

**PAPERWORK REDUCTION ACT SUBMISSION**

**Supporting Statement**

Agency: Federal Bureau of Investigation

Title: National Instant Criminal Background Check System (NICS)

Forms: Federal Firearms Licensee (FFL) Enrollment/National Instant Criminal  
Background Check System (NICS) Electronic Check (E-Check) Enrollment Form

Federal Firearms Licensee (FFL) Officer/Employee Acknowledgment of  
Responsibilities under the National Instant Criminal Background Check  
System (NICS) Form

OMB No: 1110-0026

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Module A-3

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The FBI Criminal Justice Information Services (CJIS) Division's National Instant Criminal Background Check System (NICS) Section is requesting the Office of Management and Budget (OMB) approve the Paperwork Reduction Act submission for an extension of the Federal Firearms Licensee (FFL) Enrollment/NICS Electronic Check (E-Check) Enrollment Form and the Federal Firearms Licensee (FFL) Officer/Employee Acknowledgment of Responsibilities under the National Instant Criminal Background Check System (NICS) Form. Minor revisions have been made to the forms.

The Federal Firearms Licensee (FFL) Enrollment/National Instant Criminal Background Check System (NICS) Electronic Check (E-Check) Enrollment Form and the directions for completing the form continue to be maintained on a two-sided, single-page document. The only new information requested is the physical address of the FFL, which is requested to be provided in block seven of the form. The order of some of the questions were changed to improve the document flow. The questions were renumbered and information regarding the completion of blocks 7, 8, and 14 were clarified.

The Federal Firearms Licensee (FFL) Officer/Employee Acknowledgment of Responsibilities

under the National Instant Criminal Background Check System (NICS) Form remains a one-page form. The directions for the form continue to be contained on a two-sided, single-page document. These two forms are part of a packet that is sent to new FFLs upon their request to enroll with the NICS for the purposes of conducting firearms background checks.

The Federal Firearms Licensee (FFL) Enrollment/National Instant Criminal Background Check System (NICS) Electronic Check (E-Check) Enrollment Form is necessary to register new FFLs with the NICS so that the FFLs may be able to access the NICS via telephone and/or the Internet via the NICS E-Check to initiate NICS checks. It will also be necessary for some FFLs who are already enrolled with the NICS to register for the NICS E-Check only if they wish to conduct NICS checks via the Internet. Once completed, this form is sent to the NICS Section for the enrollment process to be concluded. The enrollment process is a one-time requirement for an FFL, unless the FFL transfers their operation to new ownership. If that were to occur, a new form would be required to be completed and forwarded to the NICS Section for processing in order for the FFL to be able to conduct NICS checks.

The Federal Firearms Licensee (FFL) Officer/Employee Acknowledgment of Responsibilities under the National Instant Criminal Background Check System (NICS) Form is required to be signed by all of the FFL's employees who conduct NICS checks. The directions section includes: use of the NICS, access to the NICS, disclosure, audits, and FFL data integrity. All completed copies of the form are kept at the FFL's place of business.

The NICS Section requests to continue the assigned OMB number 1110-0026 on both forms as

they are distributed together and both must be completed in order to legally gain and maintain access to initiate NICS checks.

## **A. JUSTIFICATION**

### **1. Circumstances of the collection**

In November 1993, the Brady Handgun Violence Prevention Act (Brady Act), Public Law 103-159, requiring FFLs to request background checks on individuals attempting to purchase a firearm, was signed into law. The permanent provisions of the Brady Act, which went into effect on November 30, 1998, required the United States Attorney General to establish the NICS that the FFLs may contact by telephone or other electronic means in addition to the telephone for information to be supplied within three business days on whether the receipt of a firearm by a prospective transferee would violate Section 922 (g) or (n) of Title 18, United States Code (U.S.C.), or state law.

The FFLs serviced by the FBI currently contact the NICS Section by using a toll-free number and providing the requisite information to a service representative who initiates the check on their behalf. Furthermore, Title 28, *Code of Federal Regulations* (C.F.R.), Part 25, Subpart A (The NICS,) allows for the development of other electronic means of contact as alternatives in addition to the telephone. Therefore, from early in the NICS development, the NICS Section's vision has included providing the FFLs with an alternative means, commonly referred to as “electronic access,” to initiate NICS checks.

The NICS Section, in a joint effort with the CJIS Division's Information Technology Management Section, Lockheed Martin Energy Systems, Science Applications International Corporation, and an FFL focus group developed the NICS E-Check. This function enables the FFLs to initiate an unassisted NICS background check for firearm transfers via the Internet.

An enrollment form for a prospective FFL to enroll with the NICS to initiate gun checks either by phone, by the NICS E-Check, or by both means has been developed and will be available to the FFLs by mail or as a downloadable document on the NICS Web site. This form is the Federal Firearms Licensee (FFL) Enrollment/National Instant Criminal Background Check System (NICS) Electronic Check (E-Check) Enrollment Form.

The Federal Firearms Licensee (FFL) Officer/Employee Acknowledgment of Responsibilities under the National Instant Criminal Background Check System (NICS) Form is to be read and signed by all of the FFL's employees who conduct NICS checks. All completed copies of the form are kept at the FFL's place of business.

The NICS Section requests to continue to keep the same OMB number 1110-0026 on both forms as they are distributed together and both must be completed in order for the FFL to be enrolled in the NICS. Only enrolled FFLs can legally gain and maintain access to initiate NICS checks.

## **2. Purpose and Use of the Information**

The information collected on the Federal Firearms Licensee (FFL) Enrollment/National Instant Criminal Background Check System (NICS) Electronic Check (E-Check) Enrollment Form is necessary for enrollment of the FFLs so that the FFL may access the NICS in order to legally initiate NICS checks. Without being enrolled as an authorized user, the FFL cannot request a NICS check. Congress required the United States Attorney General to ensure the privacy and security of the system as they recognized the possibility that the system could be used improperly; therefore, the NICS must be able to verify that an FFL is authorized to access the NICS. Information from the enrollment form will be entered into the NICS by NICS Section employees and can be viewed by NICS Section employees only. Verification of the information when a NICS check is conducted will protect the integrity and security of the NICS and protect the privacy and security of the FFL's information provided to the NICS. The form only needs completed one time unless the business is transferred to a new ownership. If that were to occur, a new form would need completed and sent to the NICS Section.

Additionally, the Federal Firearms Licensee (FFL) Officer/Employee Acknowledgment of Responsibilities under the National Instant Criminal Background Check System (NICS) Form is a legal document which must be read and signed by all FFLs and their employees serviced by the NICS Section as an acknowledgment of their rights, responsibilities, and obligations as authorized users of the NICS. Under the authority of the Brady Act, Title 18, U.S.C., Chapter 44,

as implemented by Title 28, C.F.R., Part 25, the FBI requires completion of the acknowledgment statement on the form by all FFLs as a condition of being granted NICS inquiry privileges. The NICS has been established within the CJIS Division for the purpose of performing instant background checks on prospective firearm transferees. The primary purpose of this acknowledgment is to ensure that FFLs accessing and using the NICS understand and accept the obligations and responsibilities.

This acknowledgment will be used to: identify and validate those FFLs who may be granted NICS inquiry privileges; to legally obligate the FFL to comply with these obligations and responsibilities; and as evidence of an FFL's knowledge and acceptance of these obligations and responsibilities whenever such matters may be in issue. Completion of this acknowledgment on the enrollment form by an FFL is voluntary, but an FFL who does not complete this acknowledgment will not be granted access to the NICS. All Users violating Title 28, C.F.R., Part 25, Subpart A, shall be subject to a fine not to exceed \$10,000 and subject to cancellation of NICS inquiry privilege for misuse or unauthorized access as outlined in Title 28, C.F.R., Part 25, Subpart A, Section 25.11. This form may be duplicated as required and completed copies of this form must be retained by the FFL in their place of business. This form is not to be returned to the NICS Section.

### **3. Use of Automated, Electronic, Mechanical, or Technological Collection of Techniques**

The Federal Firearms Licensee (FFL) Enrollment/National Instant Criminal Background Check System (NICS) Electronic Check (E-Check) Enrollment Form is available to the FFL by mail (in the initial enrollment packet); by the FFL calling the Customer Service Staff at the NICS Section to have a copy mailed; by requesting a copy via the NICS Fax-on-Demand functionality; or by the FFL downloading a copy from the Internet. The Respondents (FFLs) must mail the Federal Firearms Licensee (FFL) Enrollment/National Instant Criminal Background Check System (NICS) Electronic Check (E-Check) Enrollment Form back to the NICS Section as an original signature must be retained on file by the NICS because the technology does not provide the capability to capture the signature electronically. If the applicant is signing up to be an FFL only, without a request to sign up for the NICS E-Check, it would be permissible for the form to be faxed or mailed. The Federal Firearms Licensee (FFL) Officer/Employee Acknowledgment of Responsibilities under the National Instant Criminal Background Check System (NICS) Form is also available to the FFL by mail in the initial enrollment packet, by the FFL calling the Customer Service Staff at the NICS Section to have a copy mailed, by requesting a copy via the NICS Fax-on-Demand functionality, or by the FFL downloading a copy from the Internet. Once completed, the form remains with the FFL to be kept on file to indicate that all employees have read and understood the responsibilities of being a NICS user.

#### **4. Efforts to Identify Duplication**

Both the Federal Firearms Licensee (FFL) Officer/Employee Acknowledgment of

Responsibilities under the National Instant Criminal Background Check System (NICS) Form and the Federal Firearms Licensee (FFL) Enrollment/National Instant Criminal Background Check System (NICS) Electronic Check (E-Check) Enrollment Form will be sent to those FFLs to complete that have previously enrolled with the NICS or the NICS E-Check. They will also be

sent to the FFLs upon request. These forms are only required to be completed one time; therefore, there would be no duplication. The only time the forms would be completed a second time would be if there would be a change in ownership of the FFL's business. In that event, the NICS Section would have to be notified and a new form must be signed. As of June 26, 2009, the number of FFLs enrolled to conduct NICS background checks is approximately 38,663. The number of FFLs enrolled in the NICS E-Check as of June 26, 2009, is 2,083.

The FFLs have already completed these forms previously and will not be required to do so again unless the business goes under new ownership. Only those FFLs who did not receive a mailing will be sent enrollment packets in the future; therefore, there will be no duplication.

## **5. Impact on Small Business**

The collection of information will not have a significant impact on small businesses.

## **6. Consequences of not Collecting Data**

The Federal Firearms Licensee (FFL) Enrollment/National Instant Criminal Background Check System (NICS) Electronic Check (E-Check) Enrollment Form will be filled out only once, unless the business goes under new ownership. If that were to occur, a new form would need completed and sent to the NICS Section. Without using this form, an FFL could not be enrolled as an authorized user; thus, the FFL would not be able to request a NICS check. If the Federal Firearms Licensee (FFL) Officer/Employee Acknowledgment of Responsibilities under the National Instant Criminal Background Check System (NICS) Form are not collected, the FBI will

be unable to verify that the FFL has been apprized of their legal rights and responsibilities as authorized users of the NICS. In the event of misuse of the system, the FBI would be unable to prosecute the misuser if there is no legally binding evidence that the FFL understood which uses are authorized and which are not. These forms also will be filled out only once.

## **7. Special Circumstances**

The Federal Firearms Licensee (FFL) Enrollment/National Instant Criminal Background Check System (NICS) Electronic Check (E-Check) Enrollment Form will be filled out only once, unless the business goes under new ownership. The Federal Firearms Licensee (FFL) Officer/Employee

Acknowledgment of Responsibilities under the National Instant Criminal Background Check System (NICS) Form can be reproduced and are to be completed by all employees of each FFL that will be initiating NICS checks. The completed forms are to be kept on file at the FFL's place

of business indefinitely.

## **8. Outside Consultation**

The FBI contacted the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) to review the data collection instrument and to provide feedback.

## **9. Payment to Respondents**

There is no payment made or gift to an individual who provides the required information to the NICS.

## **10. Assurance of Confidentiality**

All information will be held confidential in accordance with Title 42, U.S.C. Section 3789 (g). Information will be utilized by the NICS solely in connection with firearm background checks conducted through the Brady Act and the regulations promulgated thereunder.

## **11. Justification for Sensitive Questions**

The only question on either form that would be of a sensitive nature would be mother's maiden name. The maiden name is requested as a security feature of the NICS E-Check enrollment.

This will be used to verify the identity of the NICS E-Check user. This protects the integrity of the NICS and protects the FFL's information.

## **12. Estimates of Hour Burden**

The average response time for reading the directions for Federal Firearms Licensee (FFL) Enrollment/National Instant Criminal Background Check System (NICS) Electronic Check (E-Check) Enrollment Form is estimated to be two minutes; time to complete the form is estimated to be three minutes; and the time it takes to assemble, mail, or fax the form to the FBI is estimated to be three minutes, for a total of eight minutes. It is estimated that enrollment occurs at approximately 500 per month for a total of 6,000 per year. The average hour burden for this specific form is  $6,000 \times 8 \text{ minutes}/60 = 800$  hours.

The Federal Firearms Licensee (FFL) Officer/Employee Acknowledgment of Responsibilities under the National Instant Criminal Background Check System (NICS) Form takes approximately three minutes to read the responsibilities and two minutes to complete the form for a total of five minutes. The average hour burden for this specific form is  $6,000 \times 5 \text{ minutes}/60 = 500$  hours. The accompanying letter mailed with the packet takes an additional two minutes to read which would be  $6,000 \times 2 \text{ minutes}/60 = 200$  hours. The entire process of reading the letter and completing both forms would take 15 minutes per respondent. The average hour burden for completing both forms and reading the accompanying letter would be  $6,000 \times 15/60 = 1,500$  hours.

**13. Estimates of Cost Burden**

The individual will be burdened with a one-time cost to mail the Federal Firearms Licensee (FFL) Enrollment/National Instant Criminal Background Check System (NICS) Electronic Check

(E-Check) Enrollment Form, if mailed alone of \$0.44. It is anticipated that the individual will not need to complete the form again unless there is a change in ownership of the business, so this is a one-time cost. Initially, the NICS plans to print a supply of 6,000 copies of the forms. The total cost burden to the individual would be: 6,000 respondents x \$0.44 = \$2,640.

The cost burden to the government is \$1,500 in form preparation. The estimated cost of the government mailing the form to the FFL or to the ATF is \$12,410. The cost of staff and equipment is prorated. It is absorbed proportionally among the CJIS Division. The CJIS Division Copy Center is continuously manned with three copy machines. The total cost burden to the government is \$13,910. This is reflected in the itemized estimate included in Item A.14.

**14. Estimates of Annualized Cost to the Federal Government**

Item A.14

<u>Form Preparation</u>	Total Form Preparation cost
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\$1,500	\$1,500
<u>Staff/Equipment</u> - This figure is absorbed proportionally among the CJIS Division. The CJIS Division Copy Center is continuously manned with three copy machines.	Total Staffing/Equipment Cost  Cost prorated among all areas of service
<u>Mailing/Postage</u> \$12,410	Total Mailing/Postage cost \$12,410
<b>TOTAL COST BURDEN TO GOVERNMENT</b>	<b>\$ 13,910</b>

## 15. Reasons for Program Changes

The estimated amount of packets to be mailed remains the same; however, the cost to the government has been reduced as cheaper mailing rates have been selected. Approximately half of the FFL packets will be mailed at the standard rate and the other half will be mailed at the first class pre-sort rate so that FFLs on the west coast can receive their packets in an expeditious manner. The ATF Distribution Center will receive boxes of packets that will be mailed in bulk or individual distribution by the ATF, also cutting the cost. Additionally, the staff and equipment costs are now prorated among all areas of service and the figure is absorbed

proportionally among the CJIS Division as the CJIS Division is continuously manned with three copy machines.

**16. Plans for Tabulation and Publication**

The data collected will be utilized by the NICS solely in connection with firearm background checks conducted through the Brady Act and the regulations promulgated thereunder. The information will be maintained in a database for use by FBI employees, or FBI contract employees. This information will not be published.

**17. Requests for Approval not to display OMB Expiration Date**

The NICS Section is requesting the OMB to not display an expiration date on either form. The NICS Section will be mailing the form to FFLs and to the state Points of Contact.

Administratively, it would be extremely difficult to remove all of the old forms from all of those businesses. In addition, some individuals may obtain copies of the form and wait an extensive period of time before submitting the form to the NICS Section. It would be impossible to know which individuals may possess an older form. Therefore, it would not be practical for a date to be displayed.

Another consideration is that if FFLs review their files and see that their employees signed the Federal Firearms Licensee (FFL) Officer/Employee Acknowledgment of Responsibilities under

the National Instant Criminal Background Check System (NICS) Form prior to the expiration date of the form, they may erroneously believe that the form needs to be signed again and may duplicate efforts by having employees read and complete the form again.

**18. Exceptions to the Certification Statement**

No exceptions to the certification statement are requested.

**B. Collection of Information Employing Statistical Methods**

This collection of information does not employ statistical methods.

**Attachment 1:**

**Certification Statement**

**Paperwork Reduction Act Certification Statement**

**In submitting this request for OMB approval, I certify that the requirements of the Privacy Act and the OMB directives have been complied with, including paperwork regulations, statistical standards or directives, and any other information policy directives promulgated under Section 5 CFR 1320.**

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**John A. Strong**

**Section Chief**

**NICS Section**

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**Date**

**Attachment 2:**

**Data Collection Instrument**