

Department of Justice
Bureau of Alcohol, Tobacco, Firearms, and Explosives
Information Collection Request
Supporting Statement
1140-xxxx

ATF Form 3310.12, Report of Multiple Sale or Other Disposition of Certain Rifles

A. Justification

1. As part of the Southwest Border Firearms Trafficking/Violence Initiative, ATF is requiring licensed dealers and pawnbrokers in Arizona, California, New Mexico and Texas to submit information concerning multiple sales of certain rifles. The Gun Control Act (GCA) requires Federal firearms licensees (FFLs) to report multiple sales of handguns to the same purchaser [18 U.S.C. § 923(g)(3)]. The sale of two or more handguns must be reported if they occur at the same time, or within five business days of each other. The report must be filed with ATF no later than the close of business on the day the multiple sales or other disposition took place and includes information that identifies the purchaser and the firearms purchased. By law, a copy must be provided to designated state or local law enforcement agencies. These reports provide ATF with potential intelligence and almost real-time investigative leads that can indicate illegal firearms trafficking. No similar requirement exists for long guns, regardless of the caliber, gauge, or suitability for sporting purposes. As a result, individuals can purchase dozens of rifles at one time without ATF being informed of the sale. This distinction is a product of the fact that, at the time the multiple sale reporting requirement was debated in Congress, handguns, not long guns, were considered far more likely to be diverted to illicit purposes within the United States.

ATF has long used multiple sales information to detect, investigate and prevent firearms trafficking. ATF views the recovery of one or more firearms that were part of a multiple purchase as an indicator of firearms trafficking, particularly if one of the firearms was recovered a short time after the multiple sale occurred (known as a short time-to-crime). All Federal firearms licensees have been required to notify ATF of multiple handgun purchases since 1975 and therefore are familiar with the form and how to complete it. Many licensees also utilize commercial software that automatically identifies multiple sales and completes the form required to report

them. Accordingly, adding a reporting requirement for certain types of rifles will be something licensees already understand and should not impose an undue burden.

The existing multiple sale reporting requirement, applicable to the sale of two or more handguns to a single purchaser, has provided valuable investigative leads for ATF trafficking investigations. Examples of ATF investigations initiated through the existing multiple sale reporting requirement for handguns are provided below.

- Multiple sale reports provided to ATF's San Diego field office in 2009 indicated that an unlicensed San Diego resident obtained a significant number of handguns through multiple sale purchases in Arizona. A search warrant was obtained on the individual's residence in California and a number of firearms were discovered. The suspect identified a neighbor, a felon, as his partner in the trafficking scheme. A warrant was executed at the neighbor's home and additional evidence was recovered. An arrest warrant was issued for the neighbor. Ultimately 25 of the 32 firearms purchased from licensees were recovered. The two suspects and a third accomplice were prosecuted and convicted for felony violations of the GCA.
- In 2009, multiple sale reports provided to ATF's Portland, Maine field office initiated an investigation into an individual handgun purchaser and the licensee from whom the firearms were purchased. ATF investigators learned that the suspect was involved in selling handguns to gang members in a parking lot in Maine. Review of additional multiple sale forms indicated that the suspect had six more multiple handgun purchases involving 44 firearms. Checks of a website commonly used for firearms sales disclosed that the suspect made more than 150 firearms purchases over a two-month period. Further investigation tied the suspect to a felon residing in Massachusetts known as a source of crime guns to gangs. Undercover purchases from the suspect resulted in detention, and he agreed to cooperate against the supplier in Massachusetts and the licensee in Maine. The investigation resulted in the arrest of the Massachusetts supplier and an accomplice, also a convicted felon.
- In 2008, ATF's San Diego field office initiated an investigation of a suspected straw purchaser after a review of multiple sales reports. The suspect began purchasing handguns in 2004 from three different FFLs in San Diego County. A number of the handguns were recovered in Mexico. After an investigation spanning two years, the suspect pled guilty to dealing in firearms without a license.
- In 2005, firearms purchased from a licensee in Maine were recovered in crimes in New York and a number of the firearms were reported to ATF as part of a

multiple handgun sale. The investigation revealed a large ring of straw purchasers in Maine led by a felon and New York City gang member. A FFL was also involved in the ring by allowing straw purchases to occur for profit. Undercover purchases at the licensee's premises further documented his willingness to participate in straw purchases. The investigation resulted in the arrest of seven persons, including the licensee and five straw purchasers. The ring trafficked more than 25 handguns used to commit drug trafficking, burglary, and other felony offenses. All defendants were convicted and served time in the Federal penitentiary.

While handguns remain popular as crime guns in the United States, Mexican law enforcement officials have reported that certain types of rifles are regularly being used to commit violent crimes in Mexico. These rifles typically include AR-15 variants with detachable magazines. Mexican officials believe that these rifles primarily come from the United States in large quantities and many have been sold by FFLs to persons working for Mexican Drug Trafficking Organizations. Successful trace data from recovered rifles confirm that the United States is a significant source of these rifles by FFLs in the southwest border states, and that many have been sold by FFLs. By requiring the reporting of multiple sales of the specified rifles, this proposal would provide significant investigative leads to law enforcement in pursuing firearms trafficking to Mexico and along the southwest border. The authority to require FFLs to submit record information concerning multiple sales or other disposition of certain rifles derives from 18 U.S.C. § 923 (g) (5) (see attachment). As a result, FFLs will not be expected or required to provide copies of the reports generated by this request to the designated state and local law enforcement agencies that otherwise receive the reports of multiple handgun sales pursuant to 18 U.S.C. § 923(g)(3)(A).

2. Reports of multiple sales or other dispositions are and will be used to discern patterns in the purchase of firearms that may end up in the interstate trafficking of illegal firearms. The information is used to determine if the buyer (transferee) is involved in an unlawful activity, such as straw purchases. Specifically, this information provides leads on illegal firearms traffickers who provide firearms to Drug Trafficking Organizations and others who use firearms to commit violent crime. Multiple sale reports are entered into the ATF's Firearms Tracing System (FTS) and made available to all ATF field divisions via ATF's eTrace system. Investigators review the reports each day in conjunction with firearms trace data, analyzing the data for repeat purchasers and recoveries in crimes as well as other information that may disclose trafficking patterns. Information from multiple sale reports frequently results in initiating criminal investigations. The goal of the current proposal is to ensure that ATF receives multiple sale reports on the specific

types of long guns used by Drug Trafficking Organizations in Mexico and along the southwest border. ATF believes these additional reports will help law enforcement agencies detect and disrupt firearms trafficking before the firearms are used in violent crime, whether in the United States or in Mexico.

In addition to providing real-time intelligence, the multiple sales reports would assist in identifying secondhand sales of the specified rifles. Secondhand sales refer to firearms that were previously sold by a licensee to an unlicensed individual and then subsequently resold, pawned, or consigned to a dealer or pawnbroker for resale. Firearms sold in secondhand sales generally cannot be traced from the original manufacturer to the secondhand purchaser. Traces of firearms typically end after new firearms are manufactured and sold by licensees to their first retail purchasers. Multiple sales reports concerning secondhand sales of qualifying rifles by retail dealers would allow ATF to trace those firearms from secondhand retail dealers and pawnbrokers to purchasers because ATF would be able to search the multiple sales records, as it does with multiple sales records for handguns.

A letter to the Federal firearms licensees (FFLs) will accompany this form. The letter will instruct FFLs to submit to ATF reports of multiple sales or other dispositions whenever the FFLs sell or otherwise dispose of, at one time or during any five consecutive business days, two or more semi-automatic rifles capable of accepting a detachable magazine, and with a caliber greater than .22 (including .223/5.56 caliber) to an unlicensed person. The letter will state that the information must be submitted on ATF Form 3310.12, Report of Multiple Sales or Other Disposition of Certain Rifles, no later than the close of business on the day the multiple sales or other disposition takes place.

3. This information collection instrument will be available on the ATF website as a fillable form. The respondent has the option to fax or mail the form to the ATF National Tracing Center. ATF software does not currently support the creation of an e-form for this multiple sale reporting requirement.
4. ATF uses a subject classification code on all forms. This code ensures that there is no duplication of information. Similar information is not available elsewhere for this information collecting requirement.
5. The collection of information will have an impact on minimal number of small businesses. This reporting requirement will potentially apply to an estimated 8,479 licensees.

However, only those licensees who actually sell or dispose of multiple specified long guns (semi-automatic, larger than .22 caliber, and ability to accept a detachable magazine) to the same individual within five business days will be required to complete and submit the report. Accordingly, some lesser number of licensees will actually experience an impact from this collection of information. ATF does not collect information on the size of FFLs and has no way of determining how many are small businesses or which ones sell the kinds of long guns that are the subject of this collection. Moreover, licensees are already familiar with the multiple sale reporting requirement for handguns and should have no problem completing the Form 3310.12, which is modeled after the Form 3310.4.

6. The consequences of not conducting this information collection would pose a threat to public safety and national security. Failure to collect this information is likely to hinder ongoing law enforcement efforts to combat firearms trafficking and reduce violent crime along the southwest border and in Mexico.
7. This collection would be filed more than quarterly. Additionally, respondents are required to prepare and submit information in fewer than 30 days of receipt. This collection will require respondents to prepare a response no later than the close of business on the day the multiple sale or other disposition occurs. Timely responses are required to enable law enforcement to detect illegal firearms trafficking. The response will be provided on an ATF provided form and may be submitted via fax or U.S. mail. The record will be retained by licensees for 5 years and it should be attached to the ATF F 4473 executed upon delivery of the rifles.
8. The ATF National Tracing Center, ATF Counsel, and officials at the Department of Justice were consulted during the creation of the form. A 60-day Federal Register notice was published on December 17, 2010, to solicit comments from the general public. See Federal Register Volume 75, Number 242, page 79021. Also see the attached summary of the comments that were received.
9. No payment or gift is associated with this collection.
10. The information reported to ATF pursuant to the form is prohibited from disclosure by Federal law. The information may only be disclosed to Federal, State, and local law enforcement officials with a bona fide law enforcement need for the information, e.g., in relation to an ongoing criminal investigation. The multiple sale forms will be scanned and entered into the Firearms Tracing System database immediately upon receipt. The hard copy of the form will then be destroyed. Only ATF employees and contractors have access to the database. The purchaser

information will be purged from the database after two years unless associated with a trace.

11. No questions of a sensitive nature are asked.
12. The estimated number of potential respondents is 8,479. In fiscal year 2010, 36,148 reports of multiple sales of hand guns sales were submitted by 2,509 FFLs in the four southwest border states. Because the specified rifles ((a) semi-automatic; (b) a caliber greater than .22 (including .223/5.56 caliber); and (c) the ability to accept a detachable magazine) are a subset of the long gun category, we estimate we will receive 18,074 (that is, one-half of the multiple sales reports for handguns received from licensees in the four southwest border states in 2010) reports of multiple sale of the specified rifles from FFLs located in the four southwest border states from a similar number of FFLs. We estimate that each report will take 12 minutes to complete. If we receive 18,074 reports from 2,509 licensees the total burden is 3,615 hours. The estimated annual burden per respondent is 1 hour and 26 minutes (that is, a total of 3,615 total burden hours incurred by 2,509 licensees).

We estimate the average wage for a firearms sales clerk is \$11.00 per hour. Accordingly, we estimate the total burden on respondents is \$39,762.80 annually. Further, by dividing the multiple sales of handguns respondent population (2,509) by the total annual cost burden, we estimate that the average cost per FFL per year is \$15.85.

13. Based on our experience with the multiple sales report for handguns (Form 3310.4), we estimate that 75% of licensees will fax their reports to the National Tracing Center, and the remaining respondents will mail the form via first-class mail. Because respondents currently have controls in place to capture multiple sales of hand guns; there no additional costs will be incurred to report multiple sales of long guns.
14. Estimates of annual costs to the Federal Government are as follows:
There will be a printing cost of \$11,000 and a distribution cost of \$48,000. The total labor cost is \$50,000. The total cost is \$109,000.
15. There are no program changes or adjustments.
16. The results of this information collection will not be published.
17. Printing the expiration date on this form will result in increased cost because of the need to replace inventories that become obsolete by the passage of the expiration

date each time OMB approval is renewed. ATF must maintain a substantial inventory of forms at the Distribution Center at all times. For these reasons, ATF requests authorization to omit printing the expiration date on the form.

18. There are no exceptions to the certification statement.

B. Collections of Information employing Statistical Methods.

None.