

This is the Supporting Statement for the reinstatement of the revised Voluntary Appeal File (VAF) Brochure, a previously approved collection, for which approval has expired. The addition of an alternative electronic online application process is included in this submission.

## **OMB Control # 1110-0043**

### Part A. Justification

#### 1. Necessity of Information:

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 revised Paperwork Reduction Act submission for the Voluntary Appeal File (VAF) Brochure and the online application process.

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 or the fingerprints are non-identical to a disqualifying record used in the evaluation, 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) 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.

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 or online application. A signature on the brochure or an electronic signature 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) 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 or via the online process. 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 or via the online process.

Requesting entry into the VAF is a voluntary act for an individual who wishes to be a part of this file. However, in order to process a VAF application, certain information has been identified as mandatory for the applicant to provide in order for a NICS query to be conducted. This query encompasses a search of available records in the National Crime Information Center (NCIC), the Interstate Identification Index (III), the NICS Indices, and, for a non-US citizen, the information systems maintained by the U.S. Immigration and Customs Enforcement (ICE) in the Department of Homeland Security. These mandatory fields include: Last Name, First Name, State of Residence, Date of Birth, Place of Birth, Sex, Race, Ethnicity, Country of Citizenship, and Alien Registration Number (ARN), if the Country of Citizenship is other than the United States.

Country of citizenship is requested because 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 are persons who have renounced their citizenship. There are also some classes of nonimmigrants who are prohibited from purchasing firearms. An ARN or I-94 number is mandatorily requested to simplify the process of obtaining status from the ICE.

Middle Name, Cadence, Social Security Number (SSN), Height, Weight, Eyes, Hair, and Miscellaneous Numbers (Military Identification, Driver's License) are optional identifiers requested from the applicant to aid the NICS to narrow potential matches.

An SSN is optionally requested to keep records accurate because other people may have the same name and date of birth. The SSN will be used to verify identity and is not required to be provided, and failure to provide an SSN will not result in a denial of a VAF application. However, failure to provide an SSN may result in an increased processing time for a VAF application or may necessitate requests for additional information to verify identity.

The mailing address has been deemed mandatory for the purpose of mailing a response to the applicant. The telephone number, optional, is requested in the event that the response is returned to the NICS by the United States Postal Service, which would necessitate an alternate means of contacting the applicant for an updated address.

The brochure contains an applicant's statement that requires a signature. If the required signature is absent, the application cannot be processed and will be returned to the applicant as insufficient. The online version requires an electronic signature. This statement affirms the individual is providing their information voluntarily with the understanding that if their

application is successful, they will be entered into the VAF. If at any time they wish to be removed from the VAF, they can make a request in writing to the NICS Section to be removed. They also are made aware that if the NICS Section discovers a disqualifying record after their entry into the VAF, the NICS Section may remove their information from the file.

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 making the application. The NICS Section also cannot provide the person a copy of an FBI record or correspond with an applicant regarding the specifics of their case without proof of positive identification.

## 2. Needs and Uses:

Title 28 C.F.R.10(g) 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, explosives, or associated permits 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 III, the NICS Indices, and databases of the ICE (if applicable) 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. If 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.

During the processing of a VAF application and for as long thereafter as the information is retained in the VAF, the applicant's information may be disclosed pursuant to their consent, and may be disclosed without their consent as permitted by 28 C.F.R. Part 25, and applicable routine uses as set forth in the System of Records Notice for the NICS, DOJ/FBI-018, 63 Federal Register (F.R.) 65223 (Nov. 25, 1998), as amended at 65 F.R. 78190 (Dec. 14, 2000), 66 F.R. 6676 (Jan. 22, 2001), 66 F.R. 8425 (Jan. 31, 2001), 66 F.R. 12959 (Mar. 1, 2001), and 82 F.R. 24147 (May 25, 2017). Routine uses include, but are not limited to, disclosures to local, state, tribal, territorial criminal justice agencies to determine whether transferring a firearm, explosive, or related permit to the applicant is prohibited by state or federal law or whether to grant or deny an appeal from a NICS transaction; and to courts or adjudicative bodies for the purposes of resolving litigation or anticipated litigation.

### 3. Use of Technology:

A VAF online process will enhance the existing VAF application process and facilitate new and/or enhanced capabilities, while maintaining support for individuals transitioning from the paper-based process.

Temporarily Existing Paper-based: A VAF application and fingerprint form will temporarily continue to be obtained online at <https://www.fbi.gov/services/cjis/nics/national-instant-criminal-background-check-system-nics-appeals-vaf>, by e-mailing a request to <nics@fbi.gov>, or by mailing a request to the: Federal Bureau of Investigation, Criminal Justice Information Services Division, National Instant Criminal Background Check System Section, Voluntary Appeal File, Post Office Box 4278, Clarksburg, WV 26302-4278. Completed applications will be received by the NICS Section at the mailing address above.

Online Process: The VAF online process will be an outward-facing Web page that will allow the VAF applicant to establish a self-service account. The applicant will obtain a link on <https://www.edo.cjis.gov/#/> or <https://www.fbi.gov/services/cjis/nics/national-instant-criminal-background-check-system-nics-appeals-vaf> to electronically submit a VAF application securely online using the same fields as included in the hard copy brochure. Additionally, the applicant will have the ability to submit attachments and a fingerprint card using any device with a capable Web browser (e.g., personal computer, laptop, tablet, or smartphone) and an Internet connection. An electronic signature will be accepted with a check box stating, "I acknowledge that I have read and understood the contents of this form."

### 4. Efforts to Identify Duplication:

This is the only means for entry into the VAF per the regulation. No other agency would be offering this service and no other method would be accepted.

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

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 Less Frequent Collection:

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 Influencing Collection:

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, explosives or associated permits conducted through the Brady Act and the regulations promulgated thereunder. There is no information collection in connection with a statistical survey.

8. Public Comments and Consultations:

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

9. Payment of Gift to Claimants:

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, explosives, and associated permits 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. Estimate of Hour Burden:

Number of respondents	4,000
Frequency of response	Normally once
Total annual responses	4,000
Minutes per response	30 minutes
Annual hour burden	2,000

It is estimated the time it takes to read, complete, and upload documents is 30 minutes. Travel time to the fingerprinting facility and post office is not factored in the time estimate. The NICS Section estimates 4,000 respondents yearly. This is open to anyone who may be experiencing erroneous denials/extended delays. Upon request, the NICS Section will send copies of the

brochure to the FFLs, state points of contact (POC), partial-state POCs, individuals and will keep reserve copies on hand. Also, individuals can download the form from the NICS website. With 4,000 applicants responding, the formula for applicant burden hours would be as follows: (4,000 respondents x .5 hours) = 2,000 hours.

13. Estimate of Cost Burden:

Respondents will not incur any capital, start up, or system maintenance costs associated with this information collection. The individual can complete the process online or by mail. They may download a copy online or request the NICS Section mail a brochure to them. The applicant will be burdened with a one-time fee of \$20 (average cost) to have their fingerprints rolled. The brochures will be sent by the NICS Section to individuals through customer service inquiries. The amount of brochures the NICS Section will send out is based on the number of VAF inquiries the NICS Section receives. With 4,000 respondents fingerprinted at the average cost of \$20, the total cost burden would be: 4,000 respondents x \$20.00 (the average cost of fingerprints) = \$80,000 cost burden to public.

14. Estimated Annualized Costs to Federal Government:

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 or complete the process online.

The cost of a small quantity of this brochure, envelopes, fingerprint cards, and postage to the federal government has been greatly reduced. Applicants and FFLs are referred to the NICS website to download copies of the form. A small amount of brochures are kept on hand in the event an applicant does not have Internet access and requests a copy to be sent by mail.

The costs include:

<p><b>Brochure and Fingerprint Card Copy Cost</b></p> <p>1,500 brochure copies x 0.08¢ = \$120.00            1,500 fingerprint cards x 0.20¢ = \$300.00</p>	<p><b>Total Copy Cost</b></p> <p><b>\$420.00</b></p>
<p><b>Envelope Cost</b></p> <p>1,500 outer envelope and return envelope x 2 = 3,000            3,000 x 0.12¢ = \$360.00</p>	<p><b>Total Envelope Cost</b></p> <p><b>\$360.00</b></p>
<p><b>Postage Cost</b></p> <p>1.00¢ outgoing postage x 1,500 = \$1,500            1.00¢ postage for business reply envelope x 1,500 = \$1500</p>	<p><b>Total Postage Cost</b></p> <p><b>\$3,000</b></p>
<p><b>Total Estimates of Annualized Cost to the Federal</b></p>	<p><b>\$3,780.00</b></p>

<b>Government</b>	
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15. Reasons for Change in Burden: Cost to the government has significantly decreased due to the ability to refer applicants to the NICS website to obtain copies of the brochure online. The addition of an online process will decrease the time burden and financial burden on the applicants.

16. Plans for 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. Expiration Date Approval:

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.

#### Part B. Statistical Methods

This collection of information does not employ statistical methods.

## Paperwork Certifications

In submitting this request for the 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, C.F.R. 1320.



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**Robin A. Stark-Nutter**  
NICS Section Chief



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**Date**