

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. Explain the circumstances that make the information collection necessary.

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. Generally, "nonimmigrant aliens" are tourists, students, business travelers, and temporary workers who enter the U.S. for fixed periods of time; they are lawfully admitted aliens who are not lawful permanent residents. 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 27 CFR 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), must 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 27 CFR 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, 27 CFR 478.124 identifies the information a person is required to enter on the Firearms Transaction Record (ATF Form 4473), which ensures prohibited nonimmigrant aliens do not obtain firearms from an FFL. 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 FFL 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. Indicate how, by whom, and for what purpose the information is to be used.

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 copies of the additional documentation for verification purposes while in possession of firearms or ammunition in the United States.

3. Describe whether, and to what extent, the information collection involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.

This information collection covers the additional documentation nonimmigrant alien respondents must provide when submitting an ATF Form 7/7CR, Form 6, Form 6NIA, or Form 4473. The additional documentation is outlined above. The forms themselves are covered under another ICR that applies to all respondents using those forms, not just nonimmigrant aliens. Three of these four forms may currently be submitted electronically, along with the necessary additional documentation: ATF Form 6 can be filed electronically through ATF's eForms platform, and ATF Form 6NIA can be filed via email, fax, 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 an FFL's business premises, although it may be completed electronically via an electronic ATF Form 4473 on the FFL's computerized system, or by hand on a paper form. The fourth form, ATF Form 7/7CR, must be filed by regular mail. ATF is working toward making other forms available for submission through ATF's eForms platform. However, ATF Form 4473 (and the additional documentation covered by this ICR) will still have to be completed in person at an FFL due to identification verification requirements.

4. Describe efforts to identify duplication.

There is no duplication of this information, 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. If the information collection impacts small businesses or other small entities, describe any methods used to minimize burden.

This information collection does not impact small businesses.

6. Describe the consequence to federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

National security and public safety in the United States would be jeopardized if this information collection were not conducted or was conducted less frequently. In addition, people visiting this country for certain sporting or hunting purposes would be unable to engage in those activities, and similar impacts on other nonimmigrant aliens lawfully in the country. 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. Explain any special circumstances that would cause an information collection to be conducted in a manner inconsistent with 5 CFR 1320.6.

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

8. If applicable, provide a copy and identify the date and page number of publication in the *Federal Register* of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments.

The 60-Day Notice was published in the Federal Register on [DATE] (XX FR XXXXX). The comment period ended on [DATE]. A non-substantive comment was received during the 60-day Federal Register (FR) notice period, requiring no response or change to the information collection.

9. Explain any decision to provide any payments or gifts to respondents, other than remuneration of contractors or grantees.

No payment or gift is associated with this information collection.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

This information collection is used for law enforcement purposes only. ATF has not assured respondents of confidentiality. However, the information being collected includes PII and is thus protected by the Privacy Act. The information is maintained by ATF in system of records ATF-008, Regulatory Enforcement Record System. The forms that accompany the additional documentation covered by this ICR include privacy act statements that cover this information as well, which is how the respondents are notified.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private

This information collection does not require records of a sensitive nature.

12. Provide estimates of the hour burden of the information collection.

ATF estimates that approximately 2,531 nonimmigrant aliens will be directly affected by this information collection once each year. The hourly burden is for the time it takes them to submit additional documents with the listed form, to overcome the nonimmigrant ‘disability’ – it does not include the time to fill out the standard ATF forms listed, which all applicants fill out (the hourly burden and costs for those forms are already in other approved ICRs). The total public impact of the additional documentation to submit with each form is estimated as follows:

- o ATF Form 7/7CR: 22 respondents annually will take 5 minutes (.0833333 hours) to respond one time for a total 2 burden hours.
- o ATF Forms 6/6NIA: 1,311 respondents annually will take 3 minutes (.05 hours) to respond one time for a total 66 burden hours.¹
- o ATF Form 4473: 1,198 respondents will take 5 minutes (.0833333 hours) to respond one time for a total 100 burden hours.²

Based on the Health and Human Services methodology, ATF estimates a leisure wage rate for nonimmigrant aliens submitting additional documents to accompany the above forms. Table 1 provides the sources to derive a leisure wage. The leisure wage rate is \$23 an hour (rounded).

¹ ATF received 6,556 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 1,497 NICS checks on aliens from May 30, 2023, through August 26, 2024, which ATF extrapolated to 5,988 annually. Of those, ATF estimates 20% are for aliens admitted to the United States under a nonimmigrant visa.

Table 1. Inputs and Sources to Derive the Leisure Wage Rate

Inputs for leisure wage rate	Numerical inputs	Source
Median weekly wage	\$1,085	News Release, BLS, <i>Usual Weekly Earnings for Wage and Salary Workers – Fourth Quarter 2022</i> (Jan. 19, 2023), https://www.bls.gov/news.release/archives/wkyeng_01192023.pdf
Median hourly wage	\$27	Median Weekly Wage / 40 hours per week
Real median household income pre-tax	\$74,580	U.S. Census Bureau, <i>Median Household Income After Taxes Fell 8.8% in 2022</i> (Sept. 12, 2023), https://www.census.gov/library/stories/2023/09/median-household-income.html
Real median household income post-tax	\$64,240	U.S. Census Bureau, <i>Median Household Income After Taxes Fell 8.8% in 2022</i> (Sept. 12, 2023), https://www.census.gov/library/stories/2023/09/median-household-income.html
State and Federal taxation	14 percent	$\$64,240$ post-tax median income / $\$74,580$ pre-tax median income = 86 percent; 14 percent State and Federal Taxes = 100 percent - 86 percent
Leisure wage	\$23.36	$\$23.36$ Post-tax median wage = $\$27$ Median hourly wage * (100 percent - 14 percent State and Federal Taxes)
Rounded leisure wage rate	\$23.00 ³ (rounded)	

The leisure wage rate for this information collection is \$23 per hour, rounded. Table 2 provides the number of respondents, annual number of responses, hourly burden, and monetized value of respondent time.

³ $\$23.00$ (rounded) = $(\$27 \text{ hourly wage} / \$74,580 \text{ real median household income pre-tax}) * \$64,240 \text{ real median household income post-tax}$.

Table 2. Number of Respondents, Number of Responses, Hourly Burden, and Monetized Value of Time for Respondents.

Activity	Number of respondents	Frequency	Total annual responses	Time per response	Total annual burden (hours)	Hourly rate*	Monetized value of respondent time
Additional documents with 7/7CR	22	1	22	0.0833 hours	2 hours	\$23	\$46
Additional documents with 6/6NIA	1,311	1	1,311	0.05 hours	66 hours	\$23	\$1,518
Additional documents with 4474	1,198	1	1,198	0.0833 hours	100 hours	\$23	\$2,300
<i>Unduplicated totals</i>	<i>2,531</i>	<i>1</i>	<i>2,531</i>		<i>168</i>	\$23	<i>\$3,864</i>

The hourly time cost of this information collection is \$3,864 (rounded).

13. Provide an estimate of the total annual cost burden to respondents or record-keepers resulting from the information collection. (Do not include the cost of any hour burden shown in Items 12 and 14).

There is no additional public cost associated with this information collection.

14. Provide estimates of the annualized cost to the Federal Government.

The government does not incur an additional cost associated with this information collection. Federal costs for processing with the various forms are already included in the information collections pertaining to the forms themselves. This collection pertains to additional information submitted with the primary forms that does not materially affect the government’s processing time or costs.

15. Explain the reasons for any program changes or adjustments.

This ICR includes an increase in costs since the last renewal in 2021. The estimated number of respondents has increased, as have the estimated burden hours, by 561 respondents and 38 hours respectively. This change is due to an increase in the annual number of respondents submitting ATF Form 6NIA applications over the past three years. This increase in respondents, combined with monetizing the hourly burden, has increased the overall cost of this ICR by \$3,864. The previous ICR did not include the monetized cost of the hour burden, which is the only cost.

16. For information collections whose results will be published, outline plans for tabulations, and publication.

The results of this collection will not be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

ATF intends to display the OMB expiration date for this information collection.

18. Explain each exception to the certification statement.

There are no exceptions to the certification statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS.

This information collection employs no statistical methods.