

## Supporting Statement for Paperwork Reduction Act Submissions

Extension of a currently approved collection for the Criminal Justice Information Services (CJIS) Division (CJIS) Federal Firearms Licensee (FFL) Enrollment/National Instant Criminal Background Check System (NICS) Electronic Check (E-Check) Enrollment Form and the Federal Firearms Licensee (FFL) Officer/Employee Acknowledgment of Responsibilities under the NICS form.

### **OMB Control # 1110-0026**

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) to approve the Paperwork Reduction Act submission for an extension of the Federal Firearms Licensee (FFL) Enrollment and the National Instant Criminal Background Check System (NICS) Electronic Check (E-Check) Enrollment Form and the Federal Firearms Licensee (FFL) Officer/Employee Acknowledgment of Responsibilities under the NICS form.

The Federal Firearms Licensee (FFL) Enrollment and the 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 form is available to the FFL by calling the Customer Service Staff at the NICS Section to have a copy mailed (only if the FFL does not have Internet access); by requesting a copy via the NICS Fax-on-Demand functionality; or by the FFL downloading a copy from the Internet. The Enrollment Form can be e-mailed by the requester and the NICS Section will administer a user name and a password.

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 the FFLs can access the NICS via telephone and/or the Internet by way of the NICS E-Check to initiate NICS checks. Also, it will 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 need 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 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 available to the FFLs by calling the Customer Service Staff at the NICS Section to have a copy mailed (only if the FFL does not have Internet access); by requesting a copy via the NICS Fax-on-Demand functionality; or by the FFL downloading a copy from the Internet.

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

## Part A. Justification

### 1. Necessity of Information:

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 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 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 is available to the FFLs as a downloadable document on the NICS Website. This form is the Federal Firearms Licensee (FFL) Enrollment/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 maintained at the FFL's place of business.

### 2. Needs and Uses:

The information collected on the Federal Firearms Licensee (FFL) Enrollment/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 the 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 on 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 acknowledgement of their rights, responsibilities, and obligations as authorized users of the NICS. Under the authority of the Brady Act, 18 U.S.C., Chapter 44, as implemented by 28 C.F.R. § 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; legally obligate the FFL to comply with these obligations and responsibilities; and to serve 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 of 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 28 C.F.R. § 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 28 C.F.R. § 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 Technology:

The Federal Firearms Licensee (FFL) Enrollment NICS Electronic Check (E-Check) Enrollment Form is available to the FFL by calling the Customer Service Staff at the NICS Section to have a copy mailed (only if the FFL does not have Internet access); 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, fax, or email the Federal Firearms Licensee (FFL) Enrollment/NICS Electronic Check (E-Check) Enrollment Form back to the NICS Section. 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 calling the Customer Service Staff at the NICS Section to have a copy mailed (only if the FFL does not have Inter access; 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. The FFL maintains the signed Federal Firearms Licensee (FFL) Officer/Employee Acknowledgment of Responsibilities Form to the NICS Section form and does not need to mail a copy to the NICS Section.

#### 4. Efforts to Identify Duplication:

Both the Federal Firearms Licensee (FFL) Enrollment/National Instant Criminal Background Check System (NICS) Electronic Check (E-Check) Enrollment Form and the Federal Firearms Licensee (FFL) Officer/Employee Acknowledgment of Responsibilities under the NICS 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 was a change in ownership of the FFL's business. In that event, the NICS Section would have to be notified and a new form signed.

#### 5. Methods to Minimize Burden on Small Businesses:

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

#### 6. Consequences of Less Frequent Collection:

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 is not collected, the FBI will be unable to verify that the FFL has been apprised 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 user if there is no legally binding evidence that the FFL understood which uses are authorized and which are not. These forms will be filled out only once.

#### 7. Special Circumstances Influencing Collection:

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. Federal Firearms Licensee (FFL) Officer/Employee

Acknowledgment of Responsibilities under the National Instant Criminal Background Check System (NICS) Form can be reproduced and is 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. Public Comments and Consultations:

The FBI contacted the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) to review the data collection instrument and to provide feedback. The 30 and 60 day notices were published and no comments were received.

9. Payment of Gift to Claimants:

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 42 U.S.C. § 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. Estimate of Hour Burden:

The completion of the Federal Firearms Licensee (FFL) Enrollment/National Instant Criminal Background Check System (NICS) E-Check Enrollment Form is estimated that there are 406 respondents each month, 4,872 (406 X 12) annual responses, and that each response takes approximately two minutes to read, time to complete the form is estimated to be three minutes; and the time to assemble, mail, or fax the form to the FBI is estimated to be three minutes, for a total of 8 minutes per form. Total completion time is  $4872 \times 8/60 = 650$  hours.

The completion of the Federal Firearms Licensee (FFL) Officer/Employee Acknowledgment of Responsibilities under the NICS form is estimated to take 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 forms is  $6,000 \times 5 \text{ minutes}/60 = 250$  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  $4,872 \times 15/60 = 1,218$  hours.

13. Estimate of Cost Burden:

The individual will be burdened with a one-time cost to mail the Federal Firearms Licensee (FFL) Enrollment/NICS Electronic (E-Check) Enrollment Form, if mailed alone, of \$0.49. It is anticipated that 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 to the individual. The NICS Section estimates 50 forms will need to be printed and mailed by the individual. The total cost burden to the individual would be  $50 \times 0.49 = \$24.50$  (Round up to \$25.00)

14. Estimated Annualized Costs to Federal Government:

Form Preparation Cost:	\$1,500.00
Form mailing Cost (0.49X50 forms)	\$ 25.00
Total annualized cost to the Federal Government:	\$1,525.00

Due to the Internet availability of the forms, the Federal Government annual cost burden decreased significantly from initial OMB approval. In 2009, the cost burden to the Federal Government was \$13,910.00. The costs included: form printing, mailing cost, and employee cost to prepare the form for distribution. The cost savings to the Federal Government is \$12,385.00.

15. Reasons for Change in Burden:

The estimated amounts of forms to be mailed to the FFLs has significantly reduced due to the forms' availability on the Internet. In addition, the cost to the Federal Government significantly reduced as a result of the downloadable form on the Internet. Also, CJIS NICS has experienced an increase in FFL participation which increased from 3,000 (in 2013) to 4,872 annual responses.

16. Plans for 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. Expiration Date Approval:

The NICS Section is requesting the OMB not to display an expiration date on either form. The NIS Section mails the forms to FFLs and to the state Points of Contact. Administratively, it would be extremely difficult to remove/replace all of the old forms when extensions are

received. In addition, some individuals may obtain copies of the form and want 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 the expiration date to be displayed. Another consideration is when FFLs review their files, they may see that their employees signed the Federal Firearms Licensee (FFL) Officer/Employee Acknowledgment of Responsibilities under the NICS form prior to the expiration date of the form. They may erroneously believe that their employees need to sign the form again and my duplicate efforts.

#### 18. Exceptions to the Certification Statement:

There are no exceptions to the certification statement.

#### Part B. Statistical Methods

The Federal Bureau of Investigation does not employ statistical methods in this information collection.