

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

The Gun Control Act of 1968 (GCA), 18 U.S.C. §§ 921-931, prohibits, with certain exceptions, the transfer to and possession of firearms and ammunition by nonimmigrant aliens in the United States. Section 922(d)(5) 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. 18 U.S.C. § 922(d)(5). Section 922(g)(5) 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. 18 U.S.C. § 922(g)(5). These sections 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: i. accredited to the United States Government or the Government's mission to an international organization having its headquarters in the United States; or ii. 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 of the GCA implementing regulations require that any nonimmigrant alien admitted to the United States under a nonimmigrant visa, who applies for a Federal firearms license (FFL) or an FFL renewal, including a

collector's license, using the Application for Federal Firearms License (ATF Form 7/7CR) and Separate Part B (Responsible Person Questionnaire), provide documentation that he or she qualifies for an exception to or has obtained a waiver of the nonimmigrant alien prohibition from the United States Attorney General. This documentation ensures ATF does not issue a license to any nonimmigrant alien who is prohibited from possessing firearms and ammunition.

Section 478.120 requires any nonimmigrant alien admitted to the United States under a nonimmigrant visa who completes the Application/Permit for Temporary Importation of Firearms and Ammunition by Nonimmigrant Aliens (ATF Form 6NIA) or the Application and Permit for Importation of Firearms, Ammunition and Defense Articles (ATF Form 6), to attach relevant documentation to either completed form that establishes he or she qualifies for an exception to or has obtained a waiver from the Attorney General from the nonimmigrant alien prohibition. This documentation ensures 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 into the United States. This ensures prohibited nonimmigrant aliens do not import firearms or ammunition into the United States.

Finally, Section 478.124 identifies the information required to be entered on the Firearms Transaction Record (ATF Form 4473), which ensures prohibited nonimmigrant aliens do not obtain firearms from a Federal firearms licensee. Specifically, every person must list other country(ies) of citizenship rather than merely answering whether they are a United States citizen. Moreover, any person who is not a United States citizen must include on the ATF Form 4473 his or her alien number or admission number as assigned by the United States Department of Homeland Security. 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 Federal firearms licensee must make a note of and attach to the completed ATF Form 4473 all relevant documentation establishing an exception or waiver. The following documentation 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;
- Proof of admission to the United States for lawful hunting or sporting purposes;
- Proof of status as 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;
- Proof of status as an official representative of a foreign government, who is en route to or from another country, to which that alien is accredited;
- Proof of status as an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State;

- Proof of status as 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 must be attached to the completed forms required to obtain an FFL (ATF Form 7/7CR), transfer a firearm (ATF Form 4473), or import a firearm or ammunition (ATF Form 6 or Form 6NIA). Nonimmigrant aliens must also maintain these documents for verification purposes while in possession of firearms or ammunition in the United States.

3. Use of Information Technology

This information collection (IC) must be submitted along with a completed ATF Form 7/7CR, Form 6, Form 6NIA, or Form 4473. ATF Form 7/7CR must be filed by regular mail. ATF Form 6 can be filed electronically through ATF's eForms platform. ATF Form 6NIA can be filed via fax, email, or by regular mail. ATF Form 4473, other than as authorized pursuant to 18 U.S.C. § 922(c), must be completed in person at a Federal firearms licensee's business premises, by hand on a paper form or via an electronic ATF Form 4473 on the licensee's computerized system.

Sections 478.44 and 478.45 require any nonimmigrant alien admitted to the United States under a nonimmigrant visa who applies for a FFL or an FFL renewal, 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.

Section 478.120, requires any nonimmigrant alien admitted to the United States under a nonimmigrant visa who completes an ATF Form 6NIA or Form 6, or any licensee who completes ATF Form 6 to import firearms or ammunition for a nonimmigrant alien, to attach applicable documentation to the completed forms confirming that he or she 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 into the United States.

Section 478.124 pertains to the Firearms Transaction Record (ATF Form 4473), which is used to ensure prohibited nonimmigrant aliens do not obtain firearms from Federal firearms licensees. Specifically, every person must record all country(ies) of citizenship, even if that person is a United States citizen. Moreover, a non-United

States citizen must include their alien number or admission number on ATF Form 4473 and attach documentation establishing an exception to or waiver from the nonimmigrant alien prohibition.

4. Efforts to Identify Duplication

There is no duplication with this IC, which requires the nonimmigrant alien to provide proof that he or she is allowed to purchase a firearm, obtain a firearm's license, or import a firearm.

5. Minimizing Burden on Small Businesses

This IC does not impact small businesses.

6. Consequences of Not Conducting or less frequent Collection

National security and public safety in the United States would be jeopardized if this IC were not conducted or conducted less frequently. Nonimmigrant aliens can purchase, obtain, possess or import firearms, provided that they present the required documents confirming their eligibility to engage in these activities.

7. Special Circumstances

There are no special circumstances associated with this IC requirement, which is conducted in a manner consistent with 5 CFR § 1320.6.

8. Public Comments and Consultations

A non-substantive comment was received during the 60-day Federal Register (FR) notice period. A 30-day FR notice will be published momentarily to solicit public comments.

9. Provision of Payments or Gifts to Respondents

No payment or gift is associated with this IC.

10. Assurance of confidentiality

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

11. Justification for Sensitive Questions

Records of a sensitive nature are not required.

12. Estimate of Respondent's Burden

- ATF estimates that approximately 1,970 nonimmigrant aliens will be directly affected by this IC once each year. The majority of the burden hours will be associated with nonimmigrant aliens trying to obtain or renew an FFL (Forms 7/7CR), those trying to import firearms temporarily into the United States (Forms 6 and Form 6NIA), and those trying to acquire firearms from Federal firearms licensees (Form 4473). The total public impact by form is estimated as follows: Form 7/7CR: 23 respondents annually will take 5 minutes (.0833333 hours) to respond 1 time for a total 1.92 burden hours.
- Form 6/6NIA: 706 respondents annually will take 3 minutes (.05 hours) to respond 1 time for a total 35.3 burden hours.¹
- Form 4473: 1,241 respondents will take 5 minutes (.0833333 hours) to respond 1 time for a total 103.42 burden hours.²

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

- Each of the total 1,970 respondents to this IC will take about .068 hours (4.08 minutes) to respond to this collection. Therefore, the total burden hours will be 133.96 or 134 hours.

13. Estimate of Cost Burden

There is no public cost associated with this IC.

14. Costs to Federal Government

There is no Federal Government cost associated with this IC.

15. Reason for Change in Burden

The increase in the total responses and burden hours, by 536, and 36 hours respectively, since the last renewal of this IC in 2018, is due to more nonimmigrant aliens applying to obtain and renew FFLs.

16. Anticipated Publication Plan and Schedule

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 Office of Management and Budget approval of this collection.

¹ ATF received 3,532 requests for 6NIA and estimate that of those, approximately 20% are for aliens admitted to the United States under a nonimmigrant visa.

² The Federal Bureau of Investigation NICS ([National Instant Criminal Background Check System](#)) Section conducted 1,551 NICS checks on aliens from February 15, 2021 through May 14, 2021, which ATF extrapolated to 6,204 annually. Of those, ATF estimates 20% are for aliens admitted to the United States under a nonimmigrant visa.

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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