

**1 PAPERWORK REDUCTION ACT SUBMISSION
Supporting Statement**

Agency: Federal Bureau of Investigation

Title: National Instant Criminal Background Check System

Form: Voluntary Appeal File Brochure

OMB No: 1110-0043

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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 reinstatement of the Paperwork Reduction Act submission for the Voluntary Appeal File (VAF).

Under Title 28, Code of Federal Regulations (C.F.R.), Part 25.9(b)(1), (2), (3), the NICS must destroy all identifying information on allowed transactions within 24 hours of the Federal Firearms Licensees (FFL) being notified of the transaction's proceed status. If a potential purchaser is delayed or denied a firearm and successfully appeals the decision, the NICS Section cannot retain a record of the overturned appeal or the supporting documentation. If the record is not

able to be updated, the purchaser continues to be delayed or denied, and if that individual appeals the decision, the documentation/information (e.g., fingerprint cards, court records, pardons, etc.) must be resubmitted for every subsequent purchase. The VAF was established per 28 C.F.R., Part 25.10(g), for this reason. By this process, applicants can voluntarily request the NICS Section maintain information about themselves in the VAF to prevent future extended delays or denials of a firearm transfer. The VAF is maintained by the NICS Section for the purpose of preventing future erroneous denials or extended delays of a firearm transfer.

A. JUSTIFICATION

1. Circumstances of the collection

The Department of Justice (DOJ) promulgated regulations to govern the NICS, in 28 C.F.R., Part 25, in 1998 when the NICS became operational. On July 23, 2004, the DOJ published a revision to Part 25.9(b) which required all proceed transactions to be purged within 24 hours of the FFL being notified of the transaction's proceed status and allowed for a prospective purchaser to request that the NICS Section maintain documentation/information concerning themselves in the VAF. This regulation allows the NICS Section to maintain documentation/information in the VAF for the purpose of preventing the prospective purchaser from receiving an extended delay or erroneous denial on future firearm transactions. Potential purchasers will have the option to supply the NICS Section with information, such as name, date of birth, social security number, and any other identifying information. This information is to be submitted to the NICS Section through the VAF Brochure. A signature on the brochure is required to allow the

NICS permission to retain the information in the VAF. Documents/information that may clarify records and prove identity (e.g., fingerprint cards, court records, pardons, etc.) are entered in the VAF. Upon review of the application and validation of materials submitted by the applicant, the NICS Section enters successful applicants in the VAF. If an applicant has met the requirements for entry into the VAF, they will be notified by mail. Entry into the VAF will not automatically result in a proceed response on subsequent firearm purchases. A complete NICS check is required on additional transactions and may result in a denied status if additional prohibitive information is discovered. If the lawful firearm purchaser who was successfully entered into the VAF requests through a written correspondence that their documentation/information be removed from the VAF, the NICS Section is required to destroy all VAF documentation/information regarding that individual. Additionally, if the NICS Section discovers disqualifying documentation/information on the individual who was previously entered into the VAF, the NICS Section may delete the individual's information from the VAF and send notification by mail.

Requesting entry into the VAF is a voluntary act for an individual who wishes to be a part of this file. The application does request a telephone number and address. This is for the purpose of mailing a response to the applicant. The telephone number is requested in the event that the response is returned by the post office which would leave no means of contacting the applicant to get a correct address. The application requests descriptive data regarding the individual, such as name, aliases, sex, race, height, weight, eyes, hair, place of birth, social security number, alien registration number, military identification number, country of citizenship, FBI number (if known), as well as

fingerprints. The NICS, the National Crime Information Center (NCIC), and the Integrated Automated Fingerprint Identification System require certain fields in order for a search to be conducted.

Social security number, military identification number, and driver's license numbers are optional. There are no consequences to the individual for not providing these numbers. These numbers are requested to help narrow potential matches. This collection requests country of citizenship, as this information is required when purchasing firearms. A person's citizenship status can affect their eligibility to purchase a firearm. A person who is an alien, and illegally or unlawfully in the United States, is federally prohibited from purchasing a firearm, as well as persons who have renounced their citizenship. There are also some classes of nonimmigrants who are prohibited from purchasing firearms. An alien registration number is also being requested to simplify the process of obtaining status. Fingerprints are requested on the fingerprint card, OMB Number 1110-0046, to firmly establish identity. For example, if an individual's wallet is stolen and the perpetrator uses the stolen identification numbers to identify himself in the commission of a crime, a criminal record would then be established using the victim's personal information. When a NICS check is conducted, the NICS Section would have no way to know if it is the victim or the perpetrator applying. The NICS Section also cannot provide a person a copy of an FBI record or correspond with an applicant regarding the specifics of their case without proof of positive identification.

1. Purpose and Use of the Information

This Regulation allows the NICS Section to maintain documentation/information in the VAF for the purpose of preventing the prospective purchaser from receiving an extended delay or erroneous denial on future firearm transactions. Information in the VAF will be utilized by the NICS Section solely in connection with firearm background checks conducted through the Brady Handgun Violence Prevention Act of 1993 (Brady Act) and the Regulations promulgated thereunder. The VAF Brochure/Application is a two-sided, carbonless form which is both a brochure and an application that will provide a potential firearm purchaser a method by which to request to be entered into the VAF. The information collected will serve to further identify the individual by descriptive data. The descriptive data will be used to query the NCIC, the Interstate Identification Index, and the NICS Index to determine if the applicant appears to match any subjects in those systems/databases. The applicant will also be asked to provide fingerprint impressions on the fingerprint card, which will be used to determine if the subject is identical to any of those potential matches. The descriptive data will also be used to enter successful applicants into the VAF in the NICS database. The Regulation requires written consent to be included in the VAF. An applicant statement has been included on the narrative side of the brochure that explains to what the applicant is agreeing. At any time the individual wishes their information to be removed from the VAF, a written letter should be submitted to the NICS Section to have the information removed.

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

The applicant will enter written information onto a brochure and fingerprint card provided by the NICS Section. Law enforcement will also roll the applicant's fingerprints onto an fingerprint card. The hard-copy form will be made available to the general public through FFLs, state points of contact (POC), and will also be made available as a download on the NICS Web site. The completed brochure will be mailed to the CJIS Division by the applicant to the address provided on the brochure. The brochure must be mailed in order to have an original signature on file and to have original fingerprints to process. A faxed or scanned copy would not be acceptable to process as it is a requirement to keep an original signature on file. Mail will be the only means for the applicant to submit the form to the CJIS Division.

4. Efforts to Identify Duplication

The information must be submitted by the individual with an original signature on the application statement. Fingerprints must be rolled by the law enforcement agency and submitted by the applicant. Information from any entity other than the applicant will not be accepted. This is the only means for entry into the VAF per the Regulation. There has not been a VAF previous to the FBI establishing one, so all submissions would be first-time submissions and would not have been duplicated.

5. Impact on Small Business

The collection of information will not have a significant economic impact on small business. The collection audience is individual potential firearm purchasers.

6. Consequences of not Collecting Data

If the data from the VAF application is not collected, the NICS Section will not be able to initiate the VAF application process as required by the final rule, 28 C.F.R., Part 25.9 (b) (1), (2), (3) and Part 25.10(g). The VAF Brochure includes the VAF application as well as the "applicant statement" signature and the date giving the FBI authority to enter the individual into the VAF. Without the collection of this brochure, the NICS Section would not be authorized to enter the individual into the VAF; therefore, the NICS Section would not be able to retain supporting documentation and/or information in the VAF of a potential firearm purchaser that may have had an extended delay or been erroneously denied a firearm transfer. This would be in violation of the Regulation. The potential purchaser would continue to be delayed or denied if the record could not be updated and would be required to appeal the decision and resubmit documentation/information to overturn the appeal on subsequent purchases.

7. Special Circumstances

The special circumstances associated with the VAF are due to requirements in the Regulation, 28 C.F.R., Part 25.10(g), regarding the VAF. The application form is a one-time collection. Applicants are not required to submit more than one original of the form. However, if the applicant wishes to send documentation along with the application, he or she is encouraged to do so. All information is collected in accordance with the Privacy

Act of 1974. Information in the VAF will be utilized by the NICS Section solely in connection with firearm background checks conducted through the Brady Act and the Regulations promulgated thereunder. There is no information collection in connection with a statistical survey.

8. Outside Consultation

The NICS Section received no comments from the public concerning this collection.

9. Payment to Respondents

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

10. Assurance of Confidentiality

All information will be held confidential in accordance with Title 42, United States Code, Section 3789(g). Information in the VAF will be utilized by the NICS Section solely in connection with firearm background checks conducted through the Brady Act and the Regulations promulgated thereunder.

11. Justification for Sensitive Questions

There are no sensitive questions as defined by this section.

12. Estimates of Hour Burden

The application requires that an applicant read the brochure, sign the applicant's statement, complete the application, go to a law enforcement agency to have fingerprints rolled, and mail the brochure to the CJIS Division.

A time study was conducted with 20 people from various sections and units within the CJIS Division. Each participant was timed reading the brochure and completing the written part of the brochure. The fastest time was 3 minutes 54 seconds, and the slowest time was 6 minutes 46 seconds. The average time for all 20 participants to read and complete the form was calculated at 5 minutes.

The time involved to take the brochure to law enforcement to have fingerprints rolled was estimated to be 2 hours because of travel time to the law enforcement agency, wait time at the law enforcement agency, and travel back to the individual's home. Also, the time it would take to mail the document was calculated as 25 minutes. The total hour burden for one person is calculated at 2.5 hours per person. The NICS Section estimates 7,542 respondents yearly. This is open to anyone in the general public who may desire to purchase a firearm at some point in their lifetime. Upon request, the NICS Section will send copies of the brochure to the FFLs, state POCs, partial state POCs, and individuals and has a reserve of copies on hand. Also individuals can download the form from the NICS Web site. It is estimated that the 7,542 will respond each year based on current rate of inquiry and correspondence rates on appeal transactions. Therefore, with 7,542 responding, the formula for burden hours would be as follows: $(7,542 \text{ respondents} \times 2.5 \text{ hours}) = 18,855 \text{ hours}$.

13. Estimates of Cost Burden

The individual will be burdened with a one-time fee of \$18 to have fingerprints rolled. The brochures will be sent by the NICS Section to individuals through the appeal process or through customer service inquiries. The amount the NICS Section will send out is

based on the number of VAF inquiries the NICS Section receives. Based on current rate of inquiry and correspondence rates on VAF, it is estimated that 7,542 will respond. With 7,542 respondents fingerprinted at the average cost of \$18, the total cost burden would be: 7,542 respondents x \$18 (the average cost of fingerprints) = \$135,756 cost burden to public.

14. Estimates of Annualized Cost to the Federal Government

The cost of this brochure, envelopes, fingerprint cards, and postage to the federal government is estimated to be \$9,427.50.

The costs include:

<u>Brochure and Fingerprint Card Copy Cost</u>	Total Copy Cost
7,542 brochure copies x 0.04¢ = \$301.68	\$1,508.40
7,542 Fingerprint Cards x 0.16¢ = \$1,206.72	
<u>Envelope Cost</u>	Total Envelope Cost
7,542 Outer envelope and return envelope x 2 = 15,084	\$603.36
15,084 x 0.04¢ = \$603.36	
<u>Postage Cost</u>	Total Postage Cost
0.44¢ Outgoing postage x 7,542 = \$3,318.48	\$7,315.74
0.53¢ Postage for business reply envelope x 7,542 = \$3,997.26	
<u>Total Estimates of Annualized Cost to the Federal Government</u>	\$9,427.50

15. Reasons for Program Changes

This is an existing data collection resulting from a program change, statutory in nature.

The NICS Regulation establishing the VAF is outlined in 28 C.F.R., Part 25.9(b)(1), (2),

(3), and 28 C.F.R., Part 25.10(g). By this process, applicants can voluntarily request that the NICS Section maintain information about themselves in the VAF to prevent future extended delays or denials of a firearm transfer. The VAF is maintained by the NICS Section for the purpose of preventing future erroneous denials of a firearm transfer. The data collection form will be a one-time means for an applicant to request entry into the VAF.

16. Plans for Tabulation and Publication

The data collected will be utilized by the NICS Section solely in connection with firearm background checks conducted through the Brady Act and the Regulations promulgated thereunder. 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 the brochure. The FFLs, state POCs, and an undetermined number of individuals already have copies of the form in their possession. Administratively, it would be extremely difficult to remove all of the old forms from all of those businesses and individuals. In addition, some individuals may obtain copies of the form and wait an extensive period of time before submitting the form. 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.

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.

Paperwork Certifications

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

Amy C. Blasher

Acting NICS Section Chief

Date