



# National Instant Criminal Background Check System (NICS)



## Federal Firearms Licensee Manual

# NICS Section Federal Firearms Licensee Users Manual

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## Section 1 – Introduction

### I. Historical Evolution of the NICS

#### A. The Gun Control Act of 1968

The Gun Control Act of 1968 (GCA), which established categories of persons who are prohibited from receiving a firearm, was enacted by Congress as part of an effort to control gun violence in the United States. As amended, the GCA prohibits the transfer of a firearm to any of the following:

1. Persons who are convicted of a crime punishable by imprisonment for a term exceeding one year, even if the person received a shorter sentence.
2. Persons who are fugitives from justice.
3. Persons who are unlawful users of and/or addicted to any controlled substance.
4. Persons who are adjudicated mental defective or involuntarily committed to a mental institution.
5. Persons who are aliens illegally/unlawfully in the United States and nonimmigrant aliens (with certain limited exceptions).
6. Persons who have been dishonorably discharged from the United States Armed Forces.
7. Persons who have renounced their United States citizenship.
8. Persons who are the subject of certain protection orders.
9. Persons who have been convicted of a misdemeanor crime of domestic violence.
10. Persons who are under indictment (information) for a crime punishable by imprisonment for a term exceeding one year.

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In addition, state firearm prohibitors may also disqualify an individual. The National Instant Criminal Background Check System (NICS) is required to deny the transfer of a firearm to any individual who is found to be prohibited under state law, i.e., under the law of the purchaser's state of residence and/or the law of the state where the transfer occurs.

### B. The Brady Handgun Violence Prevention Act (Brady Act)

In November 1993, the Brady Act generally requiring Federal Firearms Licensees (FFL) to request background checks on individuals attempting to acquire a firearm was signed into law. The permanent provisions of the Brady Act, which went into effect on November 30, 1998, required the Attorney General to establish a NICS that FFLs generally must contact by telephone or other electronic means before transferring a gun to unlicensed persons, for information to be supplied immediately on whether the receipt of a firearm by a prospective transferee would violate state or federal law. In some states, the NICS provides authorized law enforcement agencies with information they need to make firearm transaction determinations. The permanent provisions became effective with the implementation on November 30, 1998, of the NICS.

## II. Firearm Transfers that Require a Background Check

### A. Sales and Pawn Redemptions

A request for a NICS check must be made prior to the transfer of a firearm to an unlicensed individual for *both a sale and a pawn redemption*. In both cases, the FFL must ask the customer to complete the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Form 4473 and use the information provided on the form to initiate a background check. Upon initiating a background check, the FFL must request and record a NICS Transaction Number (NTN) even though a transfer may later be abandoned. The NTN is a unique number assigned by the NICS Section to each inquiry that connects all activity associated with that number.

### B. Multiple Sales and/or Redemptions

If a customer is purchasing or redeeming more than one firearm during a particular transaction, only one check is required. However, if a customer decides he/she wants another firearm after signing the ATF Form 4473 (whether it be two hours, two days, or two weeks), the FFL must have the customer complete a new Form 4473 and request another NICS check.

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### C. Lawful Aliens

Persons who are lawful non-immigrants who can verify that they have established residency in the state of purchase (or they have established a state of residence if purchasing a long gun out of state) for 90 consecutive days immediately preceding the sale and who possess a valid hunting license or who qualify under certain other exceptions may legally acquire a firearm. All aliens must provide a United States Immigration and Customs Enforcement (ICE)-issued alien number or a U.S. Citizenship and Immigrations Services number (A# or USCIS# ). *All lawful aliens must provide 90-days proof of continuous residency and other required information prior to undergoing a NICS check.* If 90-day proof of state residency or an Alien Registration number is not provided, the FFL **is not authorized** to contact the NICS Section or the state Point of Contact (POC) to initiate a background check.

### III. Transfers That Do Not Require a Background Check

#### A. Permit Exception

A NICS check is not required if a transferee presents a *valid* Permit to Carry issued through the state POC that the ATF has indicated satisfies the provisions for the permit exception included in the Brady Act. A list of valid permits can be obtained from the following [ATF website](#). **However, if a NICS check is initiated before the permit is presented, the NICS check cannot be canceled.**

#### B. Gunsmith and Repair Services

A NICS check is not required for gunsmith and repair situations in the majority of cases. However, if the individual who picks up the firearm is not the same person who brought the firearm in for service, the individual picking up the firearm must complete an ATF Form 4473 and a NICS check must be initiated on that person.

### IV. State Partial and Full Points of Contact

Located in Clarksburg, West Virginia, the NICS is a national center that performs background checks for FFLs in those states that have no designated state POC. Every FFL is provided access to the NICS in one of the following three ways:

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- A. In states where the state government has declined to serve as a POC, FFLs initiate a NICS background check by contacting the NICS Section for all firearm transfers. The NICS Section conducts the NICS checks and determines whether the transfer would violate state or federal law.
- B. In states where the state government has agreed to serve as a POC for handgun transfers but not for long gun transfers (partial POC), FFLs contact the designated state POC for handgun transfers. FFLs in those states must contact the NICS Section for long gun transfers.
- C. In states where the state government has agreed to serve as a POC for both handgun and long gun transfers (full POC), FFLs contact the state POC for all firearm transfers. The POC initiates the NICS checks and determines whether the transfers would violate state or federal law.

The ATF advises FFLs of the [appropriate POC for NICS checks](#).

### V. Contacting the NICS Section

The NICS Section is open from 8 a.m. to 1 a.m., Eastern Time (ET), seven days a week, with the exception of Christmas Day.

- A. FFLs may contact the NICS Call Center by dialing the toll-free telephone number 1-877-FBI-NICS (324-6427), option 1, to request a background check.

By selecting Option 2, FFLs may:

1. Speak with a Customer Service Representative;
2. Enroll in the NICS Program;
3. Check the status of a previously initiated background check; or
4. Request information about the NICS.

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- B.** FFLs can contact the NICS via the Internet to conduct a background check through the NICS E-Check at [www.nicsezcheckfbi.gov](http://www.nicsezcheckfbi.gov). They can also e-mail any questions or concerns to the NICS at [a\\_nics@leo.gov](mailto:a_nics@leo.gov). Read the [E-Check Flyer](#).
- C.** Hearing-impaired FFLs with a Telecommunications Device for the Deaf (TDD) can contact the NICS to conduct a background check via telephone by calling 1-877-NICS-TTY (1-877-642-7889).
- D.** The Fax-on-Demand system allows FFLs to request materials such as enrollment forms via the telephone by calling 1-877-FBI-NICS (324-6427) and pressing option 4.

### **VI. Purpose of this Manual**

The NICS Section staff has prepared this manual to serve as a convenient training tool for FFLs who are required to conduct criminal background checks through the national center before transferring a firearm to a prospective purchaser. This manual explains how to:

- A.** Enroll and participate in the NICS;
- B.** Request a NICS background check from a place of business;
- C.** Request a NICS background check from a gun show;
- D.** Receive, record, and communicate responses to prospective gun buyers;
- E.** Address denied customers;
- F.** Follow security guidelines; and
- G.** Use the services that the NICS provides to assist FFLs.



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## Section 2 – Participating in the NICS Program

### I. FFL Enrollment Information

In order to request a NICS background check, the FFL must first enroll in the NICS with the FBI.

The enrollment package includes the following material:

- A. *FFL Enrollment Letter*: The enrollment letter explains the permanent provisions of the Brady Act and outlines the procedures FFLs must follow to request a NICS background check. Included is a list of items that are contained in the [enrollment package](#).
- B. *Responsibilities of a FFL under the NICS (Form 1110-0026)*:
1. The [Responsibilities Form](#) outlines the NICS-related responsibilities of each FFL. These responsibilities also apply to an FFL's officers, employees, agents, and/or other representatives. Any employee who will perform NICS background checks must read and comply with the policies and procedures outlined in the acknowledgment.
  2. The [last page of Form 1110-0026](#) should be copied and distributed to the FFL's employees to inform them of their rights and obligations in using the NICS. **All copies of this page should be retained by the FFL.**
  3. [Enrollment Form](#). FFLs must complete this form following the steps on the instruction sheet. Each FFL must select a code word (6-10 characters) to be used when requesting a background check.
- You may also enroll by calling the NICS Customer Service at 1-877-FBI-NICS (324-6427).** Your ability to perform the background checks required under the Brady Act is dependent on completion and return of the FFL Enrollment Form.
- C. [Federal Firearms Licensee User Manual](#): The User Manual outlines the FFL's responsibilities relating to the NICS and explains the background check process.

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- D. [\*Guide for Appealing a Firearm Transfer Denial\*](#): The appeal packet is designed to assist customers who are denied the purchase of a firearm based on a NICS background check. It describes procedures for appealing a NICS decision. Visit the NICS Section's Appeal website at [www.fbi.gov/nics-appeals](http://www.fbi.gov/nics-appeals).
- E. [\*NICS E-Check Brochure\*](#): This brochure describes the functionality, security, and benefits of conducting an electronic background check via the Internet.
- F. [\*How to Obtain and Challenge Your FBI Identification Record Brochure\*](#): This brochure is for customers with a criminal history who are interested in obtaining their FBI record.
- G. [\*Voluntary Appeal File Brochure\*](#): This brochure is for customers who are denied or continuously delayed. This process permits the NICS Section to maintain information on the buyer to resolve a deny or extended delay. Visit the NICS Section's VAF website at [www.fbi.gov/nics-appeals](http://www.fbi.gov/nics-appeals).
- H. [\*Denied/Delayed Card\*](#): This card is for the FFL to provide to their customers who are denied or continuously delayed. The FFL will advise the customer of the delay or denial, circle the word delayed or denied on the card and provide the individual with the NTN directly linked to the *delay or denial*. The FFL should write the NTN on the line provided on the bottom of the delayed or denied portion of the card. The Denied/Delayed Card provides the denied/delayed customer with the necessary information to begin the appeal or VAF process.
- I. [\*NICS FFL Reference Card\*](#): The reference card provides a quick overview of the steps required in conducting a NICS background check and NICS contact information.
- J. [\*NICS Delay Instructions Sheet\*](#): This sheet provides instructions to FFLs on processing a delayed transaction.
- K. [\*NICS Information Sheet\*](#): The information sheet explains a **delay** response and reiterates that the delayed response does not mean a person has been denied.

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- L. [Federal Register](#): Included for the FFL's information is the October 30, 1998, *Federal Register* in which the Final Rule was printed implementing the NICS and detailing the NICS Regulations.
- M. [Federal Register](#): Included for the FFL's information is the July 23, 2004, *Federal Register* which contains amendments to the NICS Regulation.
- N. [NICS Keeping You Informed](#): The FFL NICS Liaison Specialist posts updates, reminders, and FYIs to keep you up to date and informed.
- O. [FFL Liaison Contact Information](#): Contact the FFL NICS Liaison Specialist with NICS-related issues.

### II. Enrolling in the NICS

- A. In order to request a NICS background check, an FFL must first enroll/register with the NICS Section. An FFL must complete an enrollment form which can be obtained by accessing the NICS website at [www.fbi.gov/about-us/cjis/nics/enroll](http://www.fbi.gov/about-us/cjis/nics/enroll) or by contacting the NICS Customer Service Fax-on-Demand system at 1-877-FBI-NICS (324-6427) option 4. For FFLs without Internet access, an enrollment packet may be obtained by telephoning the FFL NICS Liaison Specialist at 1-877-FBI-NICS (324-6427), extension 57387. **The signature section of the enrollment form must be signed by the FFL, dated, and witnessed. The enrollment form must be return to the NICS via facsimile to 1-304-625-0534, e-mail to [nics@leo.gov](mailto:nics@leo.gov), or mail to NICS Section, Federal Bureau of Investigation, P.O. Box 4278, Clarksburg, WV 26302-9922.** Upon the issuance of a code word, the NICS considers the FFL to be enrolled and bound to the terms and conditions of the NICS use.
- B. An FFL with employees must complete the [FFL Officer/Employee Acknowledgment of Responsibilities signature page](#), OMB NO. 1110-0026. The signature page must be retained by the FFL.

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### III. Enrolling in the NICS E-Check

Both the Brady Act and the NICS Regulations, 28 Code of Federal Regulations (C.F.R.), Part 25, mention the development of electronic access to the NICS for FFLs. Early in the NICS development, the NICS Section began planning for electronic access and, in August 2002, the NICS E-Check was initiated. FFLs who use the NICS E-Check are able to initiate an unassisted NICS background check for firearm purchases via the Internet. If desired, FFLs using the NICS E-Check may also continue to conduct firearm background checks via the NICS Call Center.

- A. Security is the foremost priority when using the NICS E-Check. Access to the NICS via the NICS E-Check is restricted through computer software utilizing firewall techniques and certification authority, thus providing secure access.

FFLs must be enrolled in the NICS to have access to the NICS E-Check. Each FFL must apply for, be issued, and download a digital certificate. The NICS E-Check will deny access to any individual whose identification is not known to the system. Furthermore, the NICS E-Check will be monitored 24 hours per day, 7 days per week for misuse and unauthorized access.

- B. Currently, the NICS E-Check is only available to full-POC states if they coordinate to utilize functionality with the NICS Section (as of May 27, 2011, no full-POC states are utilizing NICS E-Check). If the full-POC state does not offer NICS E-Check, NICS requires that background checks initiated in these states be conducted through the state-designated agency. There are a few exceptions to this rule. The NICS conducts pre-pawn and long gun checks for some FFLs in some POC states that permits certain dealers to use the NICS E-Check for these background checks.

1. FFLs who are required to contact the state POC for handgun purchases must continue to do so and may not use the NICS E-Check for these checks.
2. FFLs located in a partial POC state may register for and use the NICS E-Check for those transactions that are processed by the NICS Section.

C. **Benefits of the NICS E-Check**

1. The reduction of NICS Call Center traffic which reduces the chance of being placed on hold when calling for other types of information.

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2. A potentially more accurate search, because the FFL enters data directly into the system, thus increasing data integrity.
3. The ability to retrieve NICS background check results 24 hours a day, 7 days a week.
4. The ability to print completed NICS background check search requests and results for record-keeping purposes.
5. Increased usability of messages regarding the NICS operational status.
6. Mass informational e-mail.

### **D. Enrollment Instructions**

The most current information and complete enrollment instructions are available on the NICS E-Check website at [www.nicsezcheckfbi.gov](http://www.nicsezcheckfbi.gov). Interested FFLs may also call 1-877-FBI-NICS (324-6427) and select Option 3 to speak to one of the NICS E-Check representatives.

### **IV. ATF Form 4473**

The ATF Form 4473 is a form that is used by all licensed importers, licensed manufacturers, and/or licensed dealers to record information concerning a firearm transfer to an unlicensed person. A licensed importer, licensed manufacturer, or licensed dealer shall not sell or otherwise dispose of, temporarily or permanently, any firearm to any person other than another licensee unless the licensee records the transaction on a firearms transaction record, Form 4473.

*Note: A Form 4473 is not required when the firearm is transferred to a licensee for repair when the firearm or replacement is returned to the same person from whom it was received.*

### **V. The NICS Code Word**

The FFL Enrollment Form requires an FFL to choose a code word consisting of six to ten characters. Each time an FFL contacts the NICS, the FFL will be asked to supply his or her code word and unique FFL identification number for verification of identity. *The code word is used for authentication of the system's users, and it should be treated as confidential information.*

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### VI. The NICS Transaction Number (NTN)

The NTN is a unique transaction number assigned to each valid background check inquiry received by the NICS Section. This number is important for several reasons. The NTN demonstrates that contact has been made with the NICS. The [three-business-day response time begins after the NTN is issued](#). The NTN serves as a means for the NICS to identify the transaction in responding to follow-up calls inquiring about the status of a background check. Also, this transaction number is the key to assisting a denied individual if he or she chooses to appeal the denial. Finally, the NTN creates an audit trail to investigate unauthorized access and/or misuse of the NICS.

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## Section 3 – Requesting a Background Check from a Place of Business

### I. Assembling Information Needed to Initiate a Background Check

- A. The FFL must assemble the following information prior to contacting the NICS Section from a place of business to request a background check:
1. The completed Section A of the ATF Form 4473 including signature by the purchaser.
  2. A valid government-issued form of photo identification such as a driver's license. The identification must contain a photograph of the transferee, the transferee's name, date of birth, and residence address (not a post office box number).
  3. Additional documentation is required to establish state residency in the case of a customer who is a permanent resident alien. The FFL must obtain documentation from the prospective transferee that proves he or she has been a resident of a state for 90 continuous days immediately preceding the date of transfer. Acceptable documentation includes utility bills or a lease agreement. In addition, aliens must provide an ICE-issued alien number or an USCIS number. Nonimmigrant aliens must provide an I-94 number and present applicable documentation establishing an exception to, or waiver from, the nonimmigrant alien prohibition.
- B. It is the responsibility of the FFL to **review questions 11(a)-11(l)** on the ATF Form 4473 to determine whether the NICS check should be initiated.
1. If the customer answered "**no**" to **question 11(a)**, the FFL **should not initiate the NICS check** and the gun cannot be transferred.
  2. If the customer answered "**yes**" to **any of the questions 11(b)-11(k)**, the FFL **should not initiate a NICS check** and the gun cannot be transferred.
  3. If the customer answered "**yes**" to **question 11(l)**, the FFL can initiate the NICS check as long as the nonimmigrant alien falls within the exception to the nonimmigrant alien prohibition and provides the required documentation.

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## II. Reaching the NICS Customer Service by Telephone

A. During the NICS Section's operating hours, the FFL can reach the NICS Customer Service via telephone by dialing 1-877-FBI-NICS (324-6427).

1. The call will be answered by an automated system and the FFL will hear a message similar to one of the following:

*Thank you for calling the FBI NICS Operations Center. Please listen carefully as our options may have changed since your last call. Your call may be monitored and recorded for quality purposes.*

*If you are calling to request an FBI NICS background check, press 1;*

*If you are checking the status on a previous FBI NICS background check, enrollment information, or for FBI NICS information, press 2;*

*If you are calling for information regarding the FBI NICS E-Check or enrollment information regarding E-Check, press 3;*

*For fax-on-demand options, press 4;*

*For guidance on appealing a firearm transfer denial, press 5;*

*For Voluntary Appeal File Customer Service or to initiate a Voluntary Appeal File Background Check, press 6;*

*For mailed copies of NICS forms or brochures, press 7.*

*If you are calling from a rotary phone, please stay on the line and a Customer Service Agent will assist you shortly.*

2. **NICS is Out-of-Service**

*We are sorry! The NICS is temporarily out of service. Please call back in \_\_\_\_\_ minutes.*

3. **All Customer Service Representatives are Busy**

*All of our Customer Service Representatives are busy with other customers. Please stay on the line and your call will be answered by the next available representative. The average waiting time is \_\_\_\_.*



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### 4. Non-Operating Hours Message

*Thank you for calling the FBI NICS Operations Center. Our normal business hours are from 8 a.m. to 1 a.m., Eastern Time, seven days a week, except Christmas Day. Please call back during these hours and we will gladly handle your call.*

***Note:** Contact with the NICS is established only upon receipt by the FFL of an NTN. This is an important step in the process because the three business days do not begin until the FFL receives an NTN.*

### B. Requesting a Background Check

Under normal circumstances, an FFL telephoning the NICS to request a background check should select Option 1. (The system automatically selects Option 1 if a menu option is not selected.) The call will be answered in one of four ways:

1. A Customer Service Representative (CSR) answers the call and asks the FFL for his or her FFL identification number and code word. Next, the CSR asks for the total number of NICS background checks the FFL will be requesting during the call. There is no limit to the number of checks that may be made during a given call; however, if several checks will be requested during a single phone session, the caller should have all the information necessary to request each check readily available when the call is placed. The CSR will not be able to stay on the line for an extended time while waiting for additional information. This policy will help the NICS Section provide expeditious service to all FFLs.

The CSR then requests the data as it appears on the ATF Form 4473 completed by the transferee.

2. The CSR verifies all information provided and initiates the search. The search results in one of two responses:

*Proceed and the NTN*

*Delayed/Transfer and the NTN*

In August 2010, the NICS Contracted Call Centers began asking the following question at the end of each background check:

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Can you verify the status I provided was a Proceed or Transfer?

This question has been established to minimize discrepancies while conducting a NICS background check initiated through the NICS Contracted Call Centers. By reiterating the status provided, the FFL will help eliminate erroneous status documentation.

3. If the FFL has changed/updated their contact information, there are two agencies to contact: the ATF Licensing Center at 1-866-662-2750 and the NICS Section's Customer Service at 1-877-FBI-NICS (324-6427), option 2. The information that they will need to provide is the Contact Name and the Contact Phone Number.
4. If the FFL indicated at the beginning of the call that he or she would be requesting multiple checks, the CSR requests the ATF Form 4473 information for the second or subsequent check. The FFL need not provide his/her FFL number and code word again.

### **C. The Transfer Process**

If a transaction results in a *delay*, the call is forwarded to the NICS Section while the FFL remains on the line. When the Call Center CSR transfers the call, the FFL will hear dial tones. The dial tones is a transfer and release process which adds capacity to the NICS Contracted Call Centers by making telephone lines available for additional incoming calls. Once connection is made with the NICS Legal Instruments Examiner (NICS Examiner), the NICS Examiner will ask the FFL to repeat the NTN provided by the Call Center. The transaction is processed to determine if the potential transferee is a prohibited individual. As soon as a determination can be made, a NICS Examiner either relays the status of the background check to the FFL holding on the telephone or attempts to telephone the FFL at the callback number maintained by NICS.

If the transaction remains delayed after the Transfer Process, the NICS Examiner provides the Missing Disposition Instruction (MDI) and the date on which the Brady Act does not prohibit the transfer. This date may be recorded on the line below the "Delayed" check box on question 21c of the ATF form 4473; however, this is not a requirement. This date is the first day that the firearm can be transferred without a proceed response from the NICS Section.

When an FFL receives a call back from the NICS Section, he or she must provide the FFL number and code word. If a determination has been made, a NICS Examiner will provide the FFL with a proceed or a deny response.

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## Section 4 – Requesting a NICS Check from a Gun Show

### I. Assembling Information Needed to Initiate a Background Check

- A. Whether initiating a NICS check from a place of business or a gun show, the FFL must assemble the following information prior to contacting the NICS Section to request a background check.
1. The completed Section A of the ATF Form 4473.
  2. A valid government-issued form of photo identification such as a driver's license. The identification must contain a photograph of the transferee, the transferee's name, date of birth, and residence address (not a post office box number).
  3. Additional documentation is required to establish state residency in the case of a customer who is a permanent resident alien. The FFL must obtain documentation from the prospective transferee that proves he or she has been a resident of a state for 90 continuous days immediately preceding the date of transfer. Acceptable documentation includes utility bills or a lease agreement. In addition, aliens must provide an ICE-issued alien number, or admission number. Nonimmigrant aliens must present applicable documentation establishing an exception to, or waiver from, the nonimmigrant alien prohibition.
- B. It is the responsibility of the FFL to **review questions 11(a)-11(l)** on the ATF Form 4473 to determine whether the NICS check should be initiated.
1. If the customer answered "**no**" to **question 11(a)**, the FFL **should not initiate the NICS check** and the gun cannot be transferred.
  2. If the customer answered "**yes**" to **any of the questions 11(b)-11(k)**, the FFL **should not initiate a NICS check** and the gun cannot be transferred.
  3. If the customer answered "**yes**" to **question 11(l)**, the FFL can initiate the NICS check as long as the nonimmigrant alien falls within the exception to the nonimmigrant alien prohibition and provides the required documentation.

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### II. Reaching the NICS Customer Service by Telephone From a Gun Show

FFLs may call the NICS Section's toll-free telephone number using a pay, private (non-pay direct connect), cellular telephone, or the NICS E-Check via the Internet to request a NICS background check and/or receive a response while at a gun show. Generally, however, there is a greater risk that transmitted information such as the FFL's code word can be stolen when an FFL uses a cellular telephone to contact the NICS Section.

Once the FFL has called the NICS Section to conduct a background check, the procedure to request a NICS check is the same as requesting a NICS check from a place of business (see Section 3).

#### A. Delayed Responses

After providing a *delayed* response to an FFL, the CSR places the FFL on hold and transfers the call to the NICS Section. At that time, the NICS Examiner processes the transaction. In some cases, the NICS Examiner can process the inquiry, determine the response, and relay the status while the FFL is holding on the telephone.

When the NICS response is *delayed* for a longer period of time, the FFL will receive the following instructions from the NICS:

*"--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\_\_\_."*

This date may be recorded on the line below the "Delayed" check box on question 21c of the ATF Form 4473; however, this is not a requirement. This date is the first day that the firearm can be transferred without a proceed response from the NICS Section.

1. FFLs may request that the NICS Section contact them at gun shows using a cellular or public telephone, or they may choose to have the NICS Section make delayed response callbacks directly to a contact person at their places of business. The NICS Examiners will not leave the status of a background check on an answering machine.
2. When making a callback, the NICS Examiner will ask to speak to the contact person or, if the contact person is unavailable, to another person associated with the particular firearms business.

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3. In some cases, the follow-up response will not be made until a later time. The law provides for a three-business-day response time. A business day is defined as a 24-hour day (beginning at 12:01 a.m. the day after the check is initiated) on which state offices are open in the state in which the proposed firearm transaction is initiated.
4. If an FFL participates in a gun show on a Saturday and expects to return to the place of business the following Monday through Wednesday, the FFL should provide a callback number at the gun show for a possible Saturday response to either the FFL or a representative of the FFL.
5. If the NICS Section cannot make a determination by close of business Saturday (and assuming that state offices are open the following Monday, Tuesday, and Wednesday), the NICS Examiner will call the business telephone number within the three-business-day time frame with the NICS response.

### **B. Following Up on a Denied Response**

When the NICS Examiner is contacting the FFL to provide a *denial* response, the attempts continue even after the third business day. If the NICS Section is unsuccessful in attempts to reach the FFL by the end of the third business day, the FFL NICS Liaison Specialist will deactivate the FFL's code word until contact is made to the NICS Section by the FFL. ***The FFL will not be able to initiate any new background checks until the final status is retrieved on the denied transaction.*** When the FFL retrieves the final denied status, the FFL NICS Liaison Specialist or the NICS Command Center will restore the FFL's code word. **(It is imperative that the NICS Section has an accurate/working telephone number at all times to contact the FFL with a final status.)**

### **III. Security Procedures in Providing Responses to FFLs at Gun Shows**

- A. Prior to delivering any information over the telephone, the NICS Examiner asks for the FFL number and the code word. If the contact person supplies those data, the NICS Examiner relays the NTN and provides the appropriate response—either *proceed* or *deny*.

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**B.** If the contact person cannot provide the identifying information, the NICS Examiner may ask the individual to obtain the necessary information and telephone the NICS Section's toll-free telephone number to learn the final determination proceed or deny associated with the NTN. Alternatively, the NICS Examiner may leave a message on an answering machine at the place of business instructing the FFL to call the NICS Section for the follow-up response.

**C. Requesting a New Code Word Following Gun Shows**

After a gun show, an FFL may change his/her code word if unauthorized use of the code word is a concern. To do so, the FFL should contact the NICS Section at 1-877-FBI-NICS (324-6427) to speak to a CSR.

**IV. Reaching the NICS Customer Service by the NICS E-Check from a Gun Show**

For FFLs to initiate a NICS background check at a gun show via the NICS E-Check, all established security procedures apply.

Security is the foremost priority when using the NICS E-Check. Access to the NICS via the NICS E-Check is restricted through computer software utilizing firewall techniques and certification authority, thus providing secure access. Only FFLs who are enrolled in the NICS program may access the NICS E-Check. In addition, FFLs may use the NICS E-Check only after they have applied for and been issued a digital certificate. The NICS E-Check denies access to any individual whose identification is not known to the system.

*Note: All gun show transactions handled by FFLs must comply with ATF Regulations and federal and state laws.*

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## Section 5 – Receiving, Recording, and Communicating NICS Responses

### I. Receiving a NICS Response

After the FFL has provided the CSR the information from the ATF Form 4473, he or she remains on the line. The CSR conducts the NICS background check and, if no disqualifying information is found, the CSR provides a *proceed* response. If further research is required to reach a decision, the CSR transfers the call to the NICS Section. The NICS Examiner conducts additional research while the FFL is still on the phone. If further research is still required, the NICS Examiner provides a delayed response to the FFL.

Along with the NICS response to each firearm query, the CSR also provides the FFL with a unique NTN, which is important for several reasons:

- A. The NTN demonstrates that contact has been made with the NICS. The three-business-day response time begins after the NTN is issued.
- B. The NTN serves as a means for the NICS to identify the transaction when responding to follow-up calls inquiring about the status of a check.
- C. The NTN is the key to assisting an individual if he or she appeals a *denial*.
- D. The NTN creates an audit trail to determine compliance with the Brady Act mandates, investigate unauthorized access and/or other misuse of the NICS.

### II. Recording and Communicating a *Proceed* Response

If the initial response is a *proceed*, the FFL must record the date, the NTN, and the *proceed* response in the space provided on the ATF Form 4473 and comply with all federal firearms laws.

*Note: An approved NICS check is valid for 30 days from the day the check was initiated. If an individual has not picked up the firearm within 30 days, a new NICS check must be conducted.*

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### A. Procedures for Completing ATF Form 4473

If a *proceed* response is received after initially receiving a *delay*, the FFL must record each of the responses and the date each response was given on lines 21c and 21d of the ATF Form 4473 and comply with all federal firearms laws.

### B. FFLs Make Final Transfer Decisions for *Proceed* Transactions

When an FFL receives a *proceed* response to a NICS background check, the FFL is not legally required to transfer a weapon if in their judgment the transfer would be inappropriate. *The FFL is the final authority, based upon their observations of the customer, on whether or not to transfer a firearm to an individual who has received a proceed response from the NICS. If the FFL knows or has reasonable cause to believe the buyer is prohibited from receiving or possessing a gun, even if the NICS issues a proceed, the FFL may not lawfully transfer the firearm.*

## II. Recording and Communicating a *Delayed* Response

### A. Procedures for Completing ATF Form 4473

If the FFL receives a *delayed* response, he or she must record the NTN on line 21b, check "Delayed" on line 21c and may enter the MDI date on the line below the "Delayed" checkbox on line 21c of the ATF Form 4473. Entering the MDI date is optional.

1. When the system responds with a *delay*, a NICS Examiner conducts research to determine if the potential transferee and the individual of the record appear to be one and the same. If the record appears to match the potential transferee's descriptive data, the NICS Examiner determines whether prohibiting information exists.
2. When the NICS Examiner has made a determination, he or she telephones the FFL and verifies the FFL identification number, code word, and callback name. Then, the NICS Examiner references the NTN and provides a response of either *proceed* or *deny*. The FFL will then record the response on line 21d of the ATF Form 4473.



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### **B. The NICS has Three Business Days**

The NICS Examiner makes every attempt to contact the FFL by telephone within the allotted time frame of three business days. A business day is defined under 28 C.F.R., Part 25, Section 25.2, as a 24-hour day (beginning 12:01 a.m.) on which state offices are open in the state in which the proposed firearm transaction is to take place. A business day does not include Saturday, Sunday, or state holidays even if some state offices are open.

### **C. NICS Examiner Unable to Reach the FFL**

If the NICS Examiner is unable to reach the FFL by telephone, a message will be left on the FFL's answering machine as long as the message identifies the FFL's business, and/or sends a facsimile message advising the FFL to immediately contact the NICS Section's toll-free telephone number, 1-877-FBI-NICS (324-6427). *The NICS Section will not leave the result of the background check on a facsimile or an answering machine.*

### **D. No NICS Response within Three Business Days**

If the NICS Section is unable to reach a transfer decision after three business days have elapsed, the FFL must note no resolution was provided within three business days on line 21d of the ATF Form 4473. It is then within the FFL's discretion whether or not to transfer the firearm.

### **E. Transferee Decides Not to Acquire the Firearm**

If the transaction is still in a *delayed* status and the potential transferee decides he or she no longer wants the firearm, the transaction should not be cancelled. The NICS Section will continue to process the transaction. The FFL must comply with record-keeping requirements.

If the FFL has received a final status of *proceed* or *deny* from the NICS Section and the potential transferee decides he or she no longer wants the firearm, the FFL must comply with record-keeping requirements.

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## Section 6 – Handling Denied Responses

### I. Procedures for Completing ATF Form 4473

If the NICS response to a firearm transfer check is a *denial*, the FFL must record this response on line 21d of the ATF Form 4473 along with the date that the response was received from the NICS Section. The FFL must retain the form for the five-year time period set forth by federal regulations. *The firearm may not be transferred.*

#### A. How FFLs Respond to Customers Who Have Been Denied

1. If a prospective transferee has been *denied* the transfer of a firearm, as a customer service, the FFL should give the individual a [NICS Resolution Card](#), circle the word denied on the denied portion of the card and provide the individual with the NTN directly linked to the *denial*. The FFL should write the NTN on the line provided on the bottom of the denied portion of the card. The Denied/Delayed Card provides the denied customer with information to appeal online or call customer service for an appeal packet.
2. Alternatively, the FFL can inform the denied individual that he or she may contact the NICS Section's Appeal Services Team (AST) in writing, by mail, facsimile transmission, e-mail or online to request the reason for *denial*. The NICS Section, mailing address, facsimile number, e-mail address, and instructions for electronically submitting are provided on the reverse side of the brochure. Denied individuals may contact the NICS Section's AST via any of the following methods:

Federal Bureau of Investigation  
NICS Section  
Appeal Services Team  
Post Office Box 4278  
Clarksburg, WV 26302-4278

Appeal E-mail: [a\\_nics@leo.gov](mailto:a_nics@leo.gov)

Facsimile: 1-888-550-6427

Electronic Submission: <http://www.fbi.gov/nics-appeals>

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(The appellant will need to follow the step-by-step instructions on how to submit an appeal. An Appeal Request Form must be completed with all **mandatory fields** filled in prior to being able to print or electronically submit the request.)

*Note: FFLs are not authorized to conduct additional checks for denied individuals until the appeal process is successfully completed.*

### **B. How FFLs Respond to Customers Who Successfully Appeal**

#### **1. Within 30 Days of the Original Background Check**

Individuals who are denied the transfer of a firearm by the NICS Section may appeal the *denial* by challenging the record upon which the *denial* was made. If the appeal is successful and less than 30 days have elapsed since the date of the initial NICS check, the NICS Section will provide the transferee with a [certificate](#) advising that the transfer of the firearm may *proceed*. The individual may present this certificate only to the FFL who initiated the original transaction, who may then transfer the firearm. *The FBI recommends the FFL retain the original copy of this certificate with the ATF Form 4473 for auditing purposes. These certificates may not be used with a new FFL, i.e., an FFL who did not initiate the original background check.*

#### **2. More than 30 Days from the Original Background Check**

If more than 30 days have elapsed since the date of the initial NICS check, the FFL must initiate a new NICS check before transferring the firearm by calling the NICS Customer Service at 1-877-FBI-NICS (324-6427). *The FFL should advise Customer Service that he or she is initiating a new background check for an overturned denial resolved via the appeal process.*

In these instances, the transferee will have a certificate from the NICS Section advising that the firearm transfer may *proceed* following a new NICS check. *The FBI recommends the FFL retain the original copy of this certificate with the ATF Form 4473 for auditing purposes.*

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### II. Helpful Hints Regarding Appealed Transactions

- A. The appellant must initiate the appeal on his or her own behalf.
- B. The FFL cannot inquire on an appellant's behalf regarding the status of an appealed transaction. Due to the Privacy Act of 1974, the NICS Section's AST cannot release information to the FFL.
- C. The NICS Section's AST will issue the final status of an appeal in writing to the appellant.
- D. It is helpful if the FFL advises the appellant to provide all relevant documents, i.e., court documentation, pardons, relief of disabilities, fingerprints, etc., he or she has that may assist the NICS Section's AST to more expeditiously process the appeal.
- E. It may become necessary for the NICS Section's AST to seek the cooperation of the FFL by requesting information relative to the appeal resolution.
- F. Only *denied* transactions can be appealed through the NICS Section's AST.

### III. Voluntary Appeal File (VAF)

Per 28, C.F.R. Part 25.9(b)(1),(2) and (3), the NICS must destroy all identifying information on allowed transactions within 24 hours of the FFL being notified. If a potential transferee is denied a firearm and successfully appeals the decision, the NICS cannot retain a record of the overturned appeal. If the record is not able to be updated, the purchaser continues to be denied, and if that individual appeals the decision, the documentation must be resubmitted. For this reason, the VAF was established.

- A. The FFL may provide a [Denied/Delayed Card](#), circle the word delayed on the delayed portion of the card and provide the individual with the NTN directly linked to the *delay*. The FFL should write the NTN on the line provided on the bottom of the delayed portion of the card. The Denied/Delayed Card provides the delayed customer with information to [download a VAF application online](#) or call customer service for a VAF packet.

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- B.** Each successful VAF applicant is assigned a Unique Personal Identification Number (UPIN). On subsequent transactions, when completing the ATF Form 4473, the transferee should record the UPIN on Line 9.
- C.** To initiate a background check for an individual with a UPIN, FFLs should call 1-877-FBI-NICS (324-6427) option 6.

The existence of a UPIN does not automatically ensure that a transaction will proceed. A new background check will be initiated and any records that were entered after the creation of the UPIN will be researched for disqualifying information.

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## Section 7 – Following Security Guidelines

### I. Authorized Use

Authorized use of the NICS is strictly limited to the purpose of obtaining information on whether receipt of a firearm by a prospective transferee would violate state and/or federal law. The FFLs, their officers, employees, agents, and/or other representatives are permitted to request background checks of the NICS solely for that authorized purpose.

### II. Unauthorized Use

An FFL is never authorized to utilize the NICS for employment or other type of non-Brady Act-mandated background checks. An FFL must have a signed ATF Form 4473 prior to initiating a NICS check. Per 28, C.F.R. §25.11 of the NICS Regulations, accessing or using the NICS, or permitting access to or use of the NICS by another, for any unauthorized purpose is a violation of federal law, sanctions for which may include criminal prosecution, a civil fine not to exceed \$10,000, and/or cancellation of the NICS inquiry privileges.

### III. Code Word

- A. To reduce the risk of unauthorized persons using an FFL's number and code word to request a NICS checks, the FFL is encouraged to limit knowledge of his or her code word to himself or herself and those representatives who are authorized to request a NICS checks on behalf of the FFL. The FFL can decrease the likelihood of others guessing the code word by avoiding use of names, terms, dates, or numbers that could be easily associated with the FFL, the business, or the FFL's family. The most secure code words are random combinations of letters and numbers.

*Note: The FFL is legally bound to all terms and conditions of the NICS upon use of a code word.*

- B. When an employee's or individual's duties no longer include requesting a NICS check, the FFL may wish to request a new code word to prevent that individual's continued access to the NICS. The FFL may call the NICS Section at 1-877-FBI-NICS (324-6427), option 2, to request that the code word be changed. Prior to making the change, the FFL will be asked to provide his or her FFL number, current code word, and two or three pieces of random information the FFL provided during enrollment.

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### IV. Access

FFLs may contact the NICS Section by using a business telephone, pay phone, cellular phone or by the NICS E-Check.

*Note: Because cellular telephone calls can be easily monitored or intercepted by outside parties, the NICS Section recommends that the use of cellular phones for a NICS check be limited.*

### V. Additional Security Precautions

The following precautions help ensure the security and privacy of the NICS information when contacting the NICS Section:

1. An FFL's access is restricted to the initiation of a background check for firearm transfer purposes only.
2. With regard to a prospective firearm transfer, the CSR's response is limited to *proceed* or *delay*. The CSR will not provide the details of any record information about the transferee. In cases where potentially disqualifying information is found in response to a query, the CSR will provide a *delayed* response. A follow-up *proceed* or *denied* response will be provided by the NICS Section during its regular business hours.
3. Telephone inquiries are periodically monitored to ensure proper use of the system.

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## Section 8 – Accessing the NICS Customer Service

### I. The NICS Customer Service

The NICS Customer Service receives telephone calls from 8 a.m. to 1 a.m., ET, seven days a week, with the exception of Christmas Day. The NICS Customer Service can be reached by dialing 1-877-FBI-NICS (1-877-324-6427) and selecting option 2. The CSR is available to serve various NICS-related needs of the FFLs, such as:

- A. Answering NICS background check questions.
- B. Answering technical questions.
- C. Addressing any problems or complaints.
- D. Providing information on the appeal process.
- E. Changing an FFL code word (verifying areas of FFL information to ensure an authorized person is requesting the change of the code word).
- F. Changing contact person and/or contact telephone number.
- G. Requesting an inquiry status.
- H. Processing enrollment for new FFLs.
- I. Taking requests for and forwarding appeal brochures and other NICS informational handouts.

*Note: FFLs must contact the ATF Licensing Center via telephone at 1-866-662-2750 in order to change their business address.*

### II. Information About the NICS Program

Additional information regarding the NICS can be found on the Internet at [www.fbi.gov/nics](http://www.fbi.gov/nics). In addition, the NICS Section has an Internet electronic mail account which enables local and state law enforcement agencies and FFLs to send any questions or concerns they may have via the Internet. The e-mail address for this account is [a\\_nics@leo.gov](mailto:a_nics@leo.gov).



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## Glossary of Terms and Acronyms

**Alien Registration Number, A or AR Number:** ICE Forms I-151 and I-551 are issued to aliens who have been granted permanent residence in the United States. This card will contain the letter A or A# followed by nine digits. The A or A# number will be located at the top center or the middle portion of the Alien Registration Card. This card is titled Resident Alien or Permanent Residence Card.

**Appeal:** The process employed for a transferee to challenge a denied firearm transfer.

**Appeal Services Team (AST):** A team of the NICS Section that processes appeals from persons denied the transfer of a firearm.

**ATF – Bureau of Alcohol, Tobacco, Firearms and Explosives:** An agency of the Department of Justice that administers and enforces federal firearms laws.

**Brady Act:** The Brady Handgun Violence Prevention Act of 1993 (Public Law 103-159) signed into law on November 30, 1993.

**Business Day:** A 24-hour day beginning at 12:01 a.m. the day after the check was initiated in which state offices are open in the state in which the check was initiated.

**Call Center:** Contracted personnel who receive the information needed to conduct a NICS background check and make the initial advisement to *proceed* or *delay* the transfer of a firearm to the FFL.

**Customer Service:** A unit of the NICS Section made up of NICS Legal Instruments Examiners who provide several NICS-related services to the FFLs (see Section 8).

**Customer Service Representative (CSR):** A NICS employee available to assist FFLs and prospective transferees with questions and/or concerns regarding the NICS Checks.

**Delayed:** The response provided when a possible matching record is identified by the NICS which may require additional research.

**Denied:** The response provided when a disqualifying record is identified by the NICS.

**Denying Agency:** The local, state, or federal law enforcement agency acting as a POC for the NICS that determines, based on a background check, information in the NICS indicated the transfer of a firearm to a person would violate state or federal law.

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**ET:** Eastern Time (includes Eastern Standard Time and Eastern Daylight Time).

**Fax-on-Demand:** This allows the FFLs to request materials such as appeal brochures, enrollment forms, etc., via the telephone.

**FBI:** Federal Bureau of Investigation,

**Federal Firearms Licensee (FFL):** A person licensed by the ATF as a manufacturer, dealer, or importer of firearms.

**Interstate Identification Index (III):** A computerized index that provides access to state and federal criminal history records.

**National Crime Information Center (NCIC):** A system that stores data accessible to the law enforcement community. This information is collected by criminal justice agencies and includes wanted persons, missing persons, stolen property, protection orders, etc.

**National Instant Criminal Background Check System (NICS):** An automated system which an FFL must contact for information on whether receipt of a firearm by a person who is not licensed under Title 18, United States Code, Section 923 would violate state or federal law.

**NICS E-Check:** An enhancement of the NICS that allows FFLs the ability to conduct a NICS check and to retrieve previously submitted checks via the Internet instead of by telephone.

**NICS Index:** A database which provides records provided by local, state, tribal, and federal agencies regarding persons who are disqualified under state or federal law from receiving firearms. The NICS Index contains the following prohibited categories:

- Persons discharged from the Armed Forces under dishonorable conditions.
- Persons who have renounced their United States citizenship.
- Persons who are unlawful users of or addicted to any controlled substance.
- Persons who have been adjudicated as mental defectives or have been involuntarily committed to a mental institution.
- Persons who are aliens and are illegally or unlawfully in the United States.
- Persons who have been denied the transfer of a firearm in accordance with state or federal laws.
- Persons who have been convicted of a misdemeanor crime of domestic violence.

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**NICS Legal Instruments Examiner (NICS Examiner):** A NICS employee who researches records returned in response to a NICS inquiry and makes final determinations on *delayed* responses.

**NICS Section:** The section of the FBI that receives requests from FFLs to perform background checks and makes a determination based upon available information as to whether the transfer of a firearm would be in violation of state or federal law. The section also provides customer assistance to FFLs with regard to the NICS and processes appeals.

**NICS Transaction Number (NTN):** A unique number to be assigned to each valid background check inquiry received by the NICS. Its primary purpose is to provide a means of associating NICS inquiries with the response provided by the NICS to the FFL.

**Point of Contact (POC):** A local or state law enforcement agency serving as an intermediary between an FFL and the NICS. A POC receives NICS background check requests from FFLs, checks local or state record systems, performs NICS inquiries, determines whether matching records provide reason to believe that individuals are disqualified from possessing firearms under state or federal law, and responds to FFLs with the results of these background checks.

**Proceed:** The response provided indicating no records were identified by the NICS that prohibit the transfer of a firearm.

**Prospective Transferee/Purchaser:** The person applying for transfer of a firearm either through purchase or redemption.

**Three Business Days:** The maximum amount of time a NICS Examiner has to make a decision whether the request for a firearm should proceed or be denied before an FFL can transfer the firearm. A business day is defined as a 24-hour day (beginning at 12:01 a.m. the day after the check was initiated) in which state offices are open in the state where the proposed firearm transaction is to take place, excluding weekends and state holidays.

**USCIS#:** U.S. Citizenship and Immigration Service Number.

### NICS Privacy and Security Regulations

The final version of the [NICS Privacy and Security Regulations was published on October 30, 1998.](#)