

Department of Justice
Bureau of Alcohol, Tobacco, Firearms and Explosives
Information Collection Request
1140-0045

Permanent Provisions of the Brady Handgun Violence Prevention Act

A. Justification

1. On November 30, 1993, Public Law 103-159 (107 Stat.1536) was enacted, amending the Gun Control Act of 1968 (GCA), as amended (18 U.S.C. Chapter44). Title I of Public Law 103-159, the Brady Handgun Violence Prevention Act (the “Brady Law”), imposed as an interim measure a waiting period of 5 days before a licensed importer, manufacturer, or dealer may sell, deliver, or transfer a handgun to an unlicensed individual. The waiting period applies only in States without an acceptable alternate system of conducting background checks on handgun purchasers. The interim provisions of the Brady law, 18 U.S.C. 922(s), became effective on February 28, 1994, and ceased to apply on November 30, 1998.

The permanent provisions of the Brady law provide for the establishment of a national instant criminal background check system (“NICS”) that a firearms licensee must contact before transferring any firearm to an unlicensed individual. The law required that the permanent system be established not later than November 30, 1998. While the interim provisions applied only to handguns, the permanent provisions of the Brady law apply to all firearms. Furthermore, the law provides that the system may take up to three business days to notify the licensee whether receipt of a firearm by the prospective purchaser would be in violation of the law.

The collections of information are contained in 27 CFR 478.102, 478.124®, 478.129(b), 478.131, and 478.150. Section 478.102 requires, with some exceptions, licensees to contact NICS before transferring any firearm to an unlicensed individual. Section 478.124(c) requires licensees to record on ATF F 4473 the date the licensee contacts NICS and any identification number provided by NICS. The licensee must also verify the identity of the person acquiring the firearm by examining an identification document presented by the transferee. ATF F 4473 includes certain optional information about the purchaser, such as the person’s social security number and alien registration number. Section 478.131 requires licensees to maintain certain records for firearms transactions not subject to a NICS check. Section 478.129(b) requires licensees to retain a completed ATF F 4473 for a period of not less than 5 years where the transfer of a firearm is not made. Section 478.150 provides for an

alternative to NICS in certain geographical locations. Licensees must submit a written application to the Director containing certain location.

2. The purpose of the law is to prevent convicted felons and other prohibited persons from purchasing firearms from licensed firearms dealers. The law requires firearms licensees to contact NICS for a background check before transferring any firearms to nonlicensed individuals. NICS will advise the licensee whether the system maintains any information on whether receipt or possession of a firearm by a prospective purchaser would violate Federal or State law. The experiences of States which require background checks indicate that many repeat criminals purchase guns directly from firearms dealers.
3. This collection of information does not involve any use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. The purpose of this collection is to specifically implement the permanent provisions of the Brady Law.
4. ATF uses a subject classification code on all ATF forms. This code ensures that there is no duplication within ATF. This information collection implements the permanent provisions of the Brady Law. There is no duplication regarding the collections of information contained in these regulations.
5. The collection of this information has no impact on small businesses.
6. This information collection requirement is the minimum necessary and cannot be reduced on the basis of the size of the respondent pursuant to statutory provisions. The consequences of not having a national instant criminal background check system would be that ATF might allow firearms to individuals who prohibited from possessing or receiving a firearm.
7. There are no special circumstances associated with this information collection.
8. The ATF industry liaison was involved with the firearms industry, Federal, State and local officials with the creation of this information collection. A 60-day and 30-day Federal Register notice was published in order to solicit comments from the public. No comments were received.
9. No payment or gift is associated with this collection.
10. No confidentiality is assured. Information on respondents is kept in a secured ATF data base.

11. No questions of a sensitive nature are associated with this information collection.
12. The collections of information are contained in 27 CFR 478.102, 478.124©, 478.129(b), 478.131, and 478.150. The estimated number of respondents is approximately 106,000. These respondents, which comprise the entire population of Federal firearms licensees are responsible for ensuring that an ATF F 4473, Firearms Transaction Record, is completed by individuals who purchase firearms from them. The total number of annual responses is 9,248,000 (number of times ATF F 4473 is completed. In order to prevent a duplication of burden hours, the total burden for this information collection is 1 hour.

Section 478.150 provides for an alternative to NICS in certain geographical locations. Licensees must submit a written application to the Director containing certain information. Since this requirement established in 1994, no licensee has qualified for an exception from the provisions of Brady based on geographical location. As such, ATF does not believe that there is any reporting and/or recordkeeping burden associated with the requirements of section 478.150 with regard to NICS.

13. There is no total annual cost burden to the respondents resulting from the collection of information.
14. There is no cost to the Federal government for this collection of information.
15. There are no program changes or adjustments associated with this collection.
16. The results of this collection will not be published.
17. ATF does not request approval to not display the expiration date of OMB approval for this collection.
18. There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods

This collection of information employs no statistical methods.