

fourth sentence that begins with "Amounts generated by activities financed with loans", and by adding in its place a comma and a phrase to the end of the fourth sentence; and

b. Amending paragraph (c) by removing the period from the end of the second sentence that begins with "The term excludes", and by adding in its place a comma and a phrase to the end of the second sentence, to read as follows:

§ 570.500 Definitions.

(a) * * *

(4) * * *

(ii) * * *, except that the use of such funds shall be limited to activities that are located in a revitalization strategy area and implement a HUD approved area revitalization strategy pursuant to § 91.215(e) of this title. * * *

* * * * *

(c) * * *, unless the grantee explicitly designates it as a subrecipient. * * *

Dated: March 30, 1995.

Andrew M. Cuomo,

Assistant Secretary for Community Planning and Development.

[FR Doc. 95-8439 Filed 4-5-95; 8:45 am]

BILLING CODE 4210-29-P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 55, 72, 178, and 179

[T.D. ATF-363; 94F-022P]

RIN 1512-AB35

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

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Temporary rule (Treasury decision).

SUMMARY: This temporary rule implements the provisions of Public Law 103-322, the Violent Crime Control and Law Enforcement Act of 1994. These regulations implement the law by restricting the manufacture, transfer, and possession of certain semiautomatic assault weapons and large capacity ammunition feeding devices. Regulations are also prescribed with regard to reports of theft or loss of firearms from a licensee's inventory or collection, new requirements for Federal firearms licensing, responses by firearms licensees to requests for gun

trace information, and possession of firearms by persons subject to restraining orders. The temporary rule will remain in effect until superseded by final regulations.

In the Proposed Rules section of this **Federal Register**, ATF is also issuing a notice of proposed rulemaking inviting comments on the temporary rule for a 90-day period following the publication date of this temporary rule.

EFFECTIVE DATES: The temporary regulations are effective on April 6, 1995, except for the provisions in § 178.92 (a)(2), (c)(i)(ii)(B) and (c)(i)(iii), which will be effective on July 5, 1995.

ADDRESSES: Send written comments to: Chief, Regulations Branch; Bureau of Alcohol, Tobacco and Firearms; Washington, DC 20091-0221.

FOR FURTHER INFORMATION CONTACT: James P. Ficarella, Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 (202-927-8230).

SUPPLEMENTARY INFORMATION:

Background

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 Public Law 103-322, the Violent Crime Control and Law Enforcement Act of 1994 (hereafter, "the Act"), became effective upon the date of enactment. Some of the new statutory provisions and the regulation changes necessitated by the law are as follows:

(1) *Restriction on Manufacture, Transfer, and Possession of Certain 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. The amendment "grandfathers" all semiautomatic assault weapons lawfully possessed on the date of enactment, i.e., September 13, 1994. Thus, semiautomatic assault weapons held in inventory by Federal firearms licensees (FFLs) on that date can continue to be possessed and transferred. Nonlicensed individuals in lawful possession of such weapons on the date of enactment may also continue to possess and transfer the weapons in accordance with applicable

Federal and State law. The law also requires that the serial number of any semiautomatic assault weapon manufactured after September 13, 1994, clearly show that the weapon was manufactured after that date.

Rather than requiring manufacturers and importers to specify the actual date that such weapons were made, the temporary regulations provide that semiautomatic assault weapons manufactured after September 13, 1994, must be marked "RESTRICTED LAW ENFORCEMENT/GOVERNMENT USE ONLY." This marking clearly provides notice that these weapons may only be lawfully possessed by government agencies and law enforcement personnel. As with other firearms, variances from the marking requirements may be requested. The Director may authorize other means of identification of the licensed manufacturer or importer upon receipt of a letter application, in duplicate, showing that such other identification is reasonable and will not hinder the effective administration of the regulations.

The temporary regulations permit manufacturers and dealers in semiautomatic assault weapons to stockpile such weapons for future sales to law enforcement agencies and law enforcement officers. Manufacturers of semiautomatic assault weapons, manufactured after September 13, 1994, will be permitted to transfer such weapons to any FFL upon obtaining evidence that the weapons will only be disposed of to law enforcement agencies and law enforcement officers. Examples of acceptable evidence are provided in the regulations. In the case of semiautomatic assault weapons imported after September 13, 1994, the existing controls on the importation of nonsporting weapons would continue to be imposed on importers of semiautomatic assault weapons. Thus, applications to import such weapons would be approved only if the importer submits a purchase order from a governmental entity.

The regulations will permit licensed dealers to possess semiautomatic assault weapons for sale to law enforcement agencies and law enforcement officers for official use. Dealers must retain evidence that their inventory of weapons is for sale to law enforcement agencies and law enforcement officers. Dealers are required to retain records of disposition indicating that the weapons were sold only to law enforcement agencies and law enforcement officers.

When any licensed manufacturer, importer, or dealer transfers a semiautomatic assault weapon to a law

enforcement officer, the regulations require that the licensee obtain written statements, under penalty of perjury, from the purchasing officer and a supervisory officer, stating that the weapon is for use in official duties and is not being acquired for resale. The purpose of these statements is to prevent the introduction of semiautomatic assault weapons into commercial channels.

(2) *Ban of Large Capacity Ammunition Feeding Devices.* This amendment to the GCA makes it unlawful to transfer or possess large capacity ammunition feeding devices. Exceptions are provided for devices lawfully possessed on the date of enactment and devices manufactured and sold to governmental entities. The Act defines a large capacity ammunition feeding device as a magazine, belt, feed strip or similar device manufactured after the date of enactment that has a capacity of, or can be readily restored or converted to accept more than 10 rounds of ammunition. The definition does not include an attached tubular device designed to accept and capable of operating only with .22 caliber rimfire ammunition. The regulations also specifically exempt fixed magazines for manually operated firearms and firearms listed in the Appendix to 18 U.S.C. 922 from the definition of "large capacity ammunition feeding device." This exemption is based on the fact that manually operated firearms and firearms listed in the Appendix are specifically exempted from the prohibitions applicable to semiautomatic assault weapons. Unless the assault weapon exemptions apply to the fixed magazines for these weapons, the Act would effectively ban firearms expressly exempted from the assault weapon provisions. Accordingly, ATF interprets the definition of "large capacity ammunition feeding device" as being inapplicable to fixed magazines for manually operated firearms and firearms listed in the Appendix to 18 U.S.C. 922.

The law also provides that large capacity ammunition feeding devices manufactured after September 13, 1994, shall be identified by a serial number which clearly shows that the device was manufactured or imported after that date and such other markings as the Director may prescribe. The temporary regulations provide that a manufacturer or importer may use the same serial number for all large capacity ammunition feeding devices produced or imported. Prior to enactment of the Act, ammunition feeding devices were generally not marked with a serial

number. Thus, the fact that these devices are marked with a serial number indicates that they were produced or imported after the effective date of the ban. Additionally, domestically made large capacity ammunition feeding devices must be marked with the name and address of the manufacturer, and imported large capacity ammunition feeding devices must be marked with the name of the manufacturer, country of origin, and the name and address of the importer. Further, large capacity ammunition feeding devices manufactured or imported after September 13, 1994, must be marked "RESTRICTED LAW ENFORCEMENT/GOVERNMENT USE ONLY." This marking clearly provides notice that the magazines may only be lawfully possessed by government agencies and law enforcement personnel. The regulations also provide that manufacturers and importers of metallic links for use in the assembly of belted ammunition are only required to place the identification marks on the containers used for the packaging of the links. Finally, the regulations provide that the Director may authorize other means of identification of the manufacturer or importer under certain circumstances.

The regulations permit persons who manufacture, import, and deal in large capacity ammunition feeding devices to stockpile such devices for future sales to law enforcement agencies and law enforcement officers for official use. The regulations provide that possession and transfer of such devices by these persons will be presumed to be lawful if such persons maintain evidence establishing that the devices are possessed and transferred for sale to law enforcement agencies and law enforcement officers.

(3) *Firearms Licensure and Registration to Require a Photograph and Fingerprints.* The Act amended the GCA and the National Firearms Act (NFA) to require individual applicants for Federal firearms licenses and NFA special (occupational) tax stamps to provide a photograph and a set of fingerprints along with the application. Conforming changes to the regulations have been made in §§ 178.44(a) and 179.34(e) to implement these requirements.

(4) *Compliance with State and Local Law as a Condition to Licensure.* The Act amended the licensing standards of the GCA to require that an applicant for a Federal firearms license certify that the firearms business to be conducted under the license is not prohibited by State and local law, and will in fact be conducted in compliance with State and

local law. Further, the applicant must certify that the chief law enforcement officer (CLEO) of the locality in which the premises are located has been notified that the applicant intends to apply for a Federal firearms license.

This provision has necessitated an amendment of the existing regulations regarding licensees who move their business to a new location during the term of an existing license. The regulations require a licensee, 30 days prior to such move, to file an application for amended license with the Chief, Firearms and Explosives Licensing Center. The purpose of the application is to ensure that the firearms business at the new location will comply with State and local law. The application also requires applicants for an amended license to notify the CLEO in the locality where the new premises are located of the intent to apply for an amended license.

The regulations have also been amended to require the certificate of compliance with State and local law to be executed upon license renewal. This is necessary due to changes which may have occurred in State and local law during the 3 year term of the license.

(5) *Action on Firearms License Application.* The Act amended the GCA to extend the period allowed for ATF to process Federal firearms license applications from 45 to 60 days. Section 178.47 (c) and (d) of the regulations has been amended to reflect this change.

(6) *Inspection of Firearms Licensees' Inventory and Records.* The Act amended section 923(g) of the GCA relating to inspection of Federal firearms licensees' records and inventory by ATF. Prior to amendment, the inventory and records of a licensee could only be examined once a year for ensuring compliance with GCA recordkeeping requirements. The amendment retains the annual inspection and also permits an FFL's records and inventory to be inspected or examined at any time with respect to a firearm involved in a criminal investigation that is traced to the licensee. Conforming changes have been made to the regulations in § 178.23(b)(2) to implement this requirement.

(7) *Reports of Theft or Loss of Firearms.* The Act amends the GCA to require FFLs to report any theft or loss of firearms from the licensee's inventory or collection to ATF and to the appropriate local authorities. The report must be made, both orally and in writing, within 48 hours after the theft or loss is discovered. FFLs must also retain a copy of the written report as part of their permanent records for 5 years. Conforming changes have been

made to the regulations in §§ 178.39a and 178.129(b) to implement this requirement.

(8) *Responses to Requests for Information.* The Act amends the GCA to require FFLs to respond orally or in writing, as the Director may require, to firearms trace requests from ATF no later than 24 hours after receipt of the request. In addition, the law requires that the Director implement a system whereby the licensee can positively identify and establish that an individual requesting information via telephone is employed and authorized by ATF to request such information. The regulations, § 178.25a, provide that the requested information shall be given orally to an ATF officer at the National Tracing Center. Verification of the identity and employment of National Tracing Center personnel requesting information may be established at the time the requested information is provided by telephoning the toll free number 1-800-788-7132 or using the toll free facsimile (FAX) number 1-800-578-7223.

(9) *Prohibition Against Disposal of Firearms to, or Receipt of Firearms by, Persons Who Are Subject to Restraining Orders.* The Act amends the GCA to expand the list of persons who may not lawfully receive or possess firearms to include persons who are subject to a court order that restrains such person from harassing, stalking, or threatening an "intimate partner" or child of such intimate partner of the person. It is unlawful for persons who are subject to such orders to receive or possess firearms and it is unlawful for any person to sell or dispose of firearms to such persons, knowing or having reasonable cause to believe such persons are subject to such an order. The term "intimate partner" is defined as a spouse, former spouse, an individual who is a parent of a child of the person or an individual who cohabitates or has cohabitated with the person. Conforming changes have been made to the regulations in §§ 178.11, 178.32(a)(8), (d)(8), and 178.99(c)(8) to implement this provision of the law.

(10) *Possession of Explosives by Felons and Others.* The Act amends the Federal explosives laws to make it unlawful for felons and certain other prohibited persons to possess explosives. Prior to amendment, the law prohibited shipment, transportation, and receipt of explosives by prohibited persons, but did not prohibit possession. Conforming changes have been made to the regulations in § 55.26(b) to implement this provision of the law.

(11) *Summary Destruction of Explosives Subject to Forfeiture.* The Act amends the Federal explosives laws to provide for the immediate destruction of seized explosives materials by ATF where it is impractical or unsafe to remove or store the explosives. The regulations incorporate by reference ATF's existing procedures for seizure and forfeiture of property seized for violation of the law.

(12) *Prohibition Against Transactions Involving Stolen Firearms or Ammunition Which Have Moved in Interstate or Foreign Commerce.* The Act amends the GCA to make a technical amendment to section 922(j), relating to stolen firearms, to make it unlawful to possess stolen firearms. Prior to amendment this provision made it unlawful to receive, conceal, store, barter, sell, or dispose of stolen firearms, but did not prohibit possession. Language was also added to clarify the interstate commerce element of the statute. Conforming amendments to the regulations are prescribed in § 178.33.

(13) *Receipt of Firearms by Nonresident.* The Act amends the GCA to provide that it is unlawful for any person, other than an FFL, who does not reside in any State to receive firearms unless such receipt is for lawful sporting purposes. Conforming amendments to the regulations are prescribed in § 178.29a.

(14) *Disposing of Explosives to Prohibited Persons.* The Act amends the Federal explosives laws to make it unlawful for any person to sell or otherwise dispose of explosives to felons and other prohibited persons. Prior to amendment this provision prohibited such dispositions by licensees only. Conforming amendments to the regulations are prescribed in § 55.26(c).

(15) *Definition of Armor Piercing Ammunition.* The definition of "armor piercing ammunition" in the GCA has been amended by the Act to include full jacketed projectiles larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile. Conforming amendments to the regulations are prescribed in § 178.11.

(16) *Exemption From Brady Background Check Requirement of Return of Handgun to Owner.* The Act amends the GCA to exempt transactions involving the return of a handgun to the person from whom it was received from the waiting period and background check requirements imposed by the Brady Handgun Violence Prevention Act. Regulations implementing this provision of the Act were published in

T.D. ATF-361, published in the **Federal Register** on February 27, 1995 (60 FR 10782).

Miscellaneous

ATF is amending § 178.127 to reflect the new address of the ATF Out-of-Business Records Center located in Falling Waters, West Virginia. The regulation is also being amended to provide that where a licensed business is discontinued and succeeded by a new licensee, the licensee's records may be delivered to either the successor or to ATF.

In addition, ATF is making a technical amendment to § 178.45 to clarify that ATF Form 7CR is the correct form to file with ATF when a person desires to obtain a license as a collector of curios or relics under the GCA.

Executive Order 12866

It has been determined that this temporary rule is not a significant regulatory action as defined in E.O. 12866, because the economic effects flow directly from the underlying statute and not from this temporary rule. Therefore, a regulatory assessment is not required.

Administrative Procedure Act

Because this document merely implements the law and because immediate guidance is necessary to implement the provisions of the law, it is found to be impracticable to issue this Treasury decision with notice and public procedure under 5 U.S.C. 553(b), or subject to the effective date limitation in section 553(d).

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 temporary rule because the agency was not required to publish a notice of proposed rulemaking under 5 U.S.C. 553 or any other law. Accordingly, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

This regulation is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collections of information contained in this regulation have been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) under control number 1512-0526. The estimated average annual burden associated with the collection of

information in this regulation is 2.52 hours per respondent or recordkeeper. Other collections of information contained in this temporary rule have been approved under control numbers: 1512-0017, 1512-0018, and 1512-0019 (§ 178.119); 1512-0522 and 1512-0523 (§ 178.47); 1512-0524 (§ 178.39a); and 1512-0525 (§ 178.52).

For further information concerning the collections of information, and where to submit comments on the collections of information and the accuracy of the estimated burden, and suggestions for reducing this burden, refer to the preamble to the cross-referenced notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**.

Drafting Information

The author of this document is James P. Ficaretta, Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

Part 55

Administrative practice and procedure, Authority delegations, Customs duties and inspection, Explosives, Hazardous materials, Imports, Penalties, Reporting and recordkeeping requirements, Safety, Security measures, Seizures and forfeitures, Transportation, and Warehouses.

Part 72

Administrative practice and procedure, Authority delegations, Seizures and forfeitures, and Surety bonds.

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.

Part 179

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

Authority and Issuance

27 CFR parts 55, 72, 178, and 179 are amended as follows:

PART 55—COMMERCE IN EXPLOSIVES

Paragraph 1. The authority citation for 27 CFR Part 55 continues to read as follows:

Authority: 18 U.S.C. 847.

Par. 2. Section 55.1(a) is revised to read as follows:

§ 55.1 Scope of regulations.

(a) *In general.* The regulations contained in this part relate to commerce in explosives and implement Title XI, Regulation of Explosives (18 U.S.C. Chapter 40; 84 Stat. 952), of the Organized Crime Control Act of 1970 (84 Stat. 922), and Pub. L. 103-322 (108 Stat. 1796).

* * * * *

Par. 3. Section 55.26 is amended by revising the title of the section, by revising paragraph (b), and by adding paragraph (c) to read as follows:

§ 55.26 Prohibited shipment, transportation, receipt, possession, or distribution of explosive materials.

* * * * *

(b) No person may ship or transport any explosive material in interstate or foreign commerce or receive or possess any explosive materials which have been shipped or transported in interstate or foreign commerce who:

(1) Is under indictment or information for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year,

(2) Is a fugitive from justice,

(3) Is an unlawful user of or addicted to marijuana, or any depressant or stimulant drug, or narcotic drug (as these terms are defined in the Controlled Substances Act; 21 U.S.C. 802), or

(4) Has been adjudicated as a mental defective or has been committed to a mental institution.

(c) No person shall knowingly distribute explosive materials to any individual who:

(1) Is under twenty-one years of age,

(2) Is under indictment or information for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year,

(3) Is a fugitive from justice,

(4) Is an unlawful user of or addicted to marijuana, or any depressant or stimulant drug, or narcotic drug (as these terms are defined in the Controlled Substances Act; 21 U.S.C. 802), or

(5) Has been adjudicated as a mental defective or has been committed to a mental institution.

Par. 4. Section 55.166 is amended by adding a sentence at the end of the section to read as follows:

§ 55.166 Seizure or forfeiture.

* * * (See § 72.27 of this title for regulations on summary destruction of explosive materials which are impracticable or unsafe to remove to a place of storage.)

PART 72—DISPOSITION OF SEIZED PERSONAL PROPERTY

Par. 5. The authority citation for 27 CFR Part 72 continues to read as follows:

Authority: 18 U.S.C. 921, 1261; 19 U.S.C. 1607, 1610, 1612, 1613, 1618; 26 U.S.C. 7101, 7322-7325, 7326, 7805; 31 U.S.C. 9301, 9303, 9304, 9306; 40 U.S.C. 304(k); 49 U.S.C. 784, 788.

Par. 6. Section 72.21(c) is revised to read as follows:

§ 72.21 Personal property and carriers subject to seizure.

* * * * *

(c) Upon acquittal of the owner or possessor, or the dismissal of the criminal charges against such person other than upon motion of the Government prior to trial, or lapse of or court termination of the restraining order to which such person is subject, firearms or ammunition seized or relinquished under 18 U.S.C. Chapter 44 shall be returned forthwith to the owner or possessor or to a person delegated by the owner or possessor unless the return of the firearms or ammunition would place the owner or possessor or his delegate in violation of law.

Par. 7. Section 72.27 is added to Subpart C to read as follows:

§ 72.27 Summary destruction of explosives subject to forfeiture.

(a) Notwithstanding the provisions of § 55.166 of this Title, in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture in which it would be impracticable or unsafe to remove the materials to a place of storage or would be unsafe to store them, the seizing officer may destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least 1 credible witness.

(b) Within 60 days after any destruction made pursuant to paragraph (a) of this section, the owner of the property and any other persons having an interest in the property so destroyed may make application to the Director for reimbursement of the value of the property in accordance with the instructions contained in ATF

Publication 1850.1 (9-93), Information to Claimants. ATF P 1850.1 is available at no cost upon request from the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150-5950. The Director shall make an allowance to the claimant not exceeding the value of the property destroyed, if the claimant establishes to the satisfaction of the Director that—

- (1) The property has not been used or involved in a violation of law; or
- (2) Any unlawful involvement or use of the property was without the claimant's knowledge, consent, or willful blindness.

PART 178—COMMERCE IN FIREARMS AND AMMUNITION

Par. 8. 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).

Par. 9. Section 178.1(a) is revised to read as follows:

§ 178.1 Scope of regulations.

(a) *General.* The regulations contained in this part relate to commerce in firearms and ammunition and are promulgated to implement Title I, State Firearms Control Assistance (18 U.S.C. Chapter 44), of the Gun Control Act of 1968 (82 Stat. 1213) as amended by Pub. L. 99-308 (100 Stat. 449), Pub. L. 99-360 (100 Stat. 766), Pub. L. 99-408 (100 Stat. 920), Pub. L. 103-159 (107 Stat. 1536), and Pub. L. 103-322 (108 Stat. 1796).

Par. 10. Section 178.11 is amended by revising the definition for "armor piercing ammunition," and by adding definitions for "intimate partner," "large capacity ammunition feeding device," "permanently inoperable," "semiautomatic assault weapon," "semiautomatic pistol," and "semiautomatic shotgun" to read as follows:

§ 178.11 Meaning of terms.

Armor piercing ammunition. Projectiles or projectile cores which may be used in a handgun and which are constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium; or full jacketed projectiles larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile. The term does not include shotgun shot required

by Federal or State environmental or game regulations for hunting purposes, frangible projectiles designed for target shooting, projectiles which the Director finds are primarily intended to be used for sporting purposes, or any other projectiles or projectile cores which the Director finds are intended to be used for industrial purposes, including charges used in oil and gas well perforating devices.

Intimate partner. With respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabitates or has cohabitated with the person.

Large capacity ammunition feeding device. A magazine, belt, drum, feed strip, or similar device for a firearm manufactured after September 13, 1994, that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition. The term does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition, or a fixed device for a manually operated firearm, or a fixed device for a firearm listed in 18 U.S.C. 922, Appendix A.

Permanently inoperable. A firearm which is incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition. An acceptable method of rendering most firearms permanently inoperable is to fusion weld the chamber closed and fusion weld the barrel solidly to the frame. Certain unusual firearms require other methods to render the firearm permanently inoperable. Contact ATF for instructions.

Semiautomatic assault weapon. (a) Any of the firearms, or copies or duplicates of the firearms in any caliber, known as:

- (1) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),
- (2) Action Arms Israeli Military Industries UZI and Galil,
- (3) Beretta Ar70 (SC-70),
- (4) Colt AR-15,
- (5) Fabrique National FN/FAL, FN/LAR, and FNC,
- (6) SWD M-10, M-11, M-11/9, and M-12,
- (7) Steyr AUG,
- (8) INTRATEC TEC-9, TEC-DC9 and TEC-22, and
- (9) Revolving cylinder shotguns, such as (or similar to) the Street Sweeper and Striker 12;

(b) A semiautomatic rifle that has an ability to accept a detachable magazine and has at least 2 of—

- (1) A folding or telescoping stock,
 - (2) A pistol grip that protrudes conspicuously beneath the action of the weapon,
 - (3) A bayonet mount,
 - (4) A flash suppressor or threaded barrel designed to accommodate a flash suppressor, and
 - (5) A grenade launcher;
- (c) A semiautomatic pistol that has an ability to accept a detachable magazine and has at least 2 of—

- (1) An ammunition magazine that attaches to the pistol outside of the pistol grip,
 - (2) A threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer,
 - (3) A shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the nontrigger hand without being burned,
 - (4) A manufactured weight of 50 ounces or more when the pistol is unloaded, and
 - (5) A semiautomatic version of an automatic firearm; and
- (d) A semiautomatic shotgun that has at least 2 of—

- (1) A folding or telescoping stock,
- (2) A pistol grip that protrudes conspicuously beneath the action of the weapon,
- (3) A fixed magazine capacity in excess of 5 rounds, and
- (4) An ability to accept a detachable magazine.

Semiautomatic pistol. Any repeating pistol which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

Semiautomatic shotgun. Any repeating shotgun which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

Par. 11. Section 178.23(b)(2) is revised to read as follows:

§ 178.23 Right of entry and examination.

- (b) * * *
- (2) For insuring compliance with the recordkeeping requirements of this part:
 - (i) Not more than once during any 12-month period, or

(ii) At any time with respect to records relating to a firearm involved in a criminal investigation that is traced to the licensee, or

* * * * *

Par. 12. Section 178.25a is added to Subpart C to read as follows:

§ 178.25a Responses to requests for information.

Each licensee shall respond immediately to, and in no event later than 24 hours after the receipt of, a request by an ATF officer at the National Tracing Center for information contained in the records required to be kept by this part for determining the disposition of one or more firearms in the course of a bona fide criminal investigation. The requested information shall be provided orally to the ATF officer. Verification of the identity and employment of National Tracing Center personnel requesting information may be established at the time the requested information is provided by telephoning the toll-free number 1-800-788-7132 or using the toll-free facsimile (FAX) number 1-800-578-7223.

Par. 13. Section 178.29a is added to Subpart C to read as follows:

§ 178.29a Acquisition of firearms by nonresidents.

No person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State shall receive any firearms unless such receipt is for lawful sporting purposes.

Par. 14. Section 178.32 is amended by revising paragraphs (a)(6), (a)(7), (d)(6), and (d)(7), and by adding paragraphs (a)(8) and (d)(8) to read as follows:

§ 178.32 Prohibited shipment, transportation, possession, or receipt of firearms and ammunition by certain persons.

(a) * * *

(6) Has been discharged from the Armed Forces under dishonorable conditions,

(7) Having been a citizen of the United States, has renounced citizenship, or

(8) Is subject to a court order that—

(i) Was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

(ii) Restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(iii) (A) Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(B) By its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury.

* * * * *

(d) * * *

(6) Has been discharged from the Armed Forces under dishonorable conditions,

(7) Having been a citizen of the United States, has renounced citizenship, or

(8) Is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child: *Provided*, That the provisions of this paragraph shall only apply to a court order that—

(i) Was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and

(ii) (A) Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(B) By its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury.

Par. 15. Section 178.33 is revised to read as follows:

§ 178.33 Stolen firearms and ammunition.

No person shall transport or ship in interstate or foreign commerce any stolen firearm or stolen ammunition knowing or having reasonable cause to believe that the firearm or ammunition was stolen, and no person shall receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

Par. 16. Section 178.39a is added to Subpart C to read as follows:

§ 178.39a Reporting theft or loss of firearms.

Each licensee shall report the theft or loss of a firearm from the licensee's inventory (including any firearm which has been transferred from the licensee's inventory to a personal collection and held as a personal firearm for at least 1 year), or from the collection of a licensed collector, within 48 hours after the theft or loss is discovered. Licensees shall report thefts or losses by telephoning 1-800-800-3855 (nationwide toll free number) and by preparing ATF Form 3310.11, Federal Firearms Licensee Theft/Loss Report, in accordance with the instructions on the form. The original of the report shall be forwarded to the office specified thereon, and Copy 1 shall be retained by the licensee as part of the licensee's permanent records. Theft or loss of any firearm shall also be reported to the appropriate local authorities.

(Approved by the Office of Management and Budget under control number 1512-0524)

Par. 17. Sections 178.40 and 178.40a are added to Subpart C to read as follows:

§ 178.40 Manufacture, transfer, and possession of semiautomatic assault weapons.

(a) *Prohibition.* No person shall manufacture, transfer, or possess a semiautomatic assault weapon.

(b) *Exceptions.* The provisions of paragraph (a) of this section shall not apply to:

(1) The possession or transfer of any semiautomatic assault weapon otherwise lawfully possessed in the United States under Federal law on September 13, 1994;

(2) Any of the firearms, or replicas or duplicates of the firearms, specified in 18 U.S.C. 922, Appendix A, as such firearms existed on October 1, 1993;

(3) Any firearm that—

(i) Is manually operated by bolt, pump, lever, or slide action;

(ii) Has been rendered permanently inoperable; or

(iii) Is an antique firearm;

(4) Any semiautomatic rifle that cannot accept a detachable magazine that holds more than 5 rounds of ammunition;

(5) Any semiautomatic shotgun that cannot hold more than 5 rounds of ammunition in a fixed or detachable magazine;

(6) 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;

(7) The transfer to a licensee under title I of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) for purposes of establishing and maintaining an on-site physical protection system and security organization required by Federal law, or possession by an employee or contractor of such licensee on-site for such purposes or off-site for purposes of licensee-authorized training or transportation of nuclear materials;

(8) The possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving a firearm, of a semiautomatic assault weapon transferred to the individual by the agency upon such retirement;

(9) The manufacture, transfer, or possession of a semiautomatic assault weapon by a licensed manufacturer or licensed importer for the purposes of testing or experimentation as authorized by the Director under the provisions of § 178.153; or

(10) The manufacture, transfer, or possession of a semiautomatic assault weapon by a licensed manufacturer, licensed importer, or licensed dealer for the purpose of exportation in compliance with the Arms Export Control Act (22 U.S.C. 2778).

(c) *Manufacture and dealing in semiautomatic assault weapons.* Subject to compliance with the provisions of this part, licensed manufacturers and licensed dealers in semiautomatic assault weapons may manufacture and deal in such weapons manufactured after September 13, 1994: *Provided*, The licensee obtains evidence that the weapons will be disposed of in accordance with paragraph (b) of this section. Examples of acceptable evidence include the following:

(1) Contracts between the manufacturer and dealers stating that the weapons may only be sold to law enforcement agencies, law enforcement officers, or other purchasers specified in paragraph (b) of this section;

(2) Copies of purchase orders submitted to the manufacturer or dealer by law enforcement agencies or other purchasers specified in paragraph (b) of this section;

(3) Copies of letters submitted to the manufacturer or dealer by government agencies, law enforcement officers, or other purchasers specified in paragraph (b) of this section 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 this section; and

(5) Letters from law enforcement officers purchasing in accordance with paragraph (b)(6) of this section and § 178.132.

(Paragraph (c) approved by the Office of Management and Budget under control number 1512-0526)

§ 178.40a Transfer and possession of large capacity ammunition feeding devices.

(a) *Prohibition.* No person shall transfer or possess a large capacity ammunition feeding device.

(b) *Exceptions.* The provisions of paragraph (a) of this section shall not apply to:

(1) The possession or transfer of any large capacity ammunition feeding device otherwise lawfully possessed in the United States on September 13, 1994;

(2) 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;

(3) The transfer to a licensee under title I of the Atomic Energy Act of 1954 for purposes of establishing and maintaining an on-site physical protection system and security organization required by Federal law, or possession by an employee or contractor of such licensee on-site for such purposes or off-site for purposes of licensee-authorized training or transportation of nuclear materials;

(4) The possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving ammunition, of a large capacity ammunition feeding device transferred to the individual by the agency upon such retirement;

(5) The manufacture, transfer, or possession of any large capacity ammunition feeding device by a manufacturer or importer for the purposes of testing or experimentation in accordance with § 178.153; or

(6) The manufacture, transfer, or possession of any large capacity ammunition feeding device by a manufacturer or importer for the purpose of exportation in accordance with the Arms Export Control Act (22 U.S.C. 2778).

(c) *Importation, manufacture, and dealing in large capacity ammunition feeding devices.* 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 § 178.132.

(Paragraph (c) approved by the Office of Management and Budget under control number 1512-0526)

Par. 18. Section 178.44 is revised to read as follows:

§ 178.44 Original license.

(a) Any person who intends to engage in business as a firearms or ammunition importer or manufacturer, or firearms dealer, or who has not previously been licensed under the provisions of this part to so engage in business, or who has not timely submitted an application for renewal of the previous license issued under this part, shall file an application for license, ATF Form 7 (Firearms), in duplicate, with ATF in accordance with the instructions on the form. The application must be executed under the penalties of perjury and the penalties imposed by 18 U.S.C. 924. The application shall include a photograph and fingerprints as required in the instructions on the form. The application shall be accompanied by a completed ATF Form 5300.37 (Certification of Compliance with State

and Local Law) and ATF Form 5300.36 (Notification of Intent to Apply for a Federal Firearms License), and shall include the appropriate fee in the form of money order or check made payable to the Bureau of Alcohol, Tobacco and Firearms. ATF Forms 7 (Firearms), ATF Forms 5300.37, and ATF Forms 5300.36 may be obtained by contacting any ATF office.

(b) Any person who desires to obtain a license as a collector under the Act and this part, or who has not timely submitted an application for renewal of the previous license issued under this part, shall file an application, ATF Form 7CR (Curios and Relics), with ATF in accordance with the instructions on the form. The application must be executed under the penalties of perjury and the penalties imposed by 18 U.S.C. 924. The application shall be accompanied by a completed ATF Form 5300.37 and ATF Form 5300.36 and shall include the appropriate fee in the form of a money order or check made payable to the Bureau of Alcohol, Tobacco and Firearms. ATF Forms 7CR (Curios and Relics), ATF Forms 5300.37, and ATF Forms 5300.36 may be obtained by contacting any ATF office.

Par. 19. Section 178.45 is revised to read as follows:

§ 178.45 Renewal of license.

If a licensee intends to continue the business or activity described on a license issued under this part during any portion of the ensuing year, the licensee shall, unless otherwise notified in writing by the Chief, Firearms and Explosives Licensing Center, execute and file with ATF prior to the expiration of the license an application for a license renewal, ATF Form 8 Part II, accompanied by a completed ATF Form 5300.37 and ATF Form 5300.36, in accordance with the instructions on the forms, and the required fee. The Chief, Firearms and Explosives Licensing Center, may, in writing, require the applicant for license renewal to also file completed ATF Form 7 or ATF Form 7CR in the manner required by § 178.44. In the event the licensee does not timely file an ATF Form 8 Part II, the licensee must file an ATF Form 7 or ATF Form 7CR as required by § 178.44, and obtain the required license before continuing business or collecting activity. If an ATF Form 8 Part II is not timely received through the mails, the licensee should so notify the Chief, Firearms and Explosives Licensing Center.

Par. 20. Section 178.47 is amended by adding "ATF Form 7CR," after "ATF Form 7," in paragraph (a) and the introductory text of paragraph (b), by adding new paragraph (b)(6), by

removing "45-day" in paragraphs (c) and (d) and adding, in its place, "60-day," and by adding a parenthetical text at the end of the section to read as follows:

§ 178.47 Issuance of license.

(a) * * *

(b) * * *

(6) The applicant has filed an ATF Form 5300.37 (Certification of Compliance with State and Local Law) with ATF in accordance with the instructions on the form certifying under the penalties of perjury that—

(i) The business to be conducted under the license is not prohibited by State or local law in the place where the licensed premises are located;

(ii) Within 30 days after the application is approved the business will comply with the requirements of State and local law applicable to the conduct of business;

(iii) The business will not be conducted under the license until the requirements of State and local law applicable to the business have been met; and

(iv) The applicant has completed and sent or delivered ATF Form 5300.36

(Notification of Intent to Apply for a Federal Firearms License) to the chief law enforcement officer of the locality in which the premises are located, which indicates that the applicant intends to apply for a Federal firearms license. For purposes of this paragraph, the "chief law enforcement officer" is the chief of police, the sheriff, or an equivalent officer.

* * * * *

(Paragraph (b)(6) approved by the Office of Management and Budget under control numbers 1512-0522 and 1512-0523)

Par. 21. Section 178.52 is revised to read as follows:

§ 178.52 Change of address.

(a) Licensees may during the term of their current license remove their business or activity to a new location at which they intend regularly to carry on such business or activity by filing an Application for an Amended Federal Firearms License, ATF Form 5300.38, in duplicate, not less than 30 days prior to such removal with the Chief, Firearms and Explosives Licensing Center. The ATF Form 5300.38 shall be completed in accordance with the instructions on the form. The application must be executed under the penalties of perjury and penalties imposed by 18 U.S.C. 924. The application shall be accompanied by the licensee's original license. The Chief, Firearms and Explosives Licensing Center, may, in writing, require the applicant for an amended

license to also file completed ATF Form 7 or ATF Form 7CR, or portions thereof, in the manner required by § 178.44.

(b) Upon receipt of a properly executed application for an amended license, the Chief, Firearms and Explosives Licensing Center, shall, upon finding through further inquiry or investigation, or otherwise, that the applicant is qualified at the new location, issue the amended license, and return it to the applicant. The license shall be valid for the remainder of the term of the original license. The Chief, Firearms and Explosives Licensing Center, shall, if the applicant is not qualified, refer the application for amended license to the regional director (compliance) for denial in accordance with § 178.71.

(Approved by the Office of Management and Budget under control number 1512-0525)

Par. 22. Section 178.57 is amended by designating the existing paragraph as (a) and by adding paragraphs (b) and (c) to read as follows:

§ 178.57 Discontinuance of business.

* * * * *

(b) Since section 922(v), Title 18, U.S.C., makes it unlawful to transfer or possess a semiautomatic assault weapon, except as provided in the law, any licensed manufacturer, licensed importer, or licensed dealer intending to discontinue business shall, prior to going out of business, transfer in compliance with the provisions of this part any semiautomatic assault weapon manufactured or imported after September 13, 1994, to a person specified in § 178.40(b), or, subject to the provisions of §§ 178.40(c) and 178.132, a licensed manufacturer, a licensed importer, or a licensed dealer.

(c) Since section 922(w), Title 18, U.S.C., makes it unlawful to transfer or possess a large capacity ammunition feeding device, except as provided in the law, any person who manufactures, imports, or deals in such devices and who intends to discontinue business shall, prior to going out of business, transfer in compliance with the provisions of this part any large capacity ammunition feeding device manufactured or imported after September 13, 1994, to a person specified in § 178.40a(b), or, subject to the provisions of §§ 178.40a(c) and 178.132, a person who manufactures, imports, or deals in such devices.

Par. 23. Section 178.92 is amended by revising the title of the section, by revising paragraph (a), and by adding paragraph (c) to read as follows:

§ 178.92 Identification of firearms, armor piercing ammunition, and large capacity ammunition feeding devices.

(a) (1) *Firearms.* Each licensed manufacturer or licensed importer of any firearm manufactured or imported shall legibly identify each such firearm by engraving, casting, stamping (impressing), or otherwise conspicuously placing or causing to be engraved, cast, stamped (impressed) or placed on the frame or receiver thereof in a manner not susceptible of being readily obliterated, altered, or removed, an individual serial number not duplicating any serial number placed by the manufacturer or importer on any other firearm, and by engraving, casting, stamping (impressing), or otherwise conspicuously placing or causing to be engraved, cast, stamped (impressed) or placed on the frame, receiver, or barrel thereof in a manner not susceptible of being readily obliterated, altered or removed, the model, if such designation has been made; the caliber or gauge; the name (or recognized abbreviation of same) of the manufacturer and also, when applicable, of the importer; in the case of a domestically made firearm, the city and State (or recognized abbreviation thereof) wherein the licensed manufacturer maintains its place of business; and in the case of an imported firearm, the name of the country in which manufactured and the city and State (or recognized abbreviation thereof) of the importer.

(2) *Special markings for semiautomatic assault weapons, effective July 5, 1995.* In the case of any semiautomatic assault weapon manufactured after September 13, 1994, the frame or receiver shall be marked "RESTRICTED LAW ENFORCEMENT/ GOVERNMENT USE ONLY" or, in the case of weapons manufactured for export, "FOR EXPORT ONLY," in the manner prescribed in paragraph (a)(1) of this section.

(3) *Exceptions.*
 (i) *Alternate means of identification.* The Director may authorize other means of identification of the licensed manufacturer or licensed importer upon receipt of a letter application, in duplicate, showing that such other identification is reasonable and will not hinder the effective administration of this part.

(ii) *Destructive devices.* In the case of a destructive device, the Director may authorize other means of identifying that weapon upon receipt of a letter application, in duplicate, from the licensed manufacturer or licensed importer showing that engraving, casting, or stamping (impressing) such a

weapon would be dangerous or impracticable.

(iii) *Machine guns, silencers, and parts.* A firearm frame or receiver, or any part defined as a machine gun, firearm muffler, or firearm silencer in § 178.11, which is not a component part of a complete weapon at the time it is sold, shipped, or otherwise disposed of by a licensed manufacturer or licensed importer, shall be identified as required by this section. The Director may authorize other means of identification of parts defined as machine guns other than frames or receivers and parts defined as mufflers or silencers upon receipt of a letter application, in duplicate, showing that such other identification is reasonable and will not hinder the effective administration of this part.

(b) * * *

(c) *Large capacity ammunition feeding devices manufactured after September 13, 1994.* (1) Each person who manufactures or imports any large capacity ammunition feeding device manufactured or imported after September 13, 1994, shall legibly identify each such device with a serial number. Such person may use the same serial number for all large capacity ammunition feeding devices produced or imported.

(i) Additionally, in the case of a domestically made large capacity ammunition feeding device, such device shall be marked with the name, city and State (or recognized abbreviation thereof) of the manufacturer;

(ii) And in the case of an imported large capacity ammunition feeding device, such device shall be marked:

- (A) With the name of the manufacturer, country of origin, and
- (B) Effective July 5, 1995, the name, city and State (or recognized abbreviation thereof) of the importer.

(iii) Further, large capacity ammunition feeding devices manufactured or imported after September 13, 1994, shall be marked "RESTRICTED LAW ENFORCEMENT/ GOVERNMENT USE ONLY" or, in the case of devices manufactured for export, effective July 5, 1995, "FOR EXPORT ONLY."

(2) All markings required by this paragraph (c) shall be cast, stamped, or engraved on the exterior of the device. In the case of a magazine, the markings shall be placed on the magazine body.

(3) *Exceptions.*

(i) *Metallic links.* Persons who manufacture or import metallic links for use in the assembly of belted ammunition are only required to place the identification marks prescribed in paragraph (c)(1) of this section on the

containers used for the packaging of the links.

(ii) *Alternate means of identification.* The Director may authorize other means of identifying large capacity ammunition feeding devices upon receipt of a letter application, in duplicate, from the manufacturer or importer showing that such other identification is reasonable and will not hinder the effective administration of this part.

Par. 24. Section 178.99(c) is amended by removing the word "or" at the end of paragraph (c)(6), by removing the period at the end of paragraph (c)(7) and replacing it with "; or", and by adding paragraph (c)(8) to read as follows:

§ 178.99 Certain prohibited sales or deliveries.

* * * * *

(c) * * *

(8) Is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child, except that this paragraph shall only apply to a court order that—

(i) Was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and

(ii) (A) Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(B) By its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury.

* * * * *

Par. 25. Section 178.119 is added to Subpart G to read as follows:

§ 178.119 Importation of large capacity ammunition feeding devices manufactured after September 13, 1994.

(a) No large capacity ammunition feeding device manufactured after September 13, 1994, shall be imported or brought into the United States unless the Director has authorized the importation of such device.

(b) An application for a permit, ATF Form 6, to import or bring a large capacity ammunition feeding device into the United States or a possession thereof under this section shall be filed, in triplicate, with the Director. The application shall contain:

(1) The name and address of the person importing the device,

(2) A description of the device to be imported, including model, caliber, size, country of manufacture, and name of the manufacturer,

(3) The unit cost of the device to be imported,

(4) The country from which to be imported,

(5) The name and address of the foreign seller and the foreign shipper,

(6) Verification that such device will be marked as required by this part, and

(7) A statement by the importer that the device is being imported for sale to purchasers specified in § 178.40a(b).

(c) If the Director approves the application, such approved application shall serve as the permit to import the device described therein, and importation of such devices may continue to be made by the person importing such devices under the approved application (permit) during the period specified thereon. The Director shall furnish the approved application (permit) to the applicant and retain two copies thereof for administrative use. If the Director disapproves the application, the person importing such devices shall be notified of the basis for the disapproval.

(d) A large capacity ammunition feeding device imported or brought into the United States by a person importing such a device may be released from Customs custody to the person importing such a device upon showing that such person has obtained a permit from the Director for the importation of the device to be released. In obtaining the release from Customs custody of such a device authorized by this section to be imported through use of a permit, the person importing such a device shall prepare ATF Form 6A, in duplicate, and furnish the original ATF Form 6A to the Customs officer releasing the device. The Customs officer shall, after certification, forward the ATF Form 6A to the address specified on the form. The ATF Form 6A shall show the name and address of the person importing the device, the name of the manufacturer of the device, the country of manufacture, the type, model, caliber, size, and the number of devices released.

(e) Within 15 days of the date of release from Customs custody, the person importing such a device shall:

(1) Forward to the address specified on the form a copy of ATF Form 6A on which shall be reported any error or discrepancy appearing on the ATF Form 6A certified by Customs, and

(2) Pursuant to § 178.92, place all required identification data on each imported device if same did not bear such identification data at the time of its release from Customs custody.

(Paragraphs (a), (b), and (c) approved by the Office of Management and Budget under control numbers 1512-0017 and 1512-0018; paragraphs (d) and (e) approved by the Office of Management and Budget under control number 1512-0019)

Par. 26. Section 178.127 is amended by revising the second sentence to read as follows:

§ 178.127 Discontinuance of business.

* * * Where discontinuance of the business is absolute, the records shall be delivered within 30 days following the business discontinuance to the ATF Out-of-Business Records Center, Spring Mills Office Park, 2029 Stonewall Jackson Drive, Falling Waters, West Virginia 25419, or to any ATF office in the region in which the business was located: *Provided, however,* Where State law or local ordinance requires the delivery of records to other responsible authority, the Chief, Firearms and Explosives Licensing Center may arrange for the delivery of the records required by this subpart to such authority: *Provided further,* That where a licensed business is discontinued and succeeded by a new licensee, the records may be delivered within 30 days following the business discontinuance to the ATF Out-of-Business Records Center or to any ATF office in the region in which the business was located.

Par. 27. Section 178.129 is amended by revising paragraph (b), by adding paragraph (e), and by revising the parenthetical text at the end of the section to read as follows:

§ 178.129 Record retention.

* * * * *

(b) *Firearms transaction record, statement of intent to obtain a handgun, reports of multiple sales or other disposition of pistols and revolvers, and reports of theft or loss of firearms.*

Licensees shall retain each Form 4473 and Form 4473(LV) for a period of not less than 20 years after the date of sale or disposition. Licensees shall retain each Form 5300.35 for a period of not less than 5 years after notice of the intent to obtain the handgun was forwarded to the chief law enforcement officer. Licensees shall retain each copy of Form 3310.4 (Report of Multiple Sale or Other Disposition of Pistols and Revolvers) for a period of not less than 5 years after the date of sale or other disposition. Licensees shall retain each copy of Form 3310.11 (Federal Firearms Licensee Theft/Loss Report) for a period of not less than 5 years after the date the theft or loss was reported to ATF.

* * * * *

(e) *Retention of records of transactions in semiautomatic assault*

weapons. The documentation required by §§ 178.40(c) and 178.132 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.

(Paragraph (b) approved by the Office of Management and Budget under control numbers 1512-0520, 1512-0006, and 1512-0524; Paragraph (e) approved by the Office of Management and Budget under control number 1512-0526; all other recordkeeping approved by the Office of Management and Budget under control number 1512-0129)

Par. 28. Sections 178.132 and 178.133 are added to Subpart H to read as follows:

§ 178.132 Dispositions of semiautomatic assault weapons and large capacity ammunition feeding devices to law enforcement officers for official use.

Licensed manufacturers, licensed importers, and licensed dealers in semiautomatic assault weapons, as well as persons who manufacture, import, or deal in large capacity ammunition feeding devices, may transfer such weapons and devices manufactured after September 13, 1994, to law enforcement officers with the following documentation:

(a) A written statement from the purchasing officer, under penalty of perjury, stating that the weapon is being purchased for use in performing official duties and that the weapon is not being acquired for personal use or for purposes of transfer or resale; and

(b) 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 performing official duties, and that the weapon is not being acquired for personal use or for purposes of transfer or resale.

(Approved by the Office of Management and Budget under control number 1512-0526)

§ 178.133 Records of transactions in semiautomatic assault weapons.

The evidence specified in § 178.40(c), relating to transactions in semiautomatic assault weapons, shall be retained in the permanent records of the manufacturer or dealer and in the records of the licensee to whom the weapons are transferred.

(Approved by the Office of Management and Budget under control number 1512-0526)

Par. 29. Section 178.152(a) is revised to read as follows:

§ 178.152 Seizure and forfeiture.

(a) Any firearm or ammunition involved in or used in any knowing

violation of subsections (a)(4), (a)(6), (f), (g), (h), (i), (j), or (k) of section 922 of the Act, or knowing importation or bringing into the United States or any possession thereof any firearm or ammunition in violation of section 922(l) of the Act, or knowing violation of section 924 of the Act, or willful violation of any other provision of the Act or of this part, or any violation of any other criminal law of the United States, or any firearm or ammunition intended to be used in any offense referred to in paragraph (c) of this section, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1986 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of the Act: *Provided*, That upon acquittal of the owner or possessor, or dismissal of the charges against such person other than upon motion of the Government prior to trial, or lapse of or court termination of the restraining order to which he is subject, the seized or relinquished firearms or ammunition shall be returned forthwith to the owner or possessor or to a person delegated by the owner or possessor unless the return of the firearms or ammunition would place the owner or possessor or the delegate of the owner or possessor in violation of law. Any action or proceeding for the forfeiture of firearms or ammunition shall be commenced within 120 days of such seizure.

* * * * *
Par. 30. Section 178.153 is added to Subpart I to read as follows:

§ 178.153 Semiautomatic assault weapons and large capacity ammunition feeding devices manufactured or imported for the purposes of testing or experimentation.

The provisions of § 178.40 with respect to the manufacture, transfer, or possession of a semiautomatic assault weapon, and § 178.40a with respect to large capacity ammunition feeding devices, shall not apply to the manufacture, transfer, or possession of such weapons or devices by a manufacturer or importer for the purposes of testing or experimentation as authorized by the Director. A person desiring such authorization shall submit a letter application, in duplicate, to the Director. Such application shall contain the name and addresses of the persons directing or controlling, directly or indirectly, the policies and management of the applicant, the nature or purpose of the testing or experimentation, a

description of the weapons or devices to be manufactured or imported, and the source of the weapons or devices. The approved application shall be retained as part of the records required by Subpart H of this part.

Par. 31. Section 178.171 is amended by revising the last sentence to read as follows:

§ 178.171 Exportation.

* * * Licensed manufacturers and licensed importers exporting armor piercing ammunition and semiautomatic assault weapons manufactured after September 13, 1994, shall maintain records showing the name and address of the foreign consignee and the date the armor piercing ammunition or semiautomatic assault weapons were exported.

PART 179—MACHINE GUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER FIREARMS

Par. 32. The authority citation for 27 CFR part 179 continues to read as follows:

Authority: 26 U.S.C. 7805.

§§ 179.34, 179.36, 179.42, 179.46, 179.47, and 179.50 [Amended]

Par. 33. Sections 179.34, 179.36, 179.42, 179.46, 179.47, and 179.50 are amended by removing "5630.5" wherever it occurs and, adding in its place, "5630.7."

Par. 34. Section 179.34(e) is added to read as follows:

§ 179.34 Special tax registration and return.

* * * * *

(e) *Identification of taxpayer.* If the taxpayer is an individual, with the initial return such person shall securely attach to Form 5630.7 a photograph of the individual 2 × 2 inches in size, clearly showing a full front view of the features of the individual with head bare, with the distance from the top of the head to the point of the chin approximately 1¼ inches, and which shall have been taken within 6 months prior to the date of completion of the return. The individual shall also attach to the return a properly completed FBI Form FD-258 (Fingerprint Card). The fingerprints must be clear for accurate classification and should be taken by someone properly equipped to take them: *Provided*, That the provisions of this paragraph shall not apply to individuals who have filed with ATF a properly executed Application for License under 18 U.S.C. Chapter 44, Firearms, ATF Form 7 (5310.12) (12-93 edition), as specified in § 178.44(a).

Signed: February 10, 1995.

Daniel R. Black,
Acting Director.

Approved: February 27, 1995.

John P. Simpson,

Deputy Assistant Secretary, (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 95-8233 Filed 4-3-95; 4:18 pm]

BILLING CODE 4810-31-U

DEPARTMENT OF JUSTICE

28 CFR Part 0

[Civil Division Directive No. 14-95]

Redelegation by Civil Division of Authority to Compromise Civil Claims

AGENCY: Department of Justice, Civil Division.

ACTION: Final rule.

SUMMARY: This Directive implements a recent Attorney General order that increased settlement and compromise authority that the Assistant Attorneys General of the litigating divisions may redelegate to United States Attorneys in civil matters. This Directive, which supersedes Civil Division Directive 176-91, is being promulgated in order to increase Department efficiency.

EFFECTIVE DATE: April 6, 1995.

FOR FURTHER INFORMATION CONTACT: Robert M. Hollis, Assistant Director, Commercial Litigation Branch, Civil Division, Department of Justice, room 11022, 550 11th Street NW., Washington, DC 20530; (202) 307-1100.

SUPPLEMENTARY INFORMATION: This Directive implements on behalf of the Civil Division the increase in the dollar amount of settlement authority which the Assistant Attorneys General may redelegate to United States Attorneys in civil matters. This increase in United States Attorney authority will further the efficient operation of the Department of Justice.

As a regulation related to internal Department of Justice management, this rule may become effective without provision for public comment pursuant to 5 U.S.C. § 553(b)(A). This Directive is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and, accordingly, it has not been reviewed by the Office of Management and Budget. Pursuant to 5 U.S.C. § 605(b), the Assistant Attorney General for the Civil Division certifies that because the effect of this Directive is internal to the Department of Justice it will not have a significant adverse economic impact on a substantial number of small business entities.