

Emergency Review Statement

Title of form: Certification of Qualifying State Relief from Disabilities Program

Type of information collection: New

Agency form number: ATF F 3210.12

This proposed collection of information has been published in the Federal Register for a sixty day notice to solicit comments. However, due to recent appropriations of funds with limited time for disbursement, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) is requesting emergency review and approval of the Certification of Qualifying State Relief from Disabilities Program form.

The NICS Improvement Amendments Act of 2007 (NIAA), Public Law 110-180, was signed into law on January 8, 2008. The NIAA amended the Brady Act, under which the Attorney General established the National Instant Criminal Background Check System (NICS). The Brady Act requires Federal Firearms Licensees to contact the NICS before transferring a firearm to an unlicensed person for information on whether the person is prohibited from receiving or possessing a firearm under state or federal law. The NIAA is intended to improve the information available to the NICS to enable the system to more accurately identify prohibited persons.

Among other provisions, the NIAA authorizes grant programs to support states in their efforts to improve the quality and completeness of criminal record information available to the NICS. In order to be eligible for grant funding, an applicant state must satisfy certain conditions before being eligible to receive a grant. One of those conditions is that the applicant state must certify to the satisfaction of the Attorney General that it has implemented a qualifying program permitting persons who were adjudicated as a "mental defective" or committed to a mental institution to apply for relief from the Federal firearms disabilities imposed as a result of the adjudication or commitment. *See* 18 U.S.C. §§ 922(d)(4) and (g)(4); 27 C.F.R. § 478.11.

The form currently advertised for comment in the Federal Register is the vehicle by which a state will certify that it has implemented a qualifying relief program. Once a state has submitted the form, the state's certification and relief program must be reviewed by ATF to determine whether the relief program meets the requirements of the NIAA. Once approved by ATF, the state certification will satisfy this prerequisite for grant funding.

The grant provisions of the NIAA were recently funded and must be awarded this fiscal year. In order to meet that deadline, the Office of Justice Programs (OJP) has set July 14, 2009 as the date by which any Fiscal Year 2009 (FY 09) grant applications must be approved by OJP's Chief Financial Officer (OCFO) for award in this fiscal year; applications are due from the states by May 22, 2009.

Unfortunately, those deadlines will pass before the Office of Management and Budget (OMB) process has concluded. As a result, no state will be eligible for the grants, because no state will

be able to certify that it meets the necessary prerequisite. In short, without this certification, states will not be able to apply for grant funding and the Bureau of Justice Statistics (BJS) will not be able to award the funds appropriated and clearly intended by Congress to be disbursed during FY 09.