

# ONTARIO FEDERATION OF ANGLERS & HUNTERS



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SUBJECT: Canada Gazette, Part I, Volume 155, Number 26: *Regulations Amending Certain Regulations Made Under the Firearms Act*, June 26, 2021

The Ontario Federation of Anglers and Hunters (OFAH) is Ontario's largest, non-profit, fish and wildlife conservation-based organization, representing 100,000 members, subscribers, and supporters, and 725 member clubs. We have reviewed the Regulatory Impact Analysis Statement (RIAS) for the proposed *Regulations Amending Certain Regulations Made Under the Firearms Act* and offer the following comments for consideration.

## General Comments

We have previously submitted briefs to the House of Commons Standing Committee on Public Safety and National Security and the Standing Senate Committee on National Security and Defence. Despite our continued involvement, we have several outstanding questions and concerns about former Bill C-71 and subsequent regulatory amendments.

It is important to remember that licensed firearms owners care about public safety as much as other Canadians. Long-term trends show overall firearms-related crime is on the decline. Regardless of the statistics though, no Canadian should deny there is a need to reduce gun violence. It's not about the 'if,' it's about the 'how.' The responsible firearms community is not against firearms legislation, or even reasonable enhancements to what exists now. However, they are not willing to accept the burden of further restrictions that have minimal potential to enhance public safety, as evidenced by our vehement opposition to the previous long-gun registry.

There is a common misconception that there isn't enough scrutiny on who can obtain and keep a firearms licence in Canada. Firearms owners are already one of the most vetted segments of Canada's population. New applicants undergo a rigorous screening process, and between 2014 and 2019, 4,854 applications were refused.

In addition, existing firearms owners undergo "continuous eligibility" screening to verify there has been no criminal activity since acquiring their licence. Between 2014 and 2019, 15,822 licences were revoked. Refusals and revocations occur for many reasons, including court-order prohibitions/probation, domestic violence, mental health, potential risk to self and others, and violent behaviour. In 2019, there were just over 474,413 individuals prohibited from possessing firearms.

Our response to the proposal is neither partisan nor emotional. It was not pre-determined on principle. It was only after a thorough critical analysis that we arrived at the conclusion for almost every proposal – it will not enhance public safety. The evidence simply doesn't support it.

As written, the proposal: (1) fails to demonstrate that alternative regulatory and non-regulatory options were considered; (2) fails to demonstrate that the benefits of the proposed option outweigh the costs to businesses, individuals, and government; (3) fails to provide robust and defensible support for the assumptions outlined in the cost/benefit analysis; (4) fails to demonstrate how the proposed amendments will help achieve the stated goal of increasing the number of successful traces of crime guns; and (5) potentially creates a decentralized registry of a subset of non-restricted firearms. To be clear, we are opposed to the creation of another registry.

Licence Verification

The OFAH supports the intent of licence verification in principle, as it protects the seller and ensures a legal transaction, but specific support for the proposed change is dependent on having a user-friendly and timely process that won't saddle law-abiding firearms owners with any significant delay or impose significant financial costs on businesses or government. In addition, we remain concerned about how the proposed reference number system would be used and how much it will cost to administer, not to mention there has been no evidence presented to directly link issues (e.g., illegal firearms sales) with the current process. We have yet to see evidence that clearly shows any issues under the current process or that the proposed reference number database could effectively assist police.

The proposed amendments will clearly result in an increased financial burden on businesses and increase the wait time to transfer a firearm, both of which are underestimated in our opinion.

- **Will new licence verification requirements result in long lines at gun retailers as sales representatives wait on hold to reach the Registrar? What data supports the estimated 3-minute verification process? Does the estimate include business staff time or is it limited to the time required of the Registrar?**
- **Will the online portal be limited to businesses, or will it also be accessible to individuals?**
- **Will the Registrar be staffed to match business hours across all Canadian time zones?**
- **How will non-restricted firearms be purchased or transferred outside of the Registrar's business hours (i.e., private sales)?**
- **Will staffing capacity be increased at the call centre to accommodate the dramatic increase in volume (from the baseline scenario of 7,258 to an estimated 326,590 verifications per year)?**
- **If verification is denied, will the transferee be provided with a specific reason and/or information on how to follow up?**
- **Will there be an accessible, timely, and effective appeal system in place?**
- **Has the government considered how the proposed amendments would impact special events (e.g., fundraising events selling/raffling firearms) that will be challenged to conform with the new process? These special events often occur late in the evening and transfer is not necessarily between two individual licence holders. If so, please explain how these special events will be accommodated under the new licence verification process.**

The RIAS states that voluntary licence verification requests are “likely rare” because it represents extra effort. However, this ignores the existing laws and severe consequences that require vendors to do their due diligence to ensure that a buyer is legally permitted to possess a particular firearm (e.g., Section 23 of the Firearms Act). As such, we strongly disagree with the characterization. This alters the perceived benefit of the proposed amendments by downplaying the number of voluntary verifications that are already occurring and is a baseless negative characterization of firearms retailers.

Noticeably absent from the RIAS are statistics describing the number of non-restricted guns that end up as crime guns in Canada. As the sole purpose of this proposal is to increase the traceability of non-restricted firearms that become crime guns, we would have expected significantly more supporting information. Without statistics on the number of illegally obtained non-restricted firearms and how they were obtained, it is impossible to weigh the costs of the new regulations against the anticipated benefit.

- **How many non-restricted firearms are transferred to individuals who are not eligible to possess them?**
- **Is straw purchasing an issue for non-restricted firearms in Canada?**
- **What is the source of those firearms (fraud, theft, trafficking/smuggling, etc.)?**
- **How many non-restricted firearms end up as crime guns?**

The answers to these questions are fundamental to assessing whether the proposed actions will have any meaningful impact on public safety.

Business Record Keeping

The OFAH is not opposed to mandatory retailer record keeping, since record keeping is something many firearm businesses already perform as a best practice. However, many firearms owners are justifiably concerned about the safety and privacy of their personal information, as well as how records will be accessed by law enforcement agencies.

If the government adopts these amendments, there must be a clear and comprehensive process for retailer record-keeping that includes:

- **Strict criteria for safekeeping of records** to ensure the privacy and security of personal information.
- **Strict guidelines for police access to records** to ensure they are **ONLY** able to obtain the records associated with specific criminal investigations obtained through a judicial authorization (i.e., no police ‘fishing expeditions’ through the records).
- **Mandatory destruction of records** after 20 years by businesses and the Registrar.

This aspect of the proposal – the process of tracing a crime gun – is strictly reactive. Logically, a crime must have been committed in order to initiate the inspection of business records. In our opinion, the proposed record-keeping requirements would be ineffective for the stated goal of tracing firearms by law enforcement agencies because the agency (in most cases) would have no way of narrowing down which business supplied the firearm.

- **Because all of this information will be decentralized (as it should be), how will a law enforcement agency and/or the Canadian National Firearms Tracing Centre (CNFTC) know where to request records from? Please outline the process that would be followed to trace a crime gun and demonstrate how these amendments will facilitate it.**

The RIAS states that only 18% of non-restricted firearms traces were successful between 2018 and 2020, compared to 51% of restricted or prohibited firearms.

- **What are the absolute numbers used to calculate these percentages?** This would aid in evaluating the effectiveness of the amendments should they be implemented as proposed. Percentages can be misleading and, for gun crimes specifically, absolute numbers are crucial to assessing the magnitude of the problem and the need for a solution.

If these amendments are adopted, the government and/or law enforcement agencies could feasibly require businesses to turn over their records periodically under the authority of the Act and its regulations, which could then be used to create a registry of non-restricted firearms that have been transferred for any purpose. While this would not replicate the costly and ill-fated long gun registry, it could create a similar, decentralized registry of a subset of firearms. As noted above, **the government must impose strict rules on access to and use of this information by law enforcement agencies to prevent abuse of the system.**

Instrument Choice

The first line of this section states that the “majority of firearms licence holders use non-restricted firearms legally for hunting, sport shooting or for collection purposes.” Clearly, the Government of Canada recognizes the importance of hunters as a stakeholder group. As such, we question the decision to exclude hunting organizations in early discussions with Public Safety Canada? The National Fishing and Hunting Collaborative (<https://www.ofah.org/nfhc/>) is made up of conservation organizations from across Canada that collectively represent 375,000 Canadians, many of whom will be directly impacted by these amendments. We strongly recommend the government of Canada consult the expertise of this group in the future.

The *Canadian Cost-Benefit Analysis Guide* states that “all regulatory departments and agencies are expected to show that the recommended option maximizes the net economic, environmental, and social benefits to Canadians, business, and government over time more than any other type of regulatory or non-regulatory action.” There is no evidence that the government considered other instruments or options.

- **Did the government consider any alternative regulatory or non-regulatory options to achieve the stated objective of increasing the number of successful traces of crime guns?**

Benefits and Costs

The government of Canada has a fiduciary obligation to use taxpayer dollars wisely to tackle issues of national public interest. Canadians deserve to know the anticipated benefit and cost of any government legislation.

Cost-benefit analysis is an important tool to help the public understand the value of any and all government proposals. Unfortunately, the cost-benefit analysis/cost effectiveness outlined in the RIAS relies on unsupported assumptions and estimates. For example, the analysis “presumes that only 1% of transfers of NR firearms seek licence verification upon the transaction.” We would argue that 1% is a ridiculously low estimate given the legal requirement for firearm businesses and individuals to do their due diligence to ensure the buyer is legally permitted to possess the firearm. Certainly, any firearms business would want to protect themselves from punitive measures based on existing legal requirements. While we recognize that the quantification of societal benefits is extremely difficult for a regulatory proposal like this, they are vital to an informed evaluation of the proposal’s merits.

- **What is the source of the information used to derive the Record Keeping Costs for 2,578 firearm businesses?**
- **What is society’s willingness-to-pay for an increase of a single successful trace?**
- **How will the cost to government be recuperated, or will they be passed down to the consumer in some way?**

Please explain the process that a law enforcement agency would follow to trace a crime gun under this new system.

- **What is the expectation of success?**
- **How much of an increase is required to offset the significant costs of these new requirements on government and businesses?** An increase in the percentage of successful traces or the absolute number of successful traces? As the absolute numbers of successful and attempted traces haven’t been included in the RIAS, the public cannot evaluate the success or failure of any regulatory changes.
- **If we were to attempt to translate the benefit of a single successful trace of a crime gun into a common unit (dollars), what would it be?** There is no effective way to evaluate the results of the government’s cost/benefit analysis because they are in different units (cost in dollars and benefit in successful traces, for which there is no dollar value presented).

Federal departments are required to include certain information in Regulatory Impact Analysis Statements, including the results of a sensitivity analysis. Given the frail assumptions on which all the estimates are based, the sensitivity analysis likely would have revealed that even slight changes to certain metrics or parameters would result in dramatic swings in total estimated costs. For example, a seemingly small increase in the amount of time required for licence verification would have significantly increase the estimated overall cost of the Regulatory Scenario.

- **Was a sensitivity analysis conducted on the cost estimates? If so, what were the results?**

Compliance and Enforcement

The existing penalties for violating Sections 99 or 110 (and many others) of the Criminal Code are significant, which necessitates a very clear and easy process for businesses and individuals to follow.

- **Is compliance monitoring of businesses expected to increase as a result of these new record-keeping requirements?**
- **Will the government be creating new offences, fines, or penalties for non-compliance with the new record-keeping requirements?**

Conclusion

We applaud the government’s financial commitment to combat gangs and gun violence. Thousands of illegal firearms are entering Canada and we need to optimize our resources to keep those illegal firearms out of the country.

While the OFAH isn't against the principles of licence verification and business record keeping, we remain unconvinced that the benefits of the proposed regulatory amendments outweigh the costs or that they will help achieve the stated objective. We need look no further than the former long gun registry to see how quickly the costs of maintaining records can escalate to cost Canadian taxpayers millions or even billions of dollars. Unnecessary expensive red-tape cannot happen again simply for the sake of appearing to do something related to firearms – any regulatory change must have real added value for public safety. As such, our opposition to the creation of a registry, decentralized or otherwise, remains firm.

Thank you for considering our comments. We look forward to future discussions about firearms policy.

Yours in Conservation,

A handwritten signature in blue ink, appearing to read "Mark Ryckman". The signature is fluid and cursive, written over a light blue rectangular background.

Mark Ryckman  
Manager of Policy

MR/jb

cc: OFAH Board of Directors  
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