

appeals involving positive identification. ATF is not adopting this suggestion. The Brady law does not involve licensees in the appeals process. If a CLEO determines that a prospective buyer is ineligible to receive a firearm and the handgun purchase is denied, Brady provides that the individual can request from the CLEO the reason for such determination. Thus, the licensee is no longer involved and the matter will be resolved by the prospective buyer and the CLEO. In situations where the denial is based on inconclusive identification of the transferee, it is incumbent upon the prospective buyer to provide the CLEO with whatever additional identifying information is needed, including fingerprints, to establish positive identification.

Finally, this Treasury decision makes some technical amendments to the temporary regulations. Specifically, the temporary regulations redesignated § 178.150 as § 178.151. Section 178.150 should have been redesignated as § 178.152. In addition, § 178.126a has been amended to clarify that licensees retain a copy of Form 3310.4, consistent with the instructions on the form. Section 178.129 provides that licensees shall retain such copies of Form 3310.4 for a period of not less than 5 years. Lastly, the definition of the term "chief law enforcement officer" has been moved from § 178.11 to § 178.102(c).

Executive Order 12866

It has been determined that this final rule is not a significant regulatory action because the economic effects flow directly from the underlying statute and not from this final rule. Accordingly, this final rule is not subject to the analysis required by this Executive order.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because the agency was not required to publish a notice of proposed rulemaking under 5 U.S.C. 553 or any other law.

Paperwork Reduction Act

The collection of information contained in this final regulation has been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1512-0520. The estimated average annual burden associated with the collection of information in this regulation is 2.52 hours per respondent or recordkeeper.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Chief, Information Programs Branch, Room 3450, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 and to the Office of Management and Budget, Attention: Desk Officer for the Bureau of Alcohol, Tobacco and Firearms, Office of Information and Regulatory Affairs, Washington, DC 20503.

Disclosure

Copies of the temporary rule, the notice of proposed rulemaking, all written comments, and this final rule will be available for public inspection during normal business hours at: ATF Public Reading Room, Room 6480, 650 Massachusetts Avenue, NW., Washington, DC.

Drafting Information

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List of Subjects in 27 CFR Part 178

Administrative practice and procedure, Arms and ammunition, Authority delegations, Customs duties and inspection, Exports, Imports, Military personnel, Penalties, Reporting requirements, Research, Seizures and forfeitures, and Transportation.

Authority and Issuance

PART 178—COMMERCE IN FIREARMS AND AMMUNITION

27 CFR Part 178 is amended as follows:

Paragraph 1. The authority citation for 27 CFR Part 178 continues to read as follows:

Authority: 5 U.S.C. 552(a); 18 U.S.C. 847, 921-930; 44 U.S.C. 3504(h).

§ 178.11 [Amended]

Par. 2. Section 178.11 is amended by removing the definition for "chief law enforcement officer."

Par. 3. Section 178.31 is amended by revising paragraph (d) to read as follows:

§ 178.31 Delivery by common or contract carrier.

* * * * *

(d) No common or contract carrier shall knowingly deliver in interstate or foreign commerce any firearm without obtaining written acknowledgement of receipt from the recipient of the package or other container in which there is a firearm: *Provided*, That this paragraph shall not apply with respect to the

return of a firearm to a passenger who places firearms in the carrier's custody for the duration of the trip.

Par. 4. Section 178.102 is revised to read as follows:

§ 178.102 Sales or deliveries of handguns after February 27, 1994, and before November 30, 1998.

(a) *Waiting period.* Except as provided in paragraph (d), a licensed importer, licensed manufacturer, or licensed dealer shall not sell, deliver, or transfer a handgun (other than the return of a handgun to the person from whom it was received) to any individual who is not licensed under this part unless the licensee:

(1) Receives from the transferee a statement of intent to obtain a handgun on Form 5300.35 in accordance with § 178.130;

(2) Verifies the identity of the transferee by examining the identification document presented, and noting on Form 5300.35 the type of identification used;

(3) Within 1 day after the transferee furnishes the statement, provides notice of the contents of the statement on Form 5300.35, in the manner prescribed by paragraph (b) of this section, to the chief law enforcement officer of the place of residence of the transferee;

(4) Within 1 day after the transferee furnishes the statement to the licensee, transmits a copy of Form 5300.35 to the chief law enforcement officer of the place of residence of the transferee; and

(5)(i) Five business days (meaning days on which State offices are open) have elapsed from the date the licensee furnished actual notice of the contents of the statement to the chief law enforcement officer, during which period the licensee has not received information from such officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

(ii) The licensee has received notice from the chief law enforcement officer within the 5 business days that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law.

Example 1. A licensee furnishes actual notice of the contents of the statement to the chief law enforcement officer on Tuesday. If State offices are not open on Saturday and Sunday, 5 business days would have elapsed on the following Tuesday. The licensee may deliver the handgun on the next day, Wednesday.

Example 2. A licensee furnishes actual notice of the contents of the statement to the chief law enforcement officer on Saturday. If State offices are not open on Saturday and Sunday, 5 business days would have elapsed