

DEPARTMENT OF JUSTICE
Bureau of Alcohol, Tobacco, Firearms and Explosives
Supporting Statement - Information Collection Request
OMB No. 1140-0041

Implementation of Public Law 103-322, the Violent Crime Control and Law Enforcement Act of
1994

A. Justification

1. On September 13, 1994, Public Law 103-322 (108 Stat. 1796) was enacted, amending the Gun Control Act of 1968 (GCA), as amended (18 U.S.C. Chapter 44), and Title XI of the Organized Crime Control Act of 1970, as amended (18 U.S.C. Chapter 40). The provisions of Pub. L. 103-322, the Violent Crime Control and Law Enforcement Act of 1994 (hereinafter, "the Act"), became effective upon the date of enactment.

The Act restricts the manufacture, transfer, and possession of certain semiautomatic assault weapons and large capacity ammunition feeding devices. With respect to semiautomatic assault weapons, this amendment to the GCA prohibits the manufacture, transfer, and possession of semiautomatic assault weapons, with certain exceptions. The amendment bans 19 weapons by name, as well as any copies or duplicates of such firearms, and semiautomatic rifles, semiautomatic pistols, and semiautomatic shotguns which have 2 or more of the features specified in the law.

Exceptions to the restriction on semiautomatic assault weapons include the manufacture for, transfer to, or possession by the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State, or a transfer to or possession by a law enforcement officer employed by such an entity for purposes of law enforcement. Regulations implementing this provision of the law are prescribed in 27 CFR 478.40(b).

Section 478.40 (c) provides that licensed manufacturers and licensed dealers in semiautomatic assault weapons may manufacture and deal in such weapons manufactured after September 13, 1994, provided that the licensee obtains evidence the weapons will only be disposed of in accordance with paragraph (b) of § 478.40. Examples of acceptable evidence include the following: (1) Contracts between the manufacturer and dealers stating the weapons may only be sold to law enforcement agencies, law enforcement officers, or other purchasers specified in paragraph (b) of § 478.40; (2) Copies of purchase orders submitted to the manufacturer or dealer by government agencies, law enforcement officers, or other purchasers specified in paragraph (b) of § 478.40; (3) Copies of letters submitted to the manufacturer or dealer by government agencies, law enforcement officers, or other purchasers specified in paragraph (b) § 478.40 expressing an interest in purchasing the semiautomatic assault weapons; (4) Letters from dealers to the manufacturer stating that sales will only be made to law enforcement agencies, law enforcement officers, or other purchasers specified in paragraph (b) of § 478.40; and (5) Letters from law enforcement officers purchasing in accordance with paragraph (b) (2) of § 478.40.

Section 478.40a(c) provides that possession and transfer of large capacity ammunition feeding devices by persons who manufacture, import, or deal in such devices will be presumed to be lawful if such persons maintain evidence establishing that the devices are possessed and transferred for sale to purchasers specified in paragraph (b) of this section. Examples of acceptable evidence include the following: (1) Contracts between persons who import or

manufacture such devices and persons who deal in such devices stating that the devices may only be sold to law enforcement agencies or other purchasers specified in paragraph (b) of this section; (2) Copies of purchase orders submitted to persons who manufacture import, or deal in such devices by law enforcement agencies or other purchasers specified in paragraph (b) of this section; (3) Copies of letters submitted to persons who manufacture, import, or deal in such devices by government agencies or other purchasers specified in paragraph (b) of this section expressing an interest in purchasing the devices; (4) Letters from persons who deal in such devices to persons who import or manufacture such devices stating that sales will only be made to law enforcement agencies or other purchasers specified in paragraph (b) of this section; and (5) Letters from law enforcement, officers purchasing in accordance with paragraph (b)(2) of this section and § 478.132.

Section 178.132 provides that licensed manufacturers, licensed importers, and licensed dealers in semiautomatic assault weapons, as well as manufacturers, importers, and dealers in large capacity ammunition feeding devices, may transfer such weapons and device manufactured after September 13, 1994, to law enforcement officers with the following documentation: (1) A written statement from the purchasing officer, under penalty of perjury, stating that the weapon is being purchased for use in connection with official duties and that the weapon is not being acquired for purposes of transfer or resale; and (2) a written statement from a supervisor of the purchasing officer, under penalty of perjury, stating that the purchasing officer is acquiring the weapon for use in official duties, that the firearm is suitable for use in connection with official duties, and that the weapon is not being acquired for transfer or resale.

Section 478.129(e) provides that the documentation required by §§ 478.40(c) and 478.132 shall be retained in the licensee's permanent records for a period of not less than 5 years after the date of sale or other disposition.

Section 478.133 provides that the evidence specified in § 478.40(c) shall be retained in the permanent records of the manufacturer of dealer and in the records of the licensee to whom the weapons are transferred.

2. As stated in the legislative history of the Act, the purpose of this law is to create criminal penalties for the manufacture, transfer, or possession of semiautomatic assault weapons. Federal departments and agencies and those of States and their subdivisions, as well as law enforcement officers employed by such entities for purposes of law enforcement are exempted from the ban on transfer and possession of such weapons. The regulations provide that Federal firearms licensees may transfer these weapons to law enforcement agencies and law enforcement officers with proper documentation. This documentation is necessary for ATF to ensure compliance with the law and to prevent the introduction of semiautomatic assault weapons into commercial channels. The documentation is required whenever these weapons are transferred to law enforcement agencies and law enforcement officers.

Documentation consist of: a. Law enforcement officers. (1) A written statement from the purchasing officer, under penalty of perjury, stating that the weapon or device is being purchased for use in performing official duties and that the weapon or device is not being acquired for personal use or for purpose of transfer or resale; and (2) A written statement from a supervisor of the purchasing officer, on agency letterhead, under penalty of perjury, stating that the purchasing officer is acquiring the weapon or device for use in official duties, that the firearm is suitable for use in performing official duties, and that the weapon or device is not being acquired for personal

use or for purposes of transfer or resale. b. Employees or contractors of nuclear facilities. (1) Evidence that the employee is employed by a nuclear facility licensed or evidence that the contractor has a valid contract with such a facility. (2) A written statement from the purchasing employee or contractor under penalty of perjury, stating that the weapon or device is being purchased for on-site physical protection, on-site or off-site training, or off-site transportation of nuclear materials.

3. Examples of acceptable documentation for the manufacture, transfer or possession of semiautomatic assault weapons or large capacity ammunition feeding devices by the United States can be submitted electronically (e.g. by fax).

4. ATF uses a uniform subject classification system to identify duplication and to ensure that any similar information already available cannot be used or modified for use for the purpose of this information collection.

5. The collection of information does not have a significant economic impact on a substantial number of small entities..

6. This information collection requirement is necessary to ensure compliance with the law and to prevent the introduction of semiautomatic assault weapons into commercial channels.

7. There are no special circumstances this information collection is conducted in a manner consistent with 5 CFR 1320.6.

8. Interested parties were given an opportunity to provide input regarding this information collection. A 60-day and 30-day Federal Register notice was published in order to solicit comments from the public. No comments were received.

9. No payment or gift is associated with this collection.

10. Confidentiality is not assured. Documentation that is provided to the Federal firearms licensees is kept in a secure location.

11. No questions of a sensitive nature, such as sexual behavior or religious beliefs are associated however, the statute requires respondents to submit information with regard to certain firearms..

12. The estimated number of respondents is 61,529. The number of responses per respondent is one. The total annual responses is 61,529. The hours per response is 2 hours and 42 minutes. The total annual hours requested is (61,529 x 2.42)148,900. Respondents are required to maintain the records for 5 years or until business operations are discontinued.

13. There is no capital/startup cost or total annualized cost associated with this information collection.

14. There is no cost to the Federal Government.

15. The burden reduction is due to a statutory change. The provisions of the Federal firearms laws (PL 103-322, Title IX, Subtitle A) covering semiautomatic assault weapons and large

capacity ammunition feeding devices are no longer in effect. However the regulations require licensees to retain documentation for a certain period of time. ATF requires the retention of these records to ensure that licensees comply with the requirements of the law. As a result, the number of respondents has decreased (from 2,107,000 to 61,529) as well as a reduction in the burden hours(from 458,940 to 148,900).

16. The results of this collection will not be published.

17. ATF does not request approval to not display the expiration date of OMB approval for this collection.

18. There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods.

None