of the firearm. However, ATF is encouraging licensees to have the form executed as close in time to the delivery of the handgun as possible, so that any records check performed will be recent.

Another commenter requested that § 178.130(c), which requires licensees to retain all executed original Forms 5300.35 even when a transfer does not occur, be eliminated. One commenter also recommended that the final regulations clarify how long licensees must retain these forms.

ATF is not amending § 178.130(c). The retention of executed Forms 5300.35 is necessary to ensure compliance with the Brady law which requires that the form be completed at the time the buyer expresses an intent to acquire a handgun from a licensee.

With respect to retention of Form 5300.35, § 178.129(b) provides that licensees shall retain each Form 5300.35 for a period of not less than 5 years after notice of the intent to obtain a handgun was forwarded to the chief law enforcement officer.

## Recordkeeping Requirements

One commenter requested an amendment of § 178.131(a)(3), concerning recordkeeping requirements for handgun transactions in States that have a permit/license-to-purchase background check system. This section provides that the licensee shall retain a copy of the purchaser's permit or license and attach it to the firearms transaction record, Form 4473, executed upon delivery of the handgun. The commenter contends that this requirement places an unnecessary and expensive burden on licensees, particularly for those licensees who cannot afford, or do not have access to, a photocopier.

Rather than making a copy of the purchaser's permit or license, the commenter suggests that the licensee make a record of the information contained on the permit. ATF believes that recording this information on Form 4473 sufficiently demonstrates that a handgun transfer has been made under the State permit system. Accordingly, this final rule amends § 178.131(a)(3) to

require licensees to either retain a copy of the purchaser's permit or license and attach it to the Form 4473 or record certain minimal information contained on such permit or license on the Form 4473, including any identifying number, the date of issuance and the expiration date (if provided).

The same commenter requested an amendment of § 178.131(a)(4). This section requires licensees in alternative States with "instant check" systems to retain with the Form 4473 a statement showing the date of verification, any identifying number, and the name, location, and title of the authorized government official who did the background check. According to the commenter, "[i]n virtually all instances, the person actually checking the status of the transferee will not be an 'authorized government official' personally known to the licensee who will conduct the appropriate records check.'

Since the agency responsible for determining the status of the purchaser will have verifiable information that the background check was completed, the commenter has suggested that the regulations be amended to require the name of the agency responsible for conducting the records check rather than the name of the Government official who made the check.

In response, ATF is revising § 178.131(a)(4) to require licensees in alternative States with "instant check" systems to retain with the Form 4473 a statement indicating the date of verification and any identifying number assigned to the transaction by the agency responsible for conducting the verification of eligibility.

## **Common and Contract Carriers**

Section 922(f)(2) of the GCA and its implementing regulation in § 178.31(d) impose a new requirement on common or contract carriers to obtain a written receipt upon delivery of a package or other container in which there is a firearm. Two commenters raised concerns regarding the application of § 178.31(d) which they believe need to be addressed in the final regulations.

One commenter, a trade association of the moving industry, noted that some customers who are relocating do not reveal to the mover that a firearm is included in the household goods being shipped. The firearm may, for example, be in a dresser or other piece of furniture. Since the mover has no knowledge that there is a firearm included in the shipment, the commenter contends that the carrier should not be held accountable for