

DEPARTMENT OF JUSTICE  
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES  
INFORMATION COLLECTION REQUEST  
SUPPORTING STATEMENT  
OMB 1140-0060

**Firearms Disabilities for Nonimmigrant Aliens**

A. JUSTIFICATION

1. Necessity of Information Collection

On October 21, 1998, Public Law 105-277 (112 Stat. 2681), entitled Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, hereinafter referred to as "the Act", was enacted. The Act amended the Gun Control Act of 1968 (GCA), as 18 U.S.C. Chapter 44. One of the statutory provisions of the GCA prohibits, with certain exceptions, the transfer to and possession of firearms and ammunition by aliens in the United States in a nonimmigrant classification. Regulations implementing Public Law 104-277, were subsequently published on February 5, 2002.

Section 922(g)(5) of the GCA makes it unlawful for any person who is an alien illegally or unlawfully in the United States, to ship or transport any firearm or ammunition in interstate or foreign commerce, receive any firearm or ammunition that has been shipped or transported in interstate or foreign commerce, or possess any firearm or ammunition in or affecting commerce. Section 922(d)(5) also makes it unlawful for any person to sell or otherwise dispose of a firearm or ammunition, to any person knowing or having reasonable cause to believe that the recipient is an alien illegally or unlawfully in the United States. Sections 922(g)(5) and (d)(5) of the GCA were later amended to expand the list of persons who may not lawfully ship, transfer, possess, or receive firearms or ammunition to include, with certain exceptions, aliens admitted to the United States under a nonimmigrant visa, as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)).

As indicated, there are certain exceptions to the general rule. The prohibition does not apply if the nonimmigrant alien is: (A) Admitted to the United States for lawful hunting or sporting purposes, or is in possession of a hunting license or permit lawfully issued in the United States; (B) An official representative of a foreign government who is-

(1) Accredited to the United States Government or the Government's mission to an international organization having its headquarters in the United States; or (2) En route to or from another country to which that alien is accredited; (C) An official of a foreign government or a distinguished foreign visitor who has been so designated by

the Department of State; or (D) A foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

Sections 478.44 and 478.45 also require that any nonimmigrant alien admitted to the United States under a nonimmigrant visa, who applies for a Federal firearms license or renewal of a Federal firearms license, including a collector's license, using ATF Form 7/7CR, to provide documentation that he or she falls within an exception to, or has obtained a waiver of the nonimmigrant alien prohibition from the Attorney General. This documentation is necessary to ensure ATF does not issue a license to any nonimmigrant alien who is prohibited from possessing firearms and ammunition.

Section 478.120 requires any nonimmigrant aliens admitted to the United States under a nonimmigrant visa who completes ATF Form 6NIA, (Application/Permit for Temporary Importation of Firearms and Ammunition by Nonimmigrant Aliens), or Form 6, (Application and Permit for Importation of Firearms, Ammunition and Implements of War), to attach relevant documentation to either completed form, establishing that they qualify for exception to, or has obtained a waiver from the Attorney General from the nonimmigrant alien prohibition. This documentation is necessary to ensure ATF does not issue an import permit to any nonimmigrant alien who is prohibited from possessing firearms and ammunition. Nonimmigrant aliens who fall within an exception to, or have obtained a waiver from, the nonimmigrant alien prohibition must provide documentation to the United States Customs and Border Protection establishing the exception or waiver, before importing or bringing a firearm or ammunition in the United States. This is necessary to ensure prohibited nonimmigrant aliens do not import firearms or ammunition in the United States.

Finally, 478.124 reflects changes to the Firearms Transaction Record, ATF Form 4473, which ensures prohibited nonimmigrant aliens do not obtain firearms from a Federal firearms licensee ("FFL"). Specifically, every person must list their country of citizenship rather than just answering if they are a United States citizen. Moreover, any person who is not a United States citizen must include his or her INS-issued alien number or admission number on Form 4473. In addition, any nonimmigrant alien admitted to the United States under a nonimmigrant visa, must present documentation establishing an exception to, or waiver from, the nonimmigrant alien prohibition. Additionally, the FFL must make a note, and attach to the completed Form 4473, the relevant documentation establishing an exception or waiver. The following documentation or proof must be presented as proof of exception or waiver to prohibition:

- a valid hunting license/permit lawfully issued by the Federal Government, a State, or local government, or an Indian tribe federally recognized by the Bureau of Indian Affairs, which is valid and unexpired; or
- admitted to the United States for lawful hunting or sporting purposes; or
- an official representative of a foreign government who is accredited to the United States Government or the Government's mission to an international organization having its headquarters in the United States; or

- an official representative of a foreign government who is en route to or from another country to which that alien is accredited; or
- an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; or
- a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business; or
- a waiver from the Attorney General of the United States.

## 2. Needs and uses

The requested nonimmigrant alien information will be used to determine if a nonimmigrant alien admitted to the United States under a nonimmigrant visa is eligible to purchase, obtain, possess, or import a firearm. Documentation obtained from a nonimmigrant alien for verification purposes will be attached to the completed forms required to obtain a Federal firearms license (ATF Form 7/7CR), transfer a firearm (ATF Form 4473), or import a firearm or ammunition (ATF Form 6 and Form 6NIA). Nonimmigrant aliens must also maintain the documents while in possession of firearms or ammunition in the United States for verification purposes.

## 3. Use of Information Technology

This collections of information must be submitted along with a completed ATF Form 7/7CR, Form 6/ 6NIA, or Form 4473. Most of which can be filed electronically through the EForms platform or via email, or by regular snail mail.

§§ 478.44 and 478.45 require any nonimmigrant alien admitted to the United States under a nonimmigrant visa who applies for a Federal firearms license or renewal of a Federal firearms license, including a collector's license (ATF Form 7/7CR), to provide applicable documentation that he or she falls within an exception to, or has obtained a waiver from, the nonimmigrant alien prohibition.

§ 478.120, require any nonimmigrant alien admitted to the United States under a nonimmigrant visa who completes a Form 6NIA or Form 6, (or any licensee who completes a Form 6 to import firearms or ammunition for a nonimmigrant alien) to attach applicable documentation to the Form 6NIA or Form 6 establishing that the alien falls within an exception to, or has obtained a waiver from, the nonimmigrant alien prohibition. The regulations also require nonimmigrant aliens who fall within an exception to, or have obtained a waiver from, the nonimmigrant alien prohibition to provide documentation to the United States Customs and Border Protection establishing the exception or waiver before importing or bringing a firearm or ammunition in the United States.

§ 478.124 pertains to the Firearms Transaction Record, ATF Form 4473, which is used to ensure prohibited nonimmigrant alien do not obtain firearms from FFLs. Specifically, every person must record their country of citizenship rather than just answer if they are a United States citizen on Form 4473. Moreover, any person who

is not a United States citizen, must include his or her United States Customs and Border Protection or United States Citizenship and Immigration Services-issued alien number or admission number on the Form 4473, and must present documentation establishing an exception to, or waiver from, the nonimmigrant alien prohibition. The FFL must note on, and attach to the Form 4473, all documentation establishing an exception or waiver; which was previously mentioned.

4. Efforts to Identify Duplication

There is no duplication with respect to the information collection specific to the nonimmigrant alien purchasing a firearm or obtaining a license or importing.

5. Minimizing Burden on Small Businesses

This collection does not have any impact on small business.

6. Consequences of Not Conduction or less frequent Collection

The national security and the public's safety would be jeopardized if this information collection was not conducted or conducted less frequently. Nonimmigrant aliens could purchase, obtain, possess or import firearms, provided that they have presented the required documents confirming their eligibility to engage in these activities.

7. Special Circumstances

There are no special circumstances with regard to this information collection requirement conducted in a manner consistent with 5 CFR 1320.6.

8. Public Comments and Consultations

No public comments were received for the 60- Day Notice that was published in the Federal Register. However, one public comment received during the 30-Day notice period, received a response.

9. Provision of Payments or Gifts to Respondents

No payment or gift is associated with this collection.

10. Assurance of confidentiality

This information is used for law enforcement purposes only. Confidentiality is not assured.

11. Justification for Sensitive Questions

Records of sensitive nature are not required.

## 12. Estimate Respondents Burden

ATF estimates that approximately 1,434 nonimmigrant aliens will be directly affected each year. The vast majority of the burden hours will be associated with nonimmigrant aliens trying to obtain or renew a Federal firearms license (Forms 7/7CR), those trying to import firearms temporarily in the United States (Forms 6 and Form 6NIA), and those trying to acquire firearms from FFLs (Form 4473). The populations and hour burdens by form are estimated as follows:

- Form 7/7CR: 21 respondents annually will take 5 minutes (.0833333 hours) to respond 1 time for a total 1.75 burden hours.
- Form 6/6NIA: 631 respondents annually will take 3 minutes (.05 hours) to respond 1 time for a total 31.55 burden hours.<sup>1</sup>
- Form 4473: 782 respondents will take 5 minutes (.0833333 hours) to respond 1 time for a total 65.16 burden hours.

The total burden hours for this information collection request is calculated as follows:

- Each of the total 1,434 respondents to this information collection will take about .068 hours (4.08 minutes) to respond to this collection. Therefore, the total burden hours will be 98 hours.

## 13. Estimate of Cost Burden

The only cost to the respondent is associated with the nonimmigrant aliens who would need to qualify for an exception to the nonimmigrant alien prohibition by obtaining a hunting license/permit or waiver from the Attorney General for a nominal fee.

## 14. Costs to Federal Government

There is no Federal Government cost associated with this IC.

## 15. Reason for Change in Burden

The changes in burden including a decrease in the total number of respondents by 14,347 and the time taken for each response by 2 minutes, as well as a reduction in total burden hours by 1,489 respectively, is due to the change in methodology for deriving the population estimates, and the incremental time burden for completing this information collection.

## 16. Anticipated Publication Plan and Schedule

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<sup>1</sup> ATF received 7,887 requests for 6NIA and estimate that of those, approximately 8% are for non-resident aliens.

The results of this collection will not be published.

17. Display of Expiration Date

ATF does not request approval to not display the expiration date for OMB approval of this collection.

18. Exception to the Certification Statement

There are no exceptions to the certification statement.

**B. STATISTICAL METHODS**

This collection of information employs no statistical methods.

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