

**PENNSYLVANIA STATE POLICE
APPLICATION/RECORD OF SALE**

**STATE POLICE USE
ONLY**

<p>A INSTRUCTIONS</p> <p>1. TRANSFEREE/PURCHASER ----- COMPLETE SECTION B AT TIME OF APPLICATION. LICENSEE----- COMPLETE SECTION C AT TIME OF SALE OR TRANSFER. TRANSFEROR/SELLER----- COMPLETE BLOCKS 1, 3, AND 4, AND SECTIONS D AND E. (FOR PRIVATE SALES) COMPLETE SECTION F.</p> <p>NOTE: FORM MUST BE COMPLETED IN ITS ENTIRETY BY TYPING OR PRINTING IN BLUE OR BLACK INK</p> <p align="center">TRANSACTION SUBJECT TO SALES TAX <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p><i>Please explain in Section F if you selected "NO" for subject to sales tax.</i></p>	<p>2. TRANSACTION SERIAL NO. V0887D699</p> <p>3. STATE IDENTIFICATION NO.</p> <p>4. APPROVAL NO./DATE</p>
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B TRANSFEREE'S/PURCHASER'S INFORMATION										
5. LAST NAME		6. JR., ETC.	7. FIRST NAME			8. MIDDLE NAME		9. DATE OF BIRTH		10. AGE
11. SEX	12. RACE	13. EYE COLOR	14. HAIR COLOR	15. WEIGHT	16. HEIGHT	17. SOCIAL SECURITY NO. (Optional, but will help prevent misidentification.)		18. COUNTY OF RESIDENCE		
19. STREET ADDRESS					20. CITY			21. STATE	22. ZIP CODE	
23. PA. PHOTO IDENT/DRIVER LICENSE NO.			24. EMPLOYER/BUSINESS NAME			25. OCCUPATION				
26. STREET ADDRESS					27. CITY			28. STATE	29. ZIP CODE	
30. ARE YOU A UNITED STATES CITIZEN? IF NO, COUNTRY OF BIRTH: _____ COUNTRY OF CITIZENSHIP: _____ IMMIGRATION IDENTIFICATION NUMBER: _____										<input type="checkbox"/> YES <input type="checkbox"/> NO
31. HAVE YOU EVER BEEN CONVICTED OF A CRIME ENUMERATED IN SECTION 6105(b), OR DO ANY OF THE CONDITIONS UNDER 6105(c) APPLY TO YOU? (READ INFORMATION ON BACK PRIOR TO ANSWERING)										<input type="checkbox"/> YES <input type="checkbox"/> NO
32. ARE YOU NOW CHARGED WITH, OR HAVE YOU EVER BEEN CONVICTED OF A CRIME PUNISHABLE BY IMPRISONMENT FOR A TERM EXCEEDING ONE YEAR? THIS IS THE MAXIMUM SENTENCE THAT YOU "COULD HAVE RECEIVED," NOT THE ACTUAL SENTENCE YOU DID RECEIVE. (THIS DOES NOT INCLUDE FEDERAL OR STATE OFFENSES PERTAINING TO ANTITRUST, UNFAIR TRADE PRACTICES, RESTRAINTS OF TRADE, OR REGULATION OF BUSINESS; OR STATE OFFENSES CLASSIFIED AS MISDEMEANORS AND PUNISHABLE BY A TERM OF IMPRISONMENT NOT TO EXCEED TWO YEARS.) (READ INFORMATION ON BACK PRIOR TO ANSWERING)										<input type="checkbox"/> YES <input type="checkbox"/> NO
33. ARE YOU THE ACTUAL BUYER OF THE FIREARM AS DEFINED UNDER 18 P.A.C.S. § 6102 LISTED ON THIS APPLICATION/RECORD OF SALE? (WARNING: YOU ARE NOT THE ACTUAL BUYER IF YOU ARE ACQUIRING THE FIREARM ON BEHALF OF ANOTHER PERSON UNLESS YOU ARE LEGITIMATELY ACQUIRING THE FIREARM AS A GIFT FOR ANY OF THE FOLLOWING INDIVIDUALS WHO ARE LEGALLY ELIGIBLE TO OWN A FIREARM: 1) SPOUSE; 2) PARENT; 3) CHILD; 4) GRANDPARENT; OR 5) GRANDCHILD.)										<input type="checkbox"/> YES <input type="checkbox"/> NO
34. I VERIFY THE FACTS THAT I HAVE SET FORTH IN BLOCKS 5-33 OF THIS FORM ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF. THIS VERIFICATION IS MADE SUBJECT TO BOTH THE PENALTIES OF SECTION 4904 OF THE CRIMES CODE (18 P.A.C.S. 4904) RELATING TO UNSWORN FALSIFICATION TO AUTHORITIES AND THE UNIFORM FIREARMS ACT. I ALSO UNDERSTAND THAT THE MAKING OF ANY FALSE WRITTEN STATEMENT OR THE EXHIBITING OF ANY FALSE MISREPRESENTED IDENTIFICATION WITH RESPECT TO THIS APPLICATION IS A CRIME PUNISHABLE AS A FELONY.										

SIGNATURE OF TRANSFEREE/PURCHASER: _____ **DATE OF APPLICATION:** _____

C ACKNOWLEDGMENT

35. I ACKNOWLEDGE RECEIPT OF THE FIREARM (HANDGUN/LONG-GUN) AND A SUMMARY OF THE UNIFORM FIREARMS ACT WHICH INCLUDES A SAFETY BROCHURE.

SIGNATURE OF TRANSFEREE/PURCHASER: _____ **DATE:** _____

D LICENSEE'S INFORMATION: LICENSEE EMPLOYEE

36. LAST NAME		37. JR., ETC.	38. FIRST NAME			39. MIDDLE NAME		40. SIGNATURE		
41. BUSINESS NAME					42. BUSINESS TELEPHONE NO.		43. COUNTY OF LICENSEE			
44. BUSINESS ADDRESS					45. CITY			46. STATE	47. ZIP CODE	
48. DATE OF TRANSACTION					49. TIME OF TRANSACTION					

E FIREARM INFORMATION

50. DOES THIS PURCHASE INVOLVE A PISTOL OR REVOLVER WITH A BARREL LENGTH OF LESS THAN 15 INCHES, A SHOTGUN WITH A BARREL LENGTH OF LESS THAN 18 INCHES, A RIFLE WITH A BARREL LENGTH OF LESS THAN 16 INCHES, OR A FIREARM WITH AN OVERALL LENGTH OF LESS THAN 26 INCHES?							<input type="checkbox"/> YES (COMPLETE BLOCKS 51 - 55) <input type="checkbox"/> NO (INFORMATION NOT REQUIRED)			
51. MAKE		52. MODEL		53. CALIBER	54. LENGTH OF BARREL		55. SERIAL NUMBER			

F TRANSFEROR'S/SELLER'S INFORMATION OR EXPLANATION FOR NONTAXABLE SALES

56. LAST NAME		57. JR., ETC.	58. FIRST NAME			59. MIDDLE NAME		60. SIGNATURE		
61. STREET ADDRESS					62. CITY		63. COUNTY/STATE		64. ZIP CODE	

**Firearms Transaction Record Part I -
Over-the-Counter**

WARNING: You may not receive a firearm if prohibited by Federal or State law. The information you provide will be used to determine whether you are prohibited under law from receiving a firearm. Certain violations of the Gun Control Act, 18 U.S.C. §§ 921 et. seq., are punishable by up to 10 years imprisonment and/or up to a \$250,000 fine.

Transferor's Transaction
Serial Number (If any)

Prepare in original only. All entries must be handwritten in ink. Read the Notices, Instructions, and Definitions on this form. "PLEASE PRINT."

Section A - Must Be Completed Personally By Transferee (Buyer)

1. Transferee's Full Name
Last Name _____ First Name _____ Middle Name (If no middle name, state "NMN") _____

2. Current Residence Address (U.S. Postal abbreviations are acceptable. Cannot be a post office box.)
Number and Street Address _____ City _____ County _____ State _____ ZIP Code _____

3. Place of Birth
U.S. City and State _____ -OR- Foreign Country _____

4. Height
Ft. _____ In. _____

5. Weight (Lbs.) _____

6. Gender
Male Female

7. Birth Date
Month _____ Day _____ Year _____

8. Social Security Number (Optional, but will help prevent misidentification) _____

9. Unique Personal Identification Number (UPIN) if applicable (See Instructions for Question 9.) _____

10. Race (Ethnicity) (Check one or more boxes. See Instructions for Question 10.)

American Indian or Alaska Native Black or African American Native Hawaiian or Other Pacific Islander

Hispanic or Latino Asian White

11. Answer questions 11.a. (see exceptions) through 11.i. and 12 (if applicable) by checking or marking "yes" or "no" in the boxes to the right of the questions.

a. Are you the actual transferee/buyer of the firearm(s) listed on this form? Warning: You are not the actual buyer if you are acquiring the firearm(s) on behalf of another person. If you are not the actual buyer, the dealer cannot transfer the firearm(s) to you. (See Instructions for Question 11.a.) Exception: If you are picking up a repaired firearm(s) for another person, you are not required to answer 11.a. and may proceed to question 11.b.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
b. Are you under indictment or information in any court for a felony, or any other crime, for which the judge could imprison you for more than one year? (See Instructions for Question 11.b.)	Yes <input type="checkbox"/>	No <input type="checkbox"/>
c. Have you ever been convicted in any court of a felony, or any other crime, for which the judge could have imprisoned you for more than one year, even if you received a shorter sentence including probation? (See Instructions for Question 11.c.)	Yes <input type="checkbox"/>	No <input type="checkbox"/>
d. Are you a fugitive from justice?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
e. Are you an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
f. Have you ever been adjudicated mentally defective (which includes a determination by a court, board, commission, or other lawful authority that you are a danger to yourself or to others or are incompetent to manage your own affairs) OR have you ever been committed to a mental institution? (See Instructions for Question 11.f.)	Yes <input type="checkbox"/>	No <input type="checkbox"/>
g. Have you been discharged from the Armed Forces under dishonorable conditions?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
h. Are you subject to a court order restraining you from harassing, stalking, or threatening your child or an intimate partner or child of such partner? (See Instructions for Question 11.h.)	Yes <input type="checkbox"/>	No <input type="checkbox"/>
i. Have you ever been convicted in any court of a misdemeanor crime of domestic violence? (See Instructions for Question 11.i.)	Yes <input type="checkbox"/>	No <input type="checkbox"/>
j. Have you ever renounced your United States citizenship?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
k. Are you an alien illegally in the United States?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
l. Are you a nonimmigrant alien? (See Instructions for Question 11.l.) If you answered "no" to this question, do NOT respond to question 12 and proceed to question 13.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
12. If you are a nonimmigrant alien, do you fall within any of the exceptions set forth in the instructions? (If "yes," the licensee must complete question 20d.) (See Instructions for Question 12.) If question 11.l. is answered with a "no" response, then do NOT respond to question 12 and proceed to question 13.	Yes <input type="checkbox"/>	No <input type="checkbox"/>

13. What is your State of residence (if any)? (See Instructions for Question 13.) _____

14. What is your country of citizenship? (List/check more than one, if applicable. If you are a citizen of the United States, proceed to question 16.) United States of America Other (Specify) _____

15. If you are not a citizen of the United States, what is your U.S.-issued alien number or admission number? _____

Section D - Must Be Completed By Transferor (Seller)


26. Manufacturer and/or Importer (If the manufacturer and importer are different, the FFL should include both.)	27. Model	28. Serial Number	29. Type (pistol, revolver, rifle, shotgun, receiver, frame, etc.) (See instructions for question 29)	30. Caliber or Gauge

30a. Total Number of Firearms (Please *handwrite* by printing e.g., one, two, three, etc. **Do not use numerals.**)

30b. Is any part of this transaction a Pawn Redemption? Yes No

30c. For Use by FFL (See Instructions for Question 30c.)

Complete ATF Form 3310.4 For Multiple Purchases of Handguns Within 5 Consecutive Business Days

31. Trade/corporate name and address of transferor (seller) (Hand stamp may be used.) <p align="center">Beaver Creek Antiques & Arms 380 Beaver Creek Road Dillsburg, PA 17019</p>	32. Federal Firearms License Number (Must contain at least first three and last five digits of FFL Number X-XX-XXXXX.) (Hand stamp may be used.) 
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The Person Transferring The Firearm(s) Must Complete Questions 33-36. For Denied/Cancelled Transactions, The Person Who Completed Section B Must Complete Questions 33-35.

I certify that my answers in Sections B and D are true, correct, and complete. I have read and understand the Notices, Instructions, and Definitions on ATF Form 4473. On the basis of: (1) the statements in Section A (and Section C if the transfer does not occur on the day Section A was completed); (2) my verification of the identification noted in question 20a (and my reverification at the time of transfer if the transfer does not occur on the day Section A was completed); and (3) the information in the current State Laws and Published Ordinances, it is my belief that it is not unlawful for me to sell, deliver, transport, or otherwise dispose of the firearm(s) listed on this form to the person identified in Section A.

33. Transferor's/Seller's Name (Please print)	34. Transferor's/Seller's Signature	35. Transferor's/Seller's Title	36. Date Transferred
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NOTICES, INSTRUCTIONS AND DEFINITIONS

Purpose of the Form: The information and certification on this form are designed so that a person licensed under 18 U.S.C. § 923 may determine if he or she may lawfully sell or deliver a firearm to the person identified in Section A, and to alert the buyer of certain restrictions on the receipt and possession of firearms. This form should only be used for sales or transfers where the seller is licensed under 18 U.S.C. § 923. The seller of a firearm must determine the lawfulness of the transaction and maintain proper records of the transaction. Consequently, the seller must be familiar with the provisions of 18 U.S.C. §§ 921-931 and the regulations in 27 CFR Part 478. In determining the lawfulness of the sale or delivery of a long gun (rifle or shotgun) to a resident of another State, the seller is presumed to know the applicable State laws and published ordinances in both the seller's State and the buyer's State.

After the seller has completed the firearms transaction, he or she must make a completed, original ATF Form 4473 (which includes the Notices, General Instructions, and Definitions), and any supporting documents, part of his or her permanent records. Such Forms 4473 must be retained for at least 20 years. Filing may be chronological (by date), alphabetical (by name), or numerical (by transaction serial number), as long as all of the seller's completed Forms 4473 are filed in the same manner. **FORMS 4473 FOR DENIED/CANCELLED TRANSFERS MUST BE RETAINED:** If the transfer of a firearm is denied/cancelled by NICS, or if for any other reason the transfer is not complete after a NICS check is initiated, the licensee must retain the ATF Form 4473 in his or her records for at least 5 years. Forms 4473 with respect to which a sale, delivery, or transfer did not take place shall separately retained in alphabetical (by name) or chronological (by date of transferee's certification) order.

If you or the buyer discover that an ATF Form 4473 is incomplete or improperly completed after the firearm has been transferred, and you or the

buyer wish to make a record of your discovery, then photocopy the inaccurate form and make any necessary additions or revisions to the photocopy. You only should make changes to Sections B and D. The buyer should only make changes to Sections A and C. Whoever made the changes should initial and date the changes. The corrected photocopy should be attached to the original Form 4473 and retained as part of your permanent records.

Over-the-Counter Transaction: The sale or other disposition of a firearm by a seller to a buyer, at the seller's licensed premises. This includes the sale or other disposition of a rifle or shotgun to a nonresident buyer on such premises.

State Laws and Published Ordinances: The publication (ATF P 5300.5) of State firearms laws and local ordinances ATF distributes to licensees.

Exportation of Firearms: The State or Commerce Departments may require you to obtain a license prior to export.

Section A

Question 1. Transferee's Full Name: The buyer must personally complete Section A of this form and certify (sign) that the answers are true, correct, and complete. However, if the buyer is unable to read and/or write, the answers (other than the signature) may be completed by another person, excluding the seller. Two persons (other than the seller) must then sign as witnesses to the buyer's answers and signature.

When the buyer of a firearm is a corporation, company, association, partnership, or other such business entity, an officer authorized to act on behalf of the business must complete Section A of the form with his or her personal information, sign Section A, and attach a written statement, executed under penalties of perjury, stating: (A) the firearm is being acquired for the use of and will be the property of that business entity and (B) the name and address of that business entity.

If the buyer's name in question 1. is illegible, the seller must print the buyer's name above the name written by the buyer.

Question 2. Current Residence Address: U.S. Postal abbreviations are acceptable. (e.g., St., Rd., Dr., PA, NC, etc.). Address cannot be a post office box. County and Parish are one and the same.

If the buyer is a member of the Armed Forces on active duty acquiring a firearm in the State where his or her permanent duty station is located, but does not reside at his or her permanent duty station, the buyer must list both his or her permanent duty station address and his or her residence address in response to question 2. If you are a U.S. citizen with two States of residence, you should list your current residence address in response to question 2 (e.g., if you are buying a firearm while staying at your weekend home in State X, you should list your address in State X in response to question 2).

Question 9. Unique Personal Identification Number (UPIN): For purchasers approved to have information maintained about them in the FBI NICS Voluntary Appeal File, NICS will provide them with a Unique Personal Identification Number, which the buyer should record in question 9. The licensee may be asked to provide the UPIN to NICS or the State.

Question 10. Race (Ethnicity): Any other race or ethnicity that does not fall within those indicated, please select the closest representation.

Question 11.a. Actual Transferee/Buyer: For purposes of this form, you are the actual transferee/buyer if you are purchasing the firearm for yourself or otherwise acquiring the firearm for yourself (e.g., redeeming the firearm from pawn/retrieving it from consignment, firearm raffle winner). You are also the actual transferee/buyer if you are legitimately purchasing the firearm as a gift for a third party. **ACTUAL TRANSFEREE/BUYER EXAMPLES:** Mr. Smith asks Mr. Jones to purchase a firearm for Mr. Smith. Mr. Smith gives Mr. Jones the money for the firearm. Mr. Jones is **NOT THE ACTUAL TRANSFEREE/BUYER** of the firearm and must answer "NO" to question 11.a. The licensee may not transfer the firearm to Mr. Jones. However, if Mr. Brown goes to buy a firearm with his own money to give to Mr. Black as a present, Mr. Brown is the actual transferee/buyer of the firearm and should answer "YES" to question 11.a. However, you may not transfer a firearm to any person you know or have reasonable cause to believe is prohibited under 18 U.S.C. § 922(g), (n), or (x). **Please note: EXCEPTION:** If you are picking up a repaired firearm(s) for another person, you are not required to answer 11.a. and may proceed to question 11.b.

Question 11.b. - 11.l. Definition of Prohibited Person: Generally, 18 U.S.C. § 922 prohibits the shipment, transportation, receipt, or possession in or affecting interstate commerce of a firearm by one who: has been convicted of a misdemeanor crime of domestic violence; has been convicted of a felony, or any other crime, punishable by imprisonment for a term exceeding one year (this does not include State misdemeanors punishable by imprisonment of two years or less); is a fugitive from justice; is an unlawful user of, or addicted to, marijuana or any depressant, stimulant, or narcotic drug, or any other controlled substance; has been adjudicated mentally defective or has been committed to a mental institution; has been discharged from the Armed Forces under dishonorable conditions; has renounced his or her U.S. citizenship; is an alien illegally in the United States or a nonimmigrant alien; or is subject to certain restraining orders. Furthermore, section 922 prohibits the shipment, transportation, or receipt in or affecting interstate commerce of a firearm by one who is under indictment or information for a felony, or any other crime, punishable by imprisonment for a term exceeding one year.

Question 11.b. Under Indictment or Information or Convicted in any Court: An indictment, information, or conviction in any Federal, State, or local court. An information is a formal accusation of a crime verified by a prosecutor.

EXCEPTION to 11.c. and 11.i.: A person who has been convicted of a felony, or any other crime, for which the judge could have imprisoned the person for more than one year, or who has been convicted of a misdemeanor crime of domestic violence, is not prohibited from purchasing, receiving, or possessing a firearm if: (1) under the law of the jurisdiction where the conviction occurred, the person has been pardoned, the conviction has been expunged or set aside, or the person has had their civil rights (the right to vote, sit on a jury, and hold public office) taken away and later restored AND (2) the person is not prohibited by the law of the jurisdiction where the conviction occurred from receiving or possessing firearms. Persons subject to this exception should answer "no" to 11.c. or 11.i., as applicable.

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Question 11.f. Adjudicated Mentally Defective: A determination by a court board, commission, or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease (1) is a danger to himself or to others; or (2) lacks the mental capacity to control or manage his own affairs. This term shall include: (1) a finding of insanity by a court in a criminal case; and (2) Those persons found incompetent to stand trial found not guilty by reason of lack of mental responsibility.

Committed to a Mental Institution: A formal commitment of a person to a mental institution by a court, board, commission, or other lawful authority. The term includes a commitment to a mental institution involuntarily. The term includes commitment for mental defectiveness or mental illness. It also includes commitments for other reasons, such as for drug use. The term does not include a person in a mental institution for observation or a voluntary admission to a mental institution. Please also refer to Question 11.c. for the definition of a prohibited person.

EXCEPTION to 11. f. NICS Improvement Amendments Act of 2007: A person who has been adjudicated as a mental defective or committed to a mental institution is not prohibited if: (1) the person was adjudicated or committed by department or agency of the Federal Government, such as the United States Department of Veteran's Affairs ("VA") (as opposed to a State court, State board or other lawful State authority); and (2) either: (a) the person's adjudication or commitment for mental incompetency was set-aside or expunged by the adjudicating/committing agency; (b) the person has been fully released or discharged from all mandatory treatment, supervision, or monitoring by the agency; or (c) the person was found by the agency to no longer suffer from the mental health condition that served as the basis of the initial adjudication. **Persons who fit this exception should answer "no" to Item 11.f.** This exception does not apply to any person who was adjudicated to be not guilty by reason of insanity, or based on lack of mental responsibility, or found incompetent to stand trial, in any criminal case or under the Uniform Code of Military Justice.

Question 11.h. Definition of Restraining Order: Under 18 U.S.C. § 922, firearms may not be sold to or received by persons subject to a court order that (A) was issued after a hearing which the person received actual notice of and an opportunity to participate in; (B) restrains such person from harassing, stalking or threatening an intimate partner or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and (C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or (ii) by its terms explicitly prohibits the use, attempted use or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury. An "intimate partner" of a person is: the spouse or former spouse of the person, the parent of a child of the person, or an individual who cohabitates or cohabitating with the person.

Question 11.i. Definition of Misdemeanor Crime of Domestic Violence: Federal, State, local, or tribal offense that is a misdemeanor under Federal, State, or tribal law and has, as an element, the use or attempted use of physical force or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with, or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim. The term includes all misdemeanors that have as an element the use or attempted use of physical force or the threatened use of a deadly weapon (e.g., assault and battery), if the offense is committed by one of the defined parties. (See Exception to 11.c. and 11.i.) A person who has been convicted of a misdemeanor crime of domestic violence is not prohibited unless: (1) the person was represented by a lawyer or gave the right to a lawyer; or (2) if the person was entitled to a jury, was tried by a jury, or gave up the right to a jury trial. Persons subject to this exception should answer "no" to 11.i.

Question 11.l. "Nonimmigrant Alien": An alien in the United States in a nonimmigrant classification. The definition includes, among others, persons traveling temporarily in the United States for business or pleasure, persons studying in the United States who maintain a residence abroad, and certain foreign workers. The definition does NOT include permanent resident aliens.

Sale of Firearms to Legal Aliens: Even if a nonimmigrant alien can establish that he or she has a U.S.-issued alien number or admission number and has resided in a State for at least 90 continuous days immediately prior to the date

sale, he or she is prohibited from receiving a firearm unless he or she falls within an exception to the nonimmigrant alien prohibition. (See *Question 11.c. and Exception to 11.l.*) If a nonimmigrant alien claims to fall within one of these exceptions by answering "yes" to question 12, he or she must provide the licensee with documentation of the exception (e.g., *hunting license/permit; waiver*). If the documentation is a hunting license/permit, the licensee must make sure it has not expired. An expired hunting license/permit does not qualify for the exception. A licensee **MUST** complete and may attach a copy of the documentation to ATF Form 4473.

EXCEPTION to 11.l.: A nonimmigrant alien is not prohibited from purchasing, receiving, or possessing a firearm if the alien: (1) is in possession of a hunting license or permit lawfully issued in the United States; or (2) has received a waiver from the prohibition from the Attorney General of the United States. (See *18 U.S.C. § 922(y)(2)* for additional exceptions.) Persons subject to one of these exceptions should answer "yes" to questions 11.l. and 12 and provide a copy of the hunting license or letter granting the waiver, which must be recorded in 20.d. If the Transferee (Buyer) answered "yes" to this question, the licensee **MUST** complete 20.d.

Question 12. Exceptions to Nonimmigrant Alien Response: If question 11.l. is answered with a "no" response, then do **NOT** respond to question 12 and proceed to question 13. If response is "yes," then licensee must complete question 20.d., and may attach a copy.

Question 13. State of Residence: The State in which an individual resides. An individual resides in a State if he or she is present in a State with the intention of making a home in that State. If an individual is a member of the Armed Forces on active duty, his or her State of residence also is the State in which his or her permanent duty station is located. An alien who is legally in the United States is a resident of a State only if the alien is residing in the State and has resided in the State continuously for at least 90 days immediately prior to the date of sale or delivery of a firearm.

If you are a U.S. citizen with two States of residence, you should list your current residence address in response to question 2 (e.g., *if you are buying a firearm while staying at your weekend home in State X, you should list your address in State X in response to question 2.*) If you are not a citizen of the United States, you only have a State of residence if you have resided in a State for at least 90 continuous days immediately prior to the date of this sale.

Question 16. Certification Definition of Engaged in the Business: Under 18 U.S.C. § 922 (a)(1), it is unlawful for a person to engage in the business of dealing in firearms without a license. A person is engaged in the business of dealing in firearms if he or she devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms. A license is not required of a person who only makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his or her personal collection of firearms.

Section B

Question 18. Type of Firearm(s): Check all boxes that apply. "Other" refers to frames, receivers and other firearms that are not either handguns or long guns (rifles or shotguns), such as firearms having a pistol grip that expel a shotgun shell, or National Firearms Act (NFA) firearms.

If a frame or receiver can only be made into a long gun (*rifle or shotgun*), it is still a frame or receiver not a handgun or long gun. However, they still are "firearms" by definition, and subject to the same GCA limitations as any other firearms. See Section 921(a)(3)(b). 18 U.S.C. Section 922(b)(1) makes it unlawful for a licensee to sell any firearm other than a shotgun or rifle to any person under the age of 21. Since a frame or receiver for a firearm, to include one that can only be made into a long gun, is a "firearm other than a shotgun or rifle," it cannot be transferred to anyone under the age of 21. Also, note that multiple sales forms are not required for frames or receivers of any firearms, or pistol grip shotguns, since they are not "pistols or revolvers" under Section 923(g)(3)(a).

Question 19. Gun Shows: If sale at gun show or other qualifying event sponsored by any national, State, or local organization, as authorized by

27 CFR § 478.100, the seller must record the name of event and the location (*city and State*) of the sale in question 19.

Question 20a. Identification: List issuing authority (e.g., *State, County or Municipality*) and type of identification presented (e.g., *Virginia driver's license (VA DL), or other valid government-issued identification*).

Know Your Customer: Before a licensee may sell or deliver a firearm to a nonlicensee, the licensee must establish the identity, place of residence, and age of the buyer. The buyer must provide a valid government-issued photo identification to the seller that contains the buyer's name, residence address, and date of birth. The licensee must record the type, identification number, and expiration date (*if any*) of the identification in question 20.a. A driver's license or an identification card issued by a State in place of a license is acceptable. Social Security cards are not acceptable because no address, date of birth, or photograph is shown on the cards. A combination of government-issued documents may be provided. For example, if a U.S. citizen has two States of residence and is trying to buy a handgun in State X, he may provide a driver's license (*showing his name, date of birth, and photograph*) issued by State Y and another government-issued document (*such as a tax document*) from State X showing his residence address. If the buyer is a member of the Armed Forces on active duty acquiring a firearm in the State where his or her permanent duty station is located, but he or she has a driver's license from another State, you should list the buyer's military identification card and official orders showing where his or her permanent duty station is located in response to question 20.a.

Question 20.b. Alternate Documentation: Licensees may accept a combination of valid government-issued documents to satisfy the identification document requirements of the law. The required valid government-issued photo identification document bearing the name, photograph, and date of birth of transferee may be supplemented by another valid, government-issued document showing the transferee's residence address. This alternate documentation should be recorded in question 20.b., with issuing authority and type of identification presented. A combination of government-issued documents may be provided. For example, if a U.S. citizen has two States of residence and is trying to buy a handgun in State X, he may provide a driver's license (*showing his name, date of birth, and photograph*) issued by State Y and another government-issued document (*such as a tax document*) from State X showing his residence address.

Question 20.c. Documentation for All Aliens:

Sale of Firearms to Legal Aliens: A buyer who is not a citizen of the United States must provide additional documentation (*beyond a valid government-issued photo identification that contains the buyer's name, residence address, and date of birth*) to establish that he or she has resided in a State continuously for at least 90 days immediately prior to the date of the sale. (See *Question 13.*) Examples of appropriate documents to establish State residency are utility bills from each of the last 3 months immediately prior to the sale or a lease agreement that demonstrates 90 days of residency immediately prior to the sale. A licensee may attach a copy of the documentation to ATF Form 4473, rather than record the type of documentation in question 20.c. Acceptable documentation to prove 90-day continuous residency must be original documentation (e.g., *utility bills, current bank statements, rent receipts, mortgage payments, lease agreements, personal property tax bills, documents issued by Federal, State, or local government agencies, first-class mail issued by government agency, insurance policies, or bill with current address or major credit card bill*).

Question 20.d. Documentation for Nonimmigrant Aliens: See instructions for Question 11.l. Types of acceptable documents would include a valid State-issued hunting license or a letter from the U.S. Attorney General granting a waiver.

Question(s) 21, 22, 23, NICS BACKGROUND CHECKS: 18 U.S.C. § 922(t) requires that prior to transferring any firearm to an unlicensed person, a licensed importer, manufacturer, or dealer must first contact the National Instant Criminal Background Check System (NICS). NICS will advise the licensee whether the system finds any information that the purchaser is prohibited by law from possessing or receiving a firearm. For purposes of this form, contacts to NICS include contacts to State agencies designated to conduct NICS checks for the Federal Government. **WARNING:** Any seller who transfers a firearm to any person they know or have reasonable cause to believe is prohibited from receiving or possessing a firearm violates the law, even if the seller has complied with the background check requirements of the Brady law.

After the buyer has completed Section A of the form and the licensee has completed questions 18-20, and before transferring the firearm, the licensee must contact NICS (*read below for NICS check exceptions.*) However, the licensee should NOT contact NICS and should stop the transaction if: the buyer answers "no" to question 11.a.; the buyer answers "yes" to any question in 11.b.-11.l., unless the buyer only has answered "yes" to question 11.l. and also answers "yes" to question 12; or the buyer is unable to provide the documentation required by question 20.a, b, c, or d.

At the time that NICS is contacted, the licensee must record in question 21.a-c: the date of contact, the NICS (*or State*) transaction number, and the initial response provided by NICS or the State. The licensee may record the Missing Disposition Information (MDI) date in 21.c. that NICS provides for delayed transactions (*States do not provide this number*). If the licensee receives a "delayed" response, before transferring the firearm, the licensee must record in question 21.d. any response later provided by NICS or the State or that no resolution was provided within 3 business days. If the licensee receives a response from NICS or the State after the firearm has been transferred, he or she must record this information in question 21.e. **Note:** States acting as points of contact for NICS checks may use terms other than "proceed," "delayed," "cancelled," or "denied." In such cases, the licensee should check the box that corresponds to the State's response. Some States may not provide a transaction number for denials. However, if a firearm is transferred within the three business day period, a transaction number is required.

NICS Responses: If NICS provides a "proceed" response, the transaction may proceed. If NICS provides a "cancelled" response, the seller is prohibited from transferring the firearm to the buyer. If NICS provides a "denied" response, the seller is prohibited from transferring the firearm to the buyer. If NICS provides a "delayed" response, the seller is prohibited from transferring the firearm unless 3 business days have elapsed and, before the transfer, NICS or the State has not advised the seller that the buyer's receipt or possession of the firearm would be in violation of law. (See 27 CFR § 478.102(a) for an example of how to calculate 3 business days.) If NICS provides a "delayed" response, NICS also will provide a Missing Disposition Information (MDI) date that calculates the 3 business days and reflects when the firearm(s) can be transferred under Federal law. States may not provide an MDI date. *Please note State law may impose a waiting period on transferring firearms.*

EXCEPTIONS TO NICS CHECK: A NICS check is not required if the transfer qualifies for any of the exceptions in 27 CFR § 478.102(d). Generally these include: (a) transfers where the buyer has presented the licensee with a permit or license that allows the buyer to possess, acquire, or carry a firearm, and the permit has been recognized by ATF as a valid alternative to the NICS check requirement; (b) transfers of National Firearms Act weapons approved by ATF; or (c) transfers certified by ATF as exempt because compliance with the NICS check requirements is impracticable. See 27 CFR § 478.102(d) for a detailed explanation. If the transfer qualifies for one of these exceptions, the licensee must obtain the documentation required by 27 CFR § 478.131. A firearm must not be transferred to any buyer who fails to provide such documentation.

Section C

Question 24 and 25. Transfer on a Different Day and Recertification: If the transfer takes place on a different day from the date that the buyer signed Section A, the licensee must again check the photo identification of the buyer at the time of transfer, and the buyer must complete the recertification in Section C at the time of transfer.

Section D

Immediately prior to transferring the firearm, the seller must complete all of the questions in Section D. In addition to completing this form, the seller must report any multiple sale or other disposition of pistols or revolver on ATF Form 3310.4 (see 27 CFR § 478.126a).

Question(s) 26, 27, 28, 29 and 30, Firearm(s) Description: These blocks should be completed with the firearm(s) information. Firearms manufactured after 1968 should all be marked with a serial number. Should you acquire a firearm that is not marked with a serial number; you may answer question 28 with "NSN" (No Serial Number), "N/A" or "None."

If more than five firearms are involved in a transaction, the information required by Section D, questions 26-30, must be provided for the additional firearms on a separate sheet of paper, which must be attached to the ATF Form 4473 covering the transaction.

Types of firearms include: pistol, revolver, rifle, shotgun, receiver, frame and other firearms that are not either handguns or long guns (rifles or shotguns), such as firearms having a pistol grip that expel a shotgun shell or National Firearms Act (NFA) firearms.

Additional firearms purchases by the same buyer may not be added to the form after the seller has signed and dated it. A buyer who wishes to purchase additional firearms after the seller has signed and dated the form must complete a new ATF Form 4473. The seller must conduct a new NICS check.

Question 30c. This box is for the FFL's use in recording any information he or she finds necessary to conduct business.

Question 32 Federal Firearms License Number: Must contain at least the first three and last five digits of the FFL number, for instance X-XX-XXXXX.

Question 33-35 Transferor/Sellers Information: For "denied" and "cancelled" NICS transactions, the person who completed Section B must complete Section D, questions 33-35.

Privacy Act Information

Solicitation of this information is authorized under 18 U.S.C. § 923(g). Disclosure of the individual's Social Security number is voluntary. The number may be used to verify the buyer's identity.

Paperwork Reduction Act Notice

The information required on this form is in accordance with the Paperwork Reduction Act of 1995. The purpose of the information is to determine the eligibility of the transferee to receive firearms under Federal law. The information is subject to inspection by ATF officers and is required by 18 U.S.C. §§ 922 and 923.

The estimated average burden associated with this collection is 30 minutes per respondent or recordkeeper, depending on individual circumstances. Comments about the accuracy of this burden estimate and suggestions for reducing it should be directed to Reports Management Officer, Document Services Section, Bureau of Alcohol, Tobacco, Firearms and Explosives, Washington, DC 20226.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Confidentiality is not assured.



2010 Federal Firearm Licensees Seminars

NICS

We Are Here For You!!



FEDERAL PROHIBITORS
FBI Criminal Justice Information Services Division
National Instant Criminal Background Check System Section
April 2009

SOURCES: Gun Control Act of 1968; Title 18, United States Code (U.S.C.), Sections 921 and 922; Title 27 Code of Federal Regulations (C.F.R.) 478.11.

SECTION 922(g)(1) - PERSONS WHO HAVE BEEN CONVICTED IN ANY COURT OF A CRIME PUNISHABLE BY IMPRISONMENT FOR TERM EXCEEDING ONE YEAR

A person convicted (including by a general court martial) of any offense punishable by imprisonment for a term exceeding one year, whether or not such term of imprisonment was imposed.

NOTES:

- The term crime punishable by imprisonment for a term exceeding one year does not include (a) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or (b) any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.
- What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any conviction which has been expunged, or set aside, or for which a person has been pardoned or has had civil rights restored, shall not be considered a conviction, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

SECTION 922(g)(2) - PERSONS WHO ARE FUGITIVES FROM JUSTICE

- (1) A person who has fled from any State to avoid prosecution for a felony or a misdemeanor.
- (2) A person who leaves the state to avoid giving testimony in any criminal proceeding.
- (3) A person who knows that misdemeanor or felony charges are pending against such person and who leaves the state of prosecution.

NOTES:

- Fugitives from justice do not include persons who are charged with crimes and there is no evidence that they left the state.
- A person is not a fugitive from justice merely because he or she has an outstanding civil traffic citation.

SECTION 922(g)(3) - PERSONS WHO ARE UNLAWFUL USERS OF OR ADDICTED TO ANY CONTROLLED SUBSTANCE

(1) A person who uses a controlled substance and has lost the power of self-control with reference to the use of the controlled substance.

(2) A person who is a current user of a controlled substance in a manner other than as prescribed by a licensed physician.

NOTES:

- Unlawful use is NOT limited to the use of drugs on a particular day, or within a matter of days or weeks before receiving a firearm; rather the unlawful use only needs to have occurred recently enough to indicate that the individual is actively engaged in such conduct. A person may be an unlawful current user of a controlled substance even though the substance is not being used at the precise time the person seeks to acquire a firearm or receives or possesses a firearm.
- An inference of current use may be drawn from evidence or a recent use or possession of a controlled substance or a pattern of use or possession that reasonably covers the present time. For example,
 - A conviction for use or possession of a controlled substance within the past year, or
 - Multiple arrests for use or possession of a controlled substance within the past five years if the most recent arrest occurred within the past year; or
 - A person found through a drug test to use a controlled substance unlawfully, provided the test was administered within the past year.
- For a current or former member of the Armed Forces, an inference of current use may be drawn from recent disciplinary or other administrative action based on confirmed drug use (e.g., court-martial conviction, nonjudicial punishment, or an administrative discharge based on drug use or drug rehabilitation failure).
- As defined in 21 U.S.C. 802 and 21 C.F.R. Part 1308, the term “controlled substance” includes but is not limited to marijuana, depressants, stimulants, and narcotic drugs. The term “controlled substance” does not include distilled spirits, wine, malt beverages, or tobacco (as those terms are defined or used in Subtitle E of the Internal Revenue Code of 1986, as amended).

SECTION 922(g)(4) - PERSONS WHO HAVE BEEN ADJUDICATED AS MENTAL DEFECTIVES OR HAVE BEEN COMMITTED TO A MENTAL INSTITUTION

(1) A determination by a court, board, commission, or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease:

Is a danger to himself or others; or

Lacks the mental capacity to contract or manage his own affairs.

(2) A person found to be insane by a court in a criminal case.

(3) A person found incompetent to stand trial or found not guilty by reason of lack of mental responsibility pursuant to articles 50a and 72b of the Uniform Code of Military Justice, 10 U.S.C. 850a, 876b.

(4) A person formally committed to a mental institution by a court, board, commission, or other lawful authority (including commitment involuntarily, commitment for mental defectiveness or mental illness, or a commitment for other reasons, such as for drug use).

NOTES:

- This term does not include a person in a mental institution for observation or a voluntary admission to a mental institution.
- Mental institution includes mental health facilities, mental hospitals, sanitariums, psychiatric facilities, and other facilities that provide diagnoses by licensed professionals of mental retardation or mental illness, including a psychiatric ward in a general hospital.
- In some circumstances, the process by which an agency designates an alternate payee for benefits will meet the criteria for this prohibitor.
- This term does *not* include a person who has been granted relief from the disability through a qualifying federal or state relief from disability program as authorized by the NICS Improvement Amendments Act.
- This term also does *not* include a person whose adjudication or commitment was imposed by a *Federal* department or agency, and:
 - the adjudication or commitment was set aside or expunged;
 - the person was fully released from mandatory treatment, supervision or monitoring;
 - the person was found to no longer suffer from the disabling mental health condition;

- the person has otherwise been found to be rehabilitated; or
- the adjudication or commitment was based solely on a medical finding without opportunity for a hearing.

SECTION 922(g)(5) - PERSONS WHO ARE ALIENS AND ARE ILLEGALLY OR UNLAWFULLY IN THE UNITED STATES

- (1) An alien who is illegally or unlawfully in the United States.
- (2) Except as provided in 18 U.S.C. § 922(y)(2), an alien who has been 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])).

NOTES:

- Permanent resident aliens are not prohibited under this section.
- Aliens who are unlawfully in the United States are not in valid immigrant, nonimmigrant or parole status. The term includes:
 - An alien who unlawfully entered the United States without inspection and authorization by an immigration officer and who has not been paroled into the United States under Sec. 212(d)(5) of the Immigration and Nationality Act (INA);
 - An alien who is a nonimmigrant and whose authorized period of stay has expired or who has violated the terms of the nonimmigrant category in which he or she was admitted;
 - An alien who was paroled under INA Sec. 212 (d)(5) and whose authorized period of parole has expired, or whose parole status has been terminated;
 - An alien who is under an order of deportation, exclusion, or removal, or under an order to depart the United States voluntarily, whether or not he or she has left the United States.
- Examples of Persons who are in the United States in nonimmigrant status
 - An alien who is traveling temporarily in the United States for business or pleasure.
 - An alien who studies in the United States and who maintains a residence abroad.
 - An alien who is a temporary foreign worker.

- Exceptions for Nonimmigrant Aliens (18 U.S.C. 922[y][2])
 - An alien who has been admitted to the United States for lawful hunting or sporting purposes.
 - An alien who is in possession of a hunting license or permit lawfully issued in the United States.
 - 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.
 - An official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State.
 - A foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.
 - An alien who has received a waiver from the Attorney General.

SECTION 922(g)(6) - PERSONS WHO HAVE BEEN DISCHARGED FROM THE U.S. ARMED FORCES UNDER DISHONORABLE CONDITIONS

A person whose separation from the U.S. Armed Forces resulted from:

- (1) A dishonorable discharge; or
- (2) A dismissal adjudged by a general court-martial.

NOTES:

- This term does not include any separation from the U.S. Armed Forces resulting from any other discharge, for example, a bad conduct discharge.

SECTION 922(g)(7) - PERSONS WHO, HAVING BEEN CITIZENS OF THE UNITED STATES, HAVE RENOUNCED THEIR U.S. CITIZENSHIP

A person who, having been a U.S. citizen, has renounced U.S. citizenship either:

- (1) Before a diplomatic or consular officer of the United States in a foreign state pursuant to 8 U.S.C. 1481 (a)(5); or
- (2) Before an officer designated by the Attorney General when the United States is in a state of war pursuant to 8 U.S.C. 1481(a)(6).

NOTES:

- This term does not include any renunciation of citizenship that has been reversed as a result of administrative or judicial appeal.

SECTION 922(g)(8) - PERSONS SUBJECT TO A COURT ORDER THAT RESTRAINS THEM FROM HARASSING, STALKING, OR THREATENING AN INTIMATE PARTNER OR CHILD OF SUCH INTIMATE PARTNER, OR FROM ENGAGING IN OTHER CONDUCT THAT WOULD PLACE THE PARTNER OR CHILD IN REASONABLE FEAR OF BODILY INJURY

A person who is subject to a court order that:

- (1) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate; and
- (2) restrains the person from harassing, stalking or threatening an intimate partner of such person or child of such intimate partner or person, or from engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and
- (3) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child or by its terms expressly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury.

NOTES:

- The term intimate partner includes the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabits or has cohabited with the person.

SECTION 922(g)(9) - PERSONS CONVICTED IN ANY COURT OF A MISDEMEANOR CRIME OF DOMESTIC VIOLENCE

A person convicted of a local, state, tribal or federal offense that meets ALL of the following criteria:

- (1) Is a misdemeanor under state, tribal or federal law, or in jurisdictions which do not classify offenses as misdemeanors, is an offense which is punishable by imprisonment for a term of one year or less, and includes offenses that are punishable only by a fine. (This is true whether or not the statute specifically defines the offense as a “misdemeanor” or as a “misdemeanor crime of domestic violence,”) and
- (2) Has, as an element, the use or attempted use of physical force (e.g. assault and battery), or the threatened use of a deadly weapon; and
- (3) Was committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or

by a person similarly situated to a spouse, parent, or guardian of the victim.

NOTES:

- A person is NOT considered to have been convicted of a misdemeanor crime of domestic violence if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the jurisdiction in which the proceedings were held provides for the loss of civil rights upon conviction for such an offense), unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms and the person is not otherwise prohibited by the law of the jurisdiction in which the proceedings were held from receiving or possessing any firearms.

SECTION 922(n) - PERSONS WHO ARE UNDER INDICTMENT OR INFORMATION FOR A CRIME PUNISHABLE BY IMPRISONMENT FOR A TERM EXCEEDING ONE YEAR.

(1) A person under indictment or information in any court under which a crime punishable by imprisonment for a term exceeding one year may be prosecuted.

(2) A military service member charged with any offense punishable by imprisonment for a term exceeding one year which has been referred to a general court-martial.

NOTES:

- An information is a formal accusation of a crime, which differs from an indictment because it is made by a prosecuting attorney rather than a grand jury.



HOW A NICS TRANSACTION IS PROCESSED THROUGH THE CALL CENTER

A Federal Firearms Licensee (FFL) calls the Federal Bureau of Investigation (FBI) National Instant Criminal Background Check System (NICS) Call Center and initiates a firearm background check.

- The customer's descriptive data is compared with national databases. If the individual is a non-United States citizen, the NICS queries the United States Immigration and Customs Enforcement databases.

If there are no matching records in the databases, the FBI NICS Call Center provides a NICS Transaction Number (NTN) and advises the FFL may **PROCEED** the firearm transaction.

If a possible matching record is found, the FBI NICS Call Center will provide the NTN and the FFL is transferred to an FBI NICS Legal Instruments Examiner (NICS Examiner) for a quick review of the transaction.

- The NICS Examiner will review to verify the record matches the customer.
- The NICS Examiner will review the matching records returned by the databases for potential state and federal firearm prohibitors.
- If none exist, the NICS Examiner will advise the FFL may **PROCEED** with the firearm transaction.
- If at least one prohibitor exists, the NICS Examiner will advise the FFL to **DENY** the firearm transaction.
- If a potential prohibitor exists, the NICS Examiner will advise the FFL to **DELAY** the firearm transaction. The NICS Examiner will provide the FFL with the date the firearm may be transferred if the FFL is not notified of a final decision. The NICS Examiner is required to advise the FFL of their right under the Brady Handgun Violence Prevention Act of 1993 to transfer the firearm after the third business day.
 - Business days do not include the day the check was initiated; Saturdays, Sundays, or any day state offices in the state of purchase are closed.

When a transaction is **DELAYED**, the NICS Examiner begins extensive research on the potential prohibitor.

- When the research is complete, the NICS Examiner will call the FFL and give a **PROCEED** or **DENY** decision on the firearm transaction.

The NTN is only valid for 30 calendar days.

- In some instances, a firearm background check cannot be completed within 30 days and the transaction remains in an **OPEN** status. In this instance, the firearm can be transferred after the third business day, but not after the 30th calendar day.
- After 30 calendar days, a new firearm background check must be initiated through the FBI NICS Call Center.

enforcement agencies in an effort to obtain the information needed to complete the record(s) and determine if the information contained therein is disqualifying pursuant to the Brady Act. In such cases, the Brady Act allows up to three business days to attempt to obtain the missing or incomplete information. If the information needed cannot be obtained prior to the expiration of three business days and the FBI/NICS is unable to provide either a proceed or a deny response, it is the FFL's option to legally transfer the firearm.

What Is a Denial Response?

A denial response indicates that either the prospective firearm transferee *or another individual with a similar name and/or similar descriptive features* has been matched with one or more of the following federally prohibitive criteria:

- ◆ Persons convicted of/under indictment (or information) for a crime punishable by imprisonment for a term exceeding one year, whether or not sentence was imposed. This includes misdemeanor offenses with a potential term of imprisonment in excess of two years, whether or not sentence was imposed.
- ◆ Persons who are fugitives from justice (the subject of an active felony or misdemeanor warrant).
- ◆ An unlawful user and/or an addict of any controlled substance.
- ◆ Persons adjudicated as a mental defective or involuntarily committed to a mental institution or incompetent to handle their own affairs.
- ◆ An alien illegally/unlawfully in the United States.
- ◆ Persons dishonorably discharged from the United States Armed Forces.
- ◆ A renouncer of United States citizenship.
- ◆ The subject of a protective order.
- ◆ Persons convicted of a misdemeanor crime of domestic violence.

A denial response may also indicate a match to prohibitive criteria based on a state law.

As information is continually added or deleted from the databases searched during the NICS background check process and as a result of ongoing efforts to maintain current records, the results of FBI/NICS background checks can change with each query of the system. Voluntarily providing additional descriptive information, such as an individual's social security number, could benefit a prospective firearm transferee by helping to distinguish him/her from another person with a similar name (or similar descriptive features) who may be the subject of disqualifying records.

If an individual has been denied the transfer of a firearm and wishes to appeal the denial decision, a written request must be forwarded to the FBI/NICS Section, located at the FBI's Criminal Justice Information Services Division in Clarksburg, West Virginia. The FBI/NICS Section will provide, by written response, the reason for the denial within five business days after receiving the request.

Additional information pertaining to the FBI/NICS Program and/or the appeal process can be accessed via the Internet at www.fbi.gov/hq/cjisd/nics/index.htm.



A NICS DELAY...

A Federal Firearms Licensee (FFL) will receive the following instructions when a call is transferred from the FBI Criminal Justice Information Services (CJIS) Division's National Instant Criminal Background Check System's (NICS) contracted call center to the NICS Section in an open transaction resulting in a delay:

"--NTN-- is delayed while the NICS continues its research. If you do not receive a response from us, the Brady Law does not prohibit you from transferring the firearm on ___ day/date ___."

The following table specifies the day after a delay response on which a firearm may be lawfully transferred under federal law if a final determination has not been received from the NICS (assuming there are no intervening state holidays or closures):

<i>Delay Response On</i>	<i>Can Legally Transfer Under Federal Law On</i>
Monday	Friday
Tuesday	Saturday
Wednesday	Tuesday
Thursday	Wednesday
Friday	Thursday
Saturday	Thursday
Sunday	Thursday

In open transactions, the FFL should record on line 21c of the Alcohol, Tobacco, Firearms and Explosives (ATF) Form 4473 "delayed" and the date provided on which the firearm may be lawfully transferred under federal law if a final determination of proceed or denied is not received from the NICS Section.

If the FFL has not received from the NICS a final determination after three business days have elapsed since the delay response, it is within the FFL's discretion whether or not to transfer the firearm (if state law permits the transfer). If the FFL transfers the firearm, the FFL must note "no resolution was provided within 3 business days" on line 21d of the ATF Form 4473.

Applicable Federal Regulations

28 CFR Part 25 - The National Instant Criminal Background Check System

Section 25.6(c)(1)(iv)(B) – Delayed response provided to FFL:

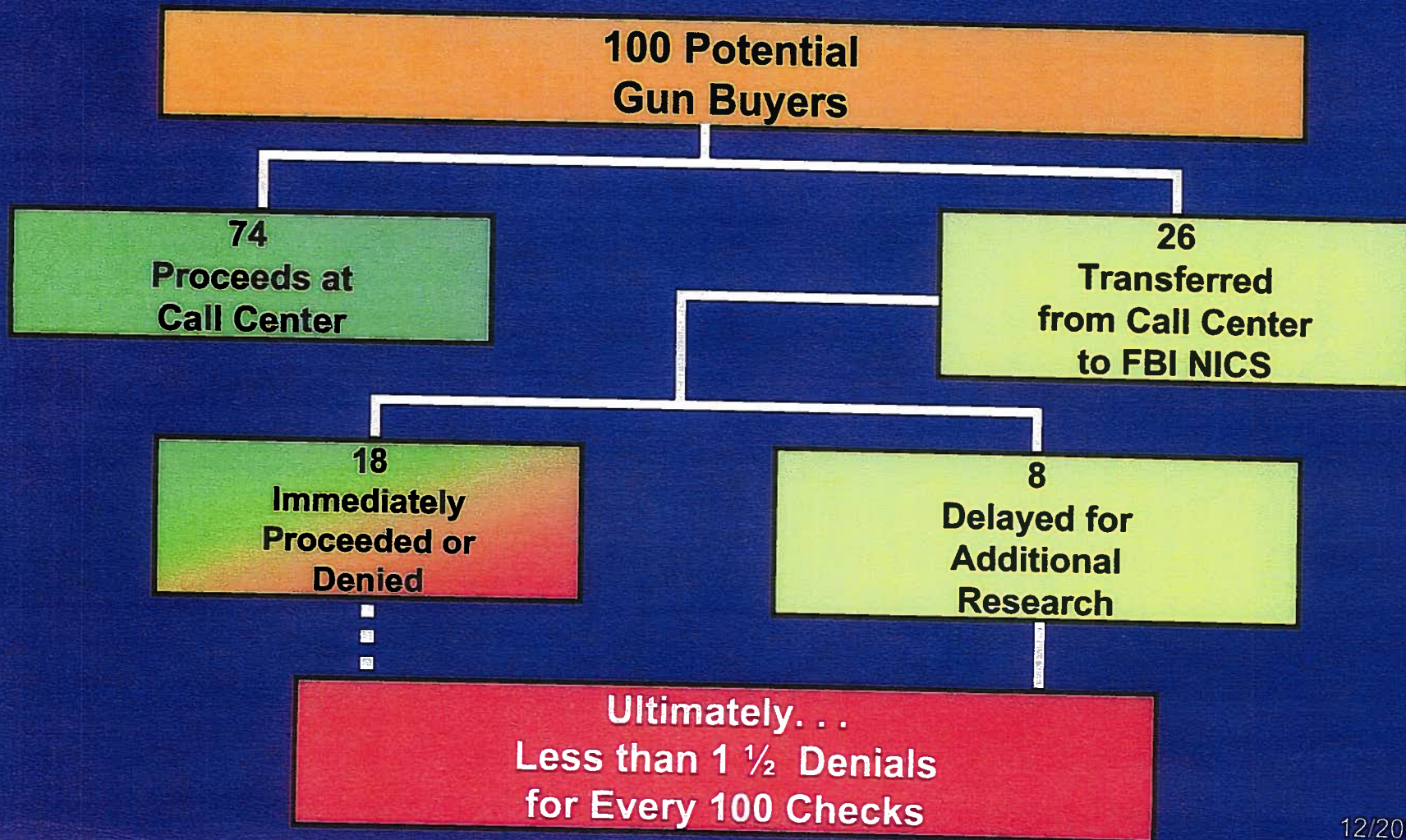
(B) "Delayed" response, if the NICS search finds a record that requires more research to determine whether the prospective transferee is disqualified from possessing a firearm by Federal or state law. A "Delayed" response to the FFL indicates that the firearm transfer should not proceed pending receipt of a follow-up "Proceed" response from the NICS or the expiration of three business days (exclusive of the day on which the query is made), whichever occurs first. (Example: An FFL requests a NICS check on a prospective firearm transferee at 9:00 a.m. on Friday and shortly thereafter receives a "Delayed" response from the NICS. If state offices in the state in which the FFL is located are closed on Saturday and Sunday and open the following Monday, Tuesday, and Wednesday, and the NICS has not yet responded with a "Proceed" or "Denied" response, the FFL may transfer the firearm at 12:01 a.m. Thursday.)

Section 25.2 – Definition of "Open" transaction:

"Open" means those non-canceled transactions where the FFL has not been notified of the final determination. In cases of "open" responses, the NICS continues researching potentially prohibiting records regarding the transferee and, if definitive information is obtained, communicates to the FFL the final determination that the check resulted in a proceed or a deny. An "open" response does not prohibit an FFL from transferring a firearm after three business days have elapsed since the FFL provided to the system the identifying information about the prospective transferee.



A Sampling of NICS Transactions



**Use Fax-on-Demand &
Have Documents at Hand!**

1-877-324-NICS



APPEAL BROCHURES

VOLUNTARY APPEAL FILE BROCHURES

ENROLLMENT FORMS



Extra Extra Extra

DON'T JUST CHECK IT...

E-Check It !!

NO MORE CALLING THE CALL CENTERS!*

NO MORE WAITING FOR CALLBACKS!

YOU TYPE IT IN AND **YOU** CHECK THE STATUS!

To Sign Up, Step Right This Way (actually it's three easy steps)

1. Complete and fax or mail in an original signed registration form (available on our website listed below) for each user at your location.
2. Complete the on-line (electronic) registration form for each user at your location at our web site listed below. You **must** complete both an on-line and an original registration form.
3. After receiving an approval notice (usually the same day the NICS receives both on-line registration and the signed original by fax or mail), download and protect your digital certificate.

You are ready to E-Check; it's that simple.

* Registering to use E-Check **does not** prevent you from using the Call Centers.
E-Check is a free-of-charge alternative method of initiating a NICS background check.
So, why not use both?

Certain Restrictions Apply:

You must be a registered Federal Firearm Licensee.

You must have Internet access.

You must use a web browser with 128-bit encryption technology.

Log On Now

Go to www.nicsezcheckfbi.gov for details.

Benefits of Using the NICS E-Check

- A more accurate search facilitated based on the direct entry of descriptive data by the transaction originator, thereby increasing data integrity.
- The ability to retrieve NICS background check results 24/7.
- The ability to retrieve all checks initiated at the NICS Contracted Call Centers or via the NICS E-Check.
- The ability to print completed NICS background check search requests.
- Increased usability for the hearing and speech impaired.
- The availability of messages regarding the NICS operational status.
- Added customer protection against identity theft.
- Added safeguard against theft of license number and codeword.

Additional Information

For additional information pertaining to the NICS E-Check or the system's availability in your state, you may contact the NICS Section at 1-877-FBI-NICS (324-6427) (select option three) or access the NICS E-Check Web site.

NICS Section Information:

Customer Service:

1-877-FBI-NICS (324-6427)
Select Option 3 for NICS E-Check

Facsimile:

1-888-550-6427

**Telecommunications
Device for the Deaf (TDD):**

1-877-NICS-TTY

NICS Web Site:

www.fbi.gov/hq/cjisd/nics.htm

**NICS E-Check E-mail
Address:**

echeck@leo.gov

**NICS E-Check
Web Site:**

www.nicsezcheckfbi.gov

March 2010

U.S. Department of Justice
Federal Bureau of Investigation
Criminal Justice Information Services Division



NICS E-Check



www.nicsezcheckfbi.gov

NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM NICS E-Check

Brady Act Requirements

November 1993, the Brady Handgun Violence Prevention Act of 1993 (Brady Act), Public Law 103-159, was signed into law requiring Federal Firearms Licensees (FFLs) to request background checks on prospective firearm transferees. The permanent provisions of the Brady Act, which went into effect on November 30, 1998, required the U.S. Attorney General to establish the National Instant Criminal Background Check System (NICS) so that any FFL may contact by telephone, or by other electronic means, for information to be supplied immediately, on whether the transfer of a firearm would violate Section 922 (g) or (n) of Title 18, United States Code, or state law.

NICS Operations and the NICS E-Check

Depending upon the level of each state's participation with the NICS, every FFL is provided access to the NICS via one of the following three ways:

- Through a designated state point of contact (POC) for those states that have chosen to implement and maintain their own Brady NICS Program;
- Through the FBI Criminal Justice Information Services (CJIS) Division's NICS Section for those states that have declined to serve as a POC for the system (non-POC states); or
- Through the designated state POC for handguns and the NICS Section for long guns.

In the non-POC states, the FFLs contact the NICS using a toll-free telephone number to provide the requisite information to a customer service representative who initiates the check on their behalf. However, Title 28, Code of Federal Regulations, Part 25, NICS Regulations, allowed for the development of other electronic means of contact as alternatives in addition to the telephone.

Therefore, the NICS Section, in a joint effort with the CJIS Division's Information Technology Management Section, Lockheed Martin Energy Systems, Science

Applications International Corporation and an FFL focus group, developed the NICS E-Check. This function enables the FFLs to conduct an *unassisted* NICS background check for firearm transfers via the Internet. The FFLs, via electronic communication, data enter the prospective firearm transferee's descriptive information directly into the NICS and initiate the transaction search process.

The NICS E-Check is easy to use once the registration process has been completed. However, to utilize the NICS E-Check capability, certain restrictions apply:

- You must be a registered FFL;
- You must have Internet access; and
- You must use a Web browser with 128-bit encryption technology.

Currently, the NICS E-Check is only available in those states whose FFLs are serviced by the NICS Section inclusive of those states whose FFLs contact the NICS Section for long gun transactions only.

Security

Access to the NICS E-Check is restricted through computer software and certification authority, thereby providing secure and restricted access. The NICS E-Check is monitored 24/7, for misuse, etc. In addition, the NICS E-Check denies access to any individual whose identification is not known to the system.



A deny message from the NICS indicates the subject of the background check has been matched with a similar name and/or similar descriptive features located on a criminal history record with the following federally prohibitive criteria or state law:

18, U.S.C. §922 (g)(1)

Has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year

18, U.S.C. §922 (n)

is under indictment for a crime punishable by imprisonment for a term exceeding one year

18, U.S.C. §922 (g)(2)

is a fugitive from justice

18, U.S.C. §922 (g)(3)

is an unlawful user of or addicted to any controlled substance

18, U.S.C. §922 (g)(4)

Has been adjudicated as a mental defective or committed to a mental institution

18, U.S.C. §922 (g)(5)

Illegally or unlawfully in the United States

18, U.S.C. §922 (g)(6)

Has been discharged from the Armed Forces under dishonorable conditions

18, U.S.C. §922 (g)(7)

Having been a citizen of the United States, has renounced U.S. citizenship

18, U.S.C. §922 (g)(8)

is subject to a court order that restrains the person from harassing, stalking, or threatening an intimate partner or child of such intimate partner

18, U.S.C. §922 (g)(9)

Has been convicted in any court of a misdemeanor crime of domestic violence

18, U.S.C. §922 (g)(9)

Has been convicted in any court of a misdemeanor crime of domestic violence

Please reference the Federal Register, Volume 2, Number 124, Rules and Regulations for more complete definitions of the prohibiting categories.

NICS SECTION INFORMATION

NICS Customer Service

1-877-FBI-NICS (324-6427)

NICS Section Facsimile

1-888-550-6427

NICS Appeal Facsimile

1-304-625-0535

Telecommunications Device for the Deaf (TDD)

1-877-NICS-TTY

NICS Web Site

www.fbi.gov/hq/cjisd/nics.htm

NICS E-mail Address

a_nics@leo.gov

NICS Appeals E-mail Address

nicsappeals@leo.gov

January 2010

National Instant Criminal Background Check System (NICS)



BRADY HANDGUN VIOLENCE PREVENTION ACT OF 1993

On November 30, 1993, the Brady Handgun Violence Prevention Act of 1993 (Brady Act), Public Law 103-159, was signed into law. The Brady Act required the United States Attorney General to establish a National Instant Criminal Background Check System (NICS) for Federal Firearms Licensees (FFLs) to contact for information to be supplied immediately as to whether the transfer of a firearm would violate Section 922 (g) or (n) of Title 18, United States Code (U.S.C.) or state law. Through a cooperative effort with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); the Department of Justice; and state and local law enforcement agencies, the FBI developed the NICS which was implemented on November 30, 1998.

ACCESS TO THE NICS

Access to the NICS is restricted to the following three circumstances:

- ❖ An FFL can initiate a background check only in connection with a proposed firearm transfer as required by the Brady Act and pursuant to 18, U.S.C., § 922(t)(1).
- ❖ Pursuant to Title 28, Code of Federal Regulations (C.F.R.), Section 25.6(j)(i), to provide information to local, state, or federal criminal justice agencies only in connection with the issuance of a firearm-related or an explosives-related permit or license.
- ❖ Title 28 C.F.R. §25.6(j)(2) permits the NICS to respond to inquiries by the ATF in connection with a civil or criminal law enforcement activity relating to the Gun Control Act of 1968 or the National Firearms Act.

HOW THE NICS WORKS

All states have the option to implement a state-based NICS program. Such states serve as a point of contact (POC) between the NICS and the state's FFLs. The FFLs conducting business in these POC states contact a state-designated agency to initiate all background checks.

The FFLs conducting business in the states that do not operate in a POC capacity, otherwise known as Non-POC states, contact the FBI Criminal Justice Information Services Division's NICS Section to initiate background checks. Also, several states share responsibility with the FBI for processing background checks for the state's FFLs. These Partial-POC states process the FFL's handgun checks while the FBI processes the FFL's long gun checks.

When an FFL initiates a NICS background check, a search of the individual's name and descriptive information (e.g., date of birth, gender, race, state of residence, and place of birth) is conducted to identify any matching records in the following nationally held databases managed by the FBI:

Interstate Identification Index (III): The III maintains millions of criminal history records.

National Crime Information Center (NCIC): The NCIC maintains data specific to persons who are the subject of protection orders, criminal warrants, etc.

NICS Index: The NICS Index maintains information (not located in the III or the NCIC) about persons who are federally prohibited the transfer of a firearm pursuant to the Brady Act.

Also, a search of the applicable databases of the Department of Homeland Security's U.S.

Immigration and Customs Enforcement (ICE) is conducted on all non-U.S. citizens.

The majority of NICS checks are determined within seconds to minutes after the background check search is initiated. If the NICS does not match any records in the databases searched, the transaction is proceeded. However, if the search yields a valid match to prohibiting information, the transaction is denied.

If the search is matched to any potentially prohibiting records, the NICS Section must reach out to judicial and/or law enforcement agencies for the information needed to render a final decision. The Brady Act allows three business days for this purpose. If the information is not obtained within the three-business-day time frame and a final decision of proceed or deny is not made, the FFL has the option to legally transfer the firearm.

PRIVACY AND SECURITY

The data stored in the NICS is documented federal information. Access to this information is restricted to agencies authorized by the FBI. Extensive measures are taken by the FBI to ensure the security and integrity of the NICS information and agency use. The information specific to background checks that result in an allowed transaction is destroyed in accordance with existing federal law. Further information pertaining to privacy and security of the NICS is located via the NICS Web Site.

Frequently Asked Questions

What is the processing time?

The FBI processes requests as quickly as possible; however, please allow several weeks for processing. You can obtain an estimate of the current processing time by calling (304) 625-5590.

Can the FBI send the results to someone (or an agency) other than me?

Under the U.S. Department of Justice Order 556-73, the results must be returned to the requestor or his/her designated legal representative. A notarized authorization to release the results to the legal representative must accompany such a request.

Where can I get my fingerprints taken?

Local, county, or state law enforcement agencies may take your fingerprints for a fee. Also, some private companies offer this service — check the business listings in your telephone book.

Why was I told there was a problem with my criminal history when I received a letter indicating “No Arrest Record-FBI”?

There are several instances in which this might occur, such as:

- 1) Removal of arrest information may have been authorized since you were advised of the record problem.
- 2) A previous search was conducted with a name and physical description only, and the descriptive data you provided matched or was very similar to that contained in another individual's record. Positive identifications are made by fingerprint comparisons.
- 3) The arresting agency may not have supplied the information to the FBI. You will need to contact the state repository in which the arrest occurred.

For additional information concerning an FBI Identification Record request and for recent updates to the procedures outlined in this brochure, please refer to: www.fbi.gov/hq/cjisd/fprequest.htm. You may also contact our Customer Service Group at (304) 625-5590.

Additional Concerns

Firearm Background Checks

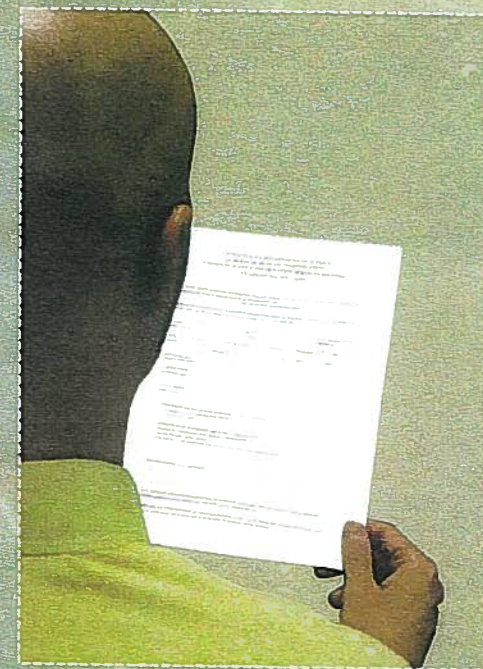
The Correspondence Group cannot access National Instant Criminal Background Check System (NICS) information or comment on firearm-related issues. The NICS Customer Service can be reached at (877) 444-6427 for firearm issues only or visit their Web site at: www.fbi.gov/hq/cjisd/nics.htm.

Licensing and Employment Background Checks

Certain background checks for licensing and employment must be conducted through specific state and federal channeling agencies. Contact the requiring agency for correct procedures.



How to Obtain and Challenge Your FBI Identification Record



What is an FBI Identification Record?

An FBI Identification Record, often referred to as a "FAP Sheet," is a listing of information taken from fingerprint submissions retained by the FBI in connection with arrests. In some instances, it also includes information taken from fingerprints submitted in connection with federal employment, naturalization, or military service. The identification record includes the name of the agency or institution that submitted the fingerprints to the FBI. For criminal offenses, the identification record includes the date of arrest or the date the individual was received by the agency submitting the fingerprints, the arrest charge(s), and the arrest disposition(s) if known. The FBI's Criminal Justice Information Services (CJIS) Division is not the source of the arrest data reflected on an identification record. All arrest information included in an identification record is obtained from fingerprint submissions, disposition reports, and other reports submitted voluntarily by agencies having criminal justice responsibilities.

Due to provisions within the Privacy Act of 1974, the FBI cannot provide criminal history information via telephone or facsimile.

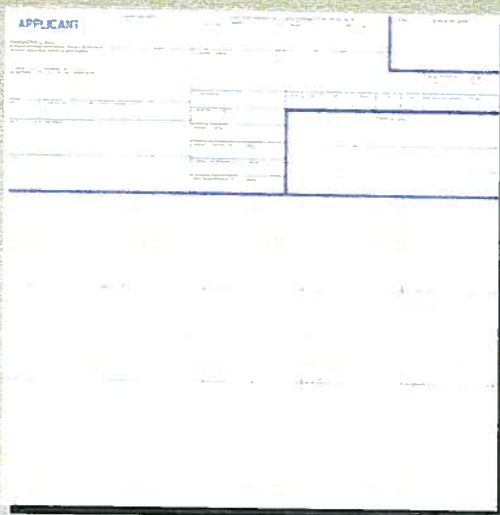
How do I obtain a copy of my FBI Identification Record for personal review?

You may obtain a copy of your FBI Identification Record by sending a request to:

Federal Bureau of Investigation
CJIS Division
Attention: Record Request
1000 Custer Hollow Road
Clarksburg, WV 26306

You are required to provide the following:

- 1) Your written request.
- 2) Payment for the \$18 processing fee, either by certified check or money order made payable to the U.S. Treasury, or a credit card. For credit card payment information, refer to www.fbi.gov/hq/cjisd/fprequest.htm.
- 3) A current, original tenprint fingerprint submission (not previously processed) taken by a local law enforcement agency and bearing your **name, date of birth, and place of birth**.



What will I receive?

In accordance with regulations established by the U.S. Department of Justice, the FBI's CJIS Division is empowered to furnish an individual with a copy of any record in our Criminal File pertaining to him/her or to advise the individual that no such record exists. In instances where a criminal history record exists in our Criminal File, the FBI Identification Record itself serves as our official reply. When no record is found, the response, "No Arrest Record FBI," will be returned in a letter format.

How do I challenge my record?

If, after reviewing your record, you believe it is inaccurate or incomplete, you may challenge the record by contacting the agency (or agencies) that originally submitted the information or by sending your challenge to the FBI's CJIS Division, Attention: Correspondence Group, 1000 Custer Hollow Road, Clarksburg, WV 26306. The Correspondence Group will contact the appropriate agencies in an attempt to verify or correct the challenged entry for you. Upon receipt of official communication from the agency with jurisdiction over the data, the FBI will make appropriate changes, if necessary, and notify you of the outcome. Updating your FBI criminal history record can include having final disposition data entered, cases expunged, pardons entered, a conviction level changed, or rights restored. When challenging, you should submit any supporting documentation you have in your possession that indicates the final outcome of the arrest(s).

Your FBI Identification Record may not reflect all instances in which you were arrested and fingerprinted. The FBI maintains criminal history records voluntarily submitted by local, state, federal, and certain international agencies. You may need to contact the arresting agency or the repository of the state in which the arrest(s) occurred for criminal history record information. A state repository is responsible for maintaining and updating state criminal history records.

What Prohibits an Individual From the Transfer or Possession of a Firearm?

A deny message from the NICS indicates either you or another individual with a similar name and/or similar descriptive features has been matched with either **federally** prohibitive criteria (listed below) or state prohibitive criteria.

Section 922(g) of the Gun Control Act prohibits certain persons from shipping or transporting any firearm in interstate or foreign commerce, or receiving any firearm which has been shipped or transported in interstate or foreign commerce, or possessing any firearm in or affecting commerce. **These prohibitions apply to any person who:**

18, U.S.C. §922 (g) (1)

Has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year

18, U.S.C. §922 (n)

Under indictment for a crime punishable by imprisonment for a term exceeding one year

18, U.S.C. §922 (g) (2)

Is a fugitive from justice

18, U.S.C. §922 (g) (3)

Is an unlawful user of or addicted to any controlled substance

18, U.S.C. §922 (g) (4)

Has been adjudicated as a mental defective or committed to a mental institution

18, U.S.C. §922 (g) (5)

Has been illegally or unlawfully in the United States

18, U.S.C. §922 (g) (6)

Has been discharged from the Armed Forces under dishonorable conditions

18, U.S.C. §922 (g) (7)

Having been a citizen of the United States, has renounced U.S. citizenship

18, U.S.C. §922 (g) (8)

Is subject to a court order that restrains the person from harassing, stalking, or threatening an intimate partner or child of such intimate partner

18, U.S.C. §922 (g) (9)

Has been convicted in any court of a misdemeanor crime of domestic violence

Please reference the Federal Register, Volume 62, Number 124, Rules and Regulations, for more complete definitions of the prohibiting categories.

Note: If denied, your name will be included in a file accessible to law enforcement.

NICS Information:

NICS Customer Service

1-877-324-NICS (6427)

NICS Appeal Facsimile

1-304-625-0535

Telecommunications Device

for the Deaf (TDD)

1-877-NICS-TTY

NICS Web Site

www.fbi.gov/hq/cjisd/nics.htm

NICS E-mail Address

a_nics@leo.gov

January 2010



NICS

Guide for Appealing a Firearm Transfer DENIAL



Your Rights and Responsibilities

NTN: _____

you believe you have been **erroneously denied** firearm transfer based on a match to a record turned by the National Instant Criminal Background Check System (NICS), you may request an appeal of your deny decision. The provisions for appeals are outlined in the NICS regulations at Title 28, Code of Federal Regulations, part 25.10, and Subsection 103 (f) and (g) and Section 104 of the Brady Handgun Violence Prevention Act of 1993.

Requesting an Appeal

You may request the reason for your denial by writing to:

Federal Bureau of Investigation
Criminal Justice Information Services Division
NICS Section
Appeal Services Team, Module A-1
Post Office Box 4278
Martinsburg, WV 26302-4278

You must include the **required information** (listed below) along with your appeal request:

- (1) FULL NAME
- (2) COMPLETE MAILING ADDRESS
- (3) NICS TRANSACTION NUMBER (NTN) or STATE TRANSACTION NUMBER (STN)

You may also request the reason for your denial through the NICS Section's Appeal Web site or via the NICS Section's Appeal facsimile listed on the back of this brochure.

Failure to submit all required appeal information may result in the rejection of your appeal request.

Official FBI Fingerprint Card is included. The submission of your (rolled or a hard copy of or electronically scanned) fingerprints may help accelerate the appeal process. **NOTE: Appeal Fingerprint Cards are not accepted via facsimile.**

The NICS Section's Appeal Services Team (AST) will respond to your initial appeal request by providing you with the general reason for denial within five business days.

Appealing your Denial

The following information outlines the steps you must take to either challenge your record or make a claim the record used as the basis for your **denial** does not pertain to you.

Questions of Identity

In cases involving criminal history records, if fingerprints are not submitted along with your initial appeal request, you may subsequently be **required** to submit your fingerprints to establish positive proof of your identity. If your fingerprints are required by the NICS Section and you wish to further the appeal process, you must have your fingerprint impressions rolled or electronically scanned by law enforcement or another authorized fingerprinting agency. The agency preparing your fingerprints must provide an agency name, address, telephone number, and an Originating Agency Identification number (as assigned by the FBI) and the legible signature of the person who rolled your fingerprints on the fingerprint card. The reason fingerprinted should be marked "For NICS Purposes." The omission of any required information (as listed above) may result in a rejection of your fingerprint card.

NOTE: Specific appeal information can **only** be provided to you once positive proof of identity has been established via the submission of your fingerprints.

Record Challenges

You may challenge the accuracy of the record used in the evaluation of your denial or declare

your rights to obtain a firearm have been restored, etc. If you have additional information (e.g., court documentation) to assist the AST in correcting or updating the record, you should include the information with your written correspondence.

If the AST is unable to resolve your appeal, you will be provided referral information to contact the agency maintaining the record. For correction of the record, you must follow procedures established by the state or federal agency maintaining the original record. You may submit any information to the originating agency to assist with the correction or update of your record. **(This may also help accelerate the appeal process for you.)** If the originating agency corrects your record, the AST must be notified and provided documentation indicating such. The AST will evaluate and verify the information and provide you with a decision on your appeal **in writing**.

Appeal Inquiry

All appeal inquiries must be directed to the AST **in writing**. Due to the Privacy Act of 1974, specific information cannot be disseminated to you via the telephone.

Successful Appeal

If your appeal is successful, you will be notified by the AST, via U.S. mail, your denial has been overturned and you currently have no firearm prohibitions. You will be issued documentation which **must** be presented to the Federal Firearms Licensee who initiated your background check.

APPLICANT

LEAVE BLANK

TYPE OF PRINT ALL INFORMATION IN BLACK

LAST NAME NAM FIRST NAME ALIEN STATUS

LEAVE BLANK

SIGNATURE OF PERSON TO BE PRINTED

ALIASES AKA

P
O
B

WVNICS000
NICS
CLARKSBURG, WV

DATE OF BIRTH DOB
Month Day Year

ADDRESS OF PERSON TO BE PRINTED

CITIZENSHIP CTZ

SEX

RACE

HGT

WGHT

EYES

HAIR

PLACE OF BIRTH POB

DATE OF BIRTH OF PERSON TO BE PRINTED

CLASSIFICATION OCA

LEAVE BLANK

EDUCATION

EDUCATION FBI

TYPE OF EMPLOYER

EMPLOYER TYPE MNU

To Law Enforcement: Please stamp your agency's name, address and phone number.

EMPLOYER STATUS SOC

EMPLOYER TYPE MNU

SAMPLE

VOLUNTARY APPEAL FILE (VAF) APPLICATION

Date of application: _____

Please fill out the following information: (* Denotes Mandatory Information)

***** THIS APPLICATION MUST BE ACCOMPANIED WITH A COMPLETED FINGERPRINT CARD *****

NOTE: If you are interested in applying for the VAF, please ensure you read and sign the Applicant's Statement on the reverse side of this application. An application cannot be processed without an original signature.

Last Name	*First Name	Middle Name	Cadence

Social Security Number	*State of Residence	Telephone Number

*Date of Birth			*Place of Birth	*Gender	*Race
Month	*Day	*Year	(State)		
				<input type="checkbox"/> Male <input type="checkbox"/> Female	<input type="checkbox"/> 1 American Indian or Alaskan Native <input type="checkbox"/> 2 Hispanic or Latino <input type="checkbox"/> 3 Black or African American <input type="checkbox"/> 4 Asian <input type="checkbox"/> 5 Native Hawaiian or Other Pacific Islander <input type="checkbox"/> 6 White or Caucasian <input type="checkbox"/> 7 Unknown

Height	Weight	Eyes	Hair	*Country of Citizenship

MAILING ADDRESS (for receiving correspondence):	*REASON FOR APPLICATION:

OTHER LEGAL NAMES -			
Last Name	First Name	Middle Name	Cadence

Alien Registration Number (*mandatory if Country of Citizenship is other than US)	Miscellaneous Numbers (Military ID, Driver's License)

ditionally, if you have denied transactions you would like for the NICS Section to place under appeal along with your VAF application, you must provide the NICS Transaction Number(s). NTN(s): _____

OMB No: 1110-0043

voluntary Appeal File



NOTE: THIS IS NOT AN APPEAL BROCHURE. HOWEVER, THIS APPLICATION CAN BE USED TO INITIATE AN APPEAL ALONG WITH APPLYING FOR THE VAF. IF YOU WANT TO INITIATE AN APPEAL, PLEASE PROVIDE THE NICS TRANSACTION NUMBER ON THE BOTTOM OF THIS APPLICATION.

FOR MORE VAF INFORMATION:
 Customer Service 1-877-FBI-NICS (324-6427)
 Telecommunications Device for the Deaf (TDD)
 1-877-NICS-TTY (6427-889)

Brady Act Requirements

The Brady Handgun Violence Prevention Act of 1993 (Brady Act), Public Law 103-159, was signed into law in November 1993, requiring Federal Firearms Licensees (FFLs) to request background checks on individuals attempting to purchase a firearm. The permanent provisions of the Brady Act, which went into effect on November 30, 1998, required the U.S. Attorney General to establish the National Instant Criminal Background Check System (NICS) that any FFL may contact by telephone or by other electronic means for information to be supplied immediately on whether receipt of a firearm by a prospective transferee would violate Section 922 (g) or (n) of Title 18, United States Code, or state law.

The FBI developed the NICS through a cooperative effort with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and local and state law enforcement agencies. The NICS is designed to respond to background check inquiries to provide FFLs with an immediate response as to whether the transfer of a firearm can proceed or if more research must be completed to make a determination if the transfer would violate state or federal law.

The NICS, which is operated by the FBI Criminal Justice Information Services (CJIS) Division's NICS Section, is a national name check system that queries available records in the National Crime Information Center (NCIC), the Interstate Identification Index (III), and the NICS Index to determine if prospective purchasers are disqualified from receiving firearms.

Voluntary Appeal File

A final rule was published by the Department of Justice in *The Federal Register*, outlining the following changes. Per Title 28, Code of Federal Regulations, Part 25.9(b)(1), (2), and (3), the NICS Section must destroy all identifying information on allowed transactions within 24 hours of notification to the FFL. 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. If the record is not able to be updated, the purchaser continues to be denied or delayed, and if that individual appeals the decision the documentation must be resubmitted on every subsequent appeal.

For this reason, the Voluntary Appeal File (VAF) has been established. This process permits applicants to request the NICS maintain information about themselves in the VAF to prevent future erroneous denials or extended delays of a firearm transfer.

Application Process

Under this process, individuals have the option to supply the NICS Section with information such as name, date of birth, social security number, and any other identifying numbers using the VAF application included in this brochure to request entry into the file. The individual's signature under the applicant's statement is required to give the NICS Section permission to retain the information in this file. Documents that may clarify records or prove identity (e.g., fingerprint cards, court records, pardons, etc.) will be entered in the VAF along with the descriptive information from the application. This application, a set of rolled fingerprints and any supporting documentation should be sent to the following address:

Federal Bureau of Investigation
Criminal Justice Information Services Division
National Instant Criminal Background Check System
Voluntary Appeal File
Post Office Box 4278
Clarksburg, WV 26302-4278

After reviewing the application and fingerprint card and validating the materials submitted by the applicant, the NICS Section will enter successful applicants into the VAF. The applicant will be notified by mail if their application qualifies for entry

into the VAF. **Entry into the VAF will not automatically result in a proceed response on subsequent purchases. A complete NICS check is still required and will result in a denial if additional prohibitive information is discovered.** The NICS Section is required to destroy any records submitted to the VAF upon written request of the individual. Additionally, if the NICS Section discovers a disqualifying record on the individual after their entry into the VAF, the NICS Section may remove the individual's information from the file.

APPLICANT'S STATEMENT:

I give the information on my VAF application voluntarily with the understanding that if my application is successful, I will be entered into the Voluntary Appeal File (VAF), maintained by the FBI Criminal Justice Information Services Division's National Instant Criminal Background Check System (NICS) Section. I understand if at any time I wish to be removed from the VAF, I can make a request in writing to the NICS Section to be removed. I also understand if the NICS Section discovers a disqualifying record after my entry into the VAF, the NICS Section may remove my information from the file.

SIGNATURE

DATE

A signature is required on the above applicant's statement. If the required signature is absent, the application cannot be processed and will be returned to the applicant as insufficient. This brochure with original signature and original fingerprint card must be returned by mail only.

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a valid OMB control number. The FBI Criminal Justice Information Services (CJIS) Division's National Instant Criminal Background Check System (NICS) Section tries to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden to you to provide us with information. The estimated average time to complete the application is 5 minutes, 2 hours for fingerprinting, and 25 minutes for mailing for a total of 2.5 hours. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to the FBI CJIS Division's NICS Section, Post Office Box 4278, Clarksburg, West Virginia 26302-9922.

APPLICANT

UNIT	WVNIC000
AGENCY	NICS
ADDRESS	CLARKSBURG WV
DATE OF LAST JOB	

NAME								
SSN								

DATE OF BIRTH	
EDUCATION	
EMPLOYMENT HISTORY	
AGENCY	
ADDRESS	
PHONE NUMBER	



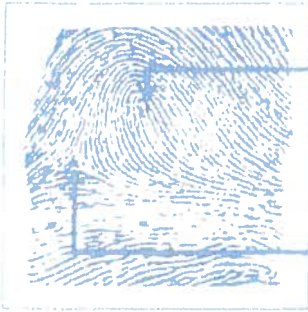
To Law Enr Please stamp your agency's name, address and phone number

EXAMPLE

**FEDERAL BUREAU OF INVESTIGATION
 UNITED STATES DEPARTMENT OF JUSTICE
 CJIS DIVISION / CLARKSBURG, WV 26306**

APPLICANT

1 LOOP

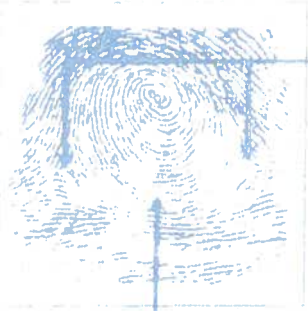


CENTER OF LOOP

DELTA

THE LINES BETWEEN CENTER OF LOOP AND DELTA MUST FOLLOW

2 WHORL



CENTER OF WHORL

THE LINES BETWEEN CENTER OF WHORL AND DELTA MUST FOLLOW

3 ARCH



CENTER OF ARCH

THE LINES BETWEEN CENTER OF ARCH AND DELTA MUST FOLLOW

INSTRUCTIONS FOR APPLICANT

1. This card is to be filled out by the applicant.

2. The card is to be filled out for each fingerprint.

3. The card is to be filled out for each side of the hand.

4. The card is to be filled out for each finger.

5. The card is to be filled out for each thumb.

6. The card is to be filled out for each index finger.

7. The card is to be filled out for each middle finger.

8. The card is to be filled out for each ring finger.

9. The card is to be filled out for each little finger.

10. The card is to be filled out for each heel.

11. The card is to be filled out for each ball.

12. The card is to be filled out for each side of the foot.

13. The card is to be filled out for each toe.

14. The card is to be filled out for each side of the hand.

15. The card is to be filled out for each side of the foot.

THIS CARD FOR USE BY

LEAVE THIS SPACE BLANK

INSTRUCTIONS

1. This card is to be filled out by the applicant.

2. The card is to be filled out for each fingerprint.

3. The card is to be filled out for each side of the hand.

4. The card is to be filled out for each finger.

5. The card is to be filled out for each thumb.

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9. The card is to be filled out for each little finger.

10. The card is to be filled out for each heel.

11. The card is to be filled out for each ball.

12. The card is to be filled out for each side of the foot.

13. The card is to be filled out for each toe.

14. The card is to be filled out for each side of the hand.

15. The card is to be filled out for each side of the foot.

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15



U.S. Department of Justice

Federal Bureau of Investigation

Clarksburg, WV 26306

To: Voluntary Appeal File (VAF) Applicant

This letter is in response to your inquiry for information regarding the National Instant Criminal Background Check System (NICS) VAF. A final rule was enacted on July 20, 2004, by the Department Of Justice in *The Federal Register*, Volume 69, Number 141 describing the changes regarding the prompt destruction of records. Per 28 Code of Federal Regulations (CFR) Part 25.9(b)(1), (2), and (3), the NICS must destroy all purchaser identifying information on allowed transactions within 24 hours of the Federal Firearms Licensees (FFLs) being notified of a transaction's proceed status. If a potential purchaser is delayed or denied a firearm and successfully appeals the decision, the NICS cannot retain a record of the overturned appeal or the supporting documentation. If the record is unable to be updated, the purchaser continues to be delayed or denied, and if that individual appeals the decision, the documentation must be resubmitted on every subsequent purchase.

For this reason the VAF has been established. This process permits applicants to request that the NICS maintain information about them in the VAF, a separate file to be checked by the NICS, to prevent erroneous denials and extended delays in the future. Lawful purchasers who have been delayed or denied a firearm transfer because they have a name or date of birth similar to that of a prohibited person may also request that the NICS maintain information about them to facilitate future firearms transactions.

On subsequent purchases, a complete NICS check is still required for individuals who have been entered into the VAF. The transaction will result in a denial if prohibitive information is discovered that was not present at the time of entry into the VAF.

The FBI Criminal Justice Information Services (CJIS) Division's NICS Section is required to destroy all records submitted by an individual to the VAF upon written request of the individual. Additionally, if the NICS Section discovers a disqualifying record on the individual after their entry into the VAF, the NICS Section may remove the individual's information from the file. In either case, the individual will be notified by mail that their information has been removed.

Voluntary Appeal File (VAF) Applicant

Under this new process, potential purchasers may apply to be considered for entry into the VAF by completing the VAF application on the reverse side of the enclosed brochure and by signing the Applicant's Statement, located in the interior of the brochure. An original signature is required to authorize the NICS Section to retain information that would otherwise be destroyed upon the approval of the firearm transaction. This information includes but is not limited to: a fingerprint card, court documentation, correspondence, and information contained in the applicant's appeal file, if one exists.

The application process also requires that positive proof of identity be provided. A set of your rolled fingerprint impressions **prepared by a law enforcement agency** on the enclosed fingerprint card must accompany the Applicant's Statement. The fingerprint card **must** contain the following information:

- The law enforcement agency rolling the fingerprint impressions should stamp its agency name and address on the fingerprint card in the designated area. If the agency is unable to stamp this information, they must write their agency name, address and ORI number (if applicable) in the designated area. The agency's telephone number and the signature of the official taking the fingerprints **must** also be included.
- All areas on the fingerprint card **must be completed**; however, the inclusion of any additional information may help expedite your application.

The NICS Section will not charge a fee for this procedure; however, a fee may be charged by the law enforcement agency.

Please be advised that failure to comply with any of the above-listed requirements may result in the rejection of your fingerprint card submission, thereby causing further delays in the processing of your application.

The NICS Section will also accept any certified court documentation that may assist in the application process. This may include, but is not limited to, court documentation and pardons. Individuals may also provide Bureau of Alcohol, Tobacco, Firearms and Explosives Relief of Disabilities. This information will be retained in the VAF and will not be returned. If at any time an individual wishes to be removed from the VAF, their documentation will be destroyed upon request.

Voluntary Appeal File (VAF) Applicant

Upon submission of the application, the applicant must also supply the NICS Section with the reason for which they believe they would be erroneously denied or would receive an extended delay. If the reason is an arrest record in question, the date of arrest, arresting agency, and the disposition should be stated. If the reason is a case of mistaken identity, details regarding the situation should be provided.

All materials must be sent via the United States Postal Service to the FBI National Instant Criminal Background Check System Section, Attention: Voluntary Appeal File Team, Post Office Box 4278, Clarksburg, West Virginia 26302-9922. Facsimile or electronic communication will not be accepted.

The processing time for the application varies depending on a wide variety of factors and circumstances (such as lengthy records, incomplete charge and disposition information, multistate records or the availability of information from local and state law enforcement agencies). This process can be very time consuming, especially if records are old and have not been converted to an automated system.

Therefore, we ask for your patience while further review and analysis are being conducted to determine the proper resolution for your application request. Upon conclusion of the research and evaluation, you will be notified by mail and provided additional information regarding your application.

If you have any questions regarding this communication, you may contact the NICS Section Customer Service at 1-877-444-6427.

NICS Section
CJIS Division

Enclosures (3)



NICS FFL Liaison Specialist

304-625-7387

Request

Hours of Operation

**8 a.m. - 1 a.m.
Eastern Standard Time
7 days a week
(Except Christmas Day)**

What is a Business Day?

A business day is any 24-hour day beginning at 12:01 a.m. the day after the check was initiated, in which state offices are open. A business day does not include Saturday, Sunday, or holidays.

The table below advises when a firearm can be transferred if no response is received:

NICS Contacted On	Can Legally Transfer On*
Sunday	Thursday
Monday	Friday
Tuesday	Saturday
Wednesday	Tuesday
Thursday	Wednesday
Friday	Thursday
Saturday	Thursday

* The transfer day may change depending on holidays.

FFL LIAISON

The NICS has dedicated a NICS Liaison Specialist to assist you in the following areas:

- Enrollment
- Code word changes/modifications
- Activation and deactivation of NICS privileges
- Troubleshooting system access
- Registration of gun shows
- Providing written correspondence concerning program advancement
- Educating the FFLs and their employees on the NICS via telephone or by representing the NICS Section at various conventions/seminars

Contact

FFL Liaison – (304) 625-7387

Fax on Demand

Have documents faxed directly to you!!

- ✓ Call 1-877-444-6427
- ✓ Enter Option 4
- ✓ Enter the document number you want faxed

- Appeal Brochure
- E-Check/NICS Enrollment Form
- Voluntary Appeal File Brochure

- ✓ Enter your fax number
- ✓ The documents will automatically be faxed to you.
- ✓ Other documents will be available soon.

Phone Numbers

**NICS Customer Service
NICS Call Center**

**1-877-444-NICS (6427)
1-877-FBI-NICS (324-6427)**

To Request a NICS Background Check	1-877-FBI-NICS (Press 1)
To Request the Status of a Delayed NICS Background Check	1-877-444-NICS (Press 2)
To Change Enrollment Information	1-877-444-NICS (Press 2)
To Request Information About the NICS Section	1-877-444-NICS (Press 2)
Fax on Demand	1-877-444-NICS (Press 4)

NICS

National Instant Criminal Background Check System