an agency with express or implied authority to perform POC duties pursuant to state statute, regulation, or executive order.

Proceed means a NICS response indicating that the information available to the system at the time of the response did not demonstrate that transfer of the firearm would violate federal or state law. A “Proceed” response would not relieve an FFL from compliance with other provisions of Federal or state law that may be applicable to firearms transfers. For example, under 18 U.S.C. 922(d), an FFL may not lawfully transfer a firearm if he or she knows or has reasonable cause to believe that the prospective recipient is prohibited by law from receiving or possessing a firearm. Record means any item, collection, or grouping of information about an individual that is maintained by an agency, including but not limited to information that disqualifies the individual from receiving a firearm, and that contains his or her name or other personal identifiers.

STN (State-Assigned Transaction Number) means a unique number that may be assigned by a POC to a valid background check inquiry. System means the National Instant Criminal Background Check System (NICS).

§ 25.6 Accessing records in the system.

(a) FFLs may initiate a NICS background check only in connection with a proposed firearm transfer as required by the Brady Act. FFLs are strictly prohibited from initiating a NICS background check for any other purpose. The process of accessing the NICS for the purpose of conducting a NICS background check is initiated by an FFL’s contacting the FBI NICS Operations Center (by telephone or electronic dial-up access) or a POC. FFLs in each state will be advised by the ATF whether they are required to initiate NICS background checks with the NICS Operations Center or a POC and how they are to do so.

(b) Access to the NICS through the FBI NICS Operations Center. FFLs may contact the NICS Operations Center by use
of a toll-free telephone number, only
during its regular business hours. In
addition to telephone access, toll-free
electronic dial-up access to the NICS
will be provided to FFLs after the be-
inning of the NICS operation. FFLs
with electronic dial-up access will be
able to contact the NICS 24 hours each
day, excluding scheduled and unsched-
uled downtime.

(c)(1) The FBI NICS Operations
Center, upon receiving an FFL telephone
or electronic dial-up request for a
background check, will:
(i) Verify the FFL Number and code
word;
(ii) Assign a NICS Transaction Num-
ber (NTN) to a valid inquiry and pro-
vide the NTN to the FFL;
(iii) Search the relevant databases
(i.e., NICS Index, NCIC, III) for any
matching records; and
(iv) Provide the following NICS re-
sponses based upon the consolidated
NICS search results to the FFL that
requested the background check:
(A) “Proceed” response, if no dis-
qualifying information was found in
the NICS Index, NCIC, or III.
(B) “Delayed” response, if the NICS
search finds a record that requires
more research to determine whether
the prospective transferee is disquali-
fied from possessing a firearm by Fed-
eral or state law. A “Delayed” response
to the FFL indicates that the firearm
transfer should not proceed pending re-
cipt 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 pro-
spective firearm transferee at 9:00 a.m.
on Friday and shortly thereafter re-
ceives 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 fol-
lowing Monday, Tuesday, and Wednes-
day, and the NICS has not yet re-
sponded with a “Proceed” or “Denied”
response, the FFL may transfer the
firearm at 12:01 a.m. Thursday.)
(C) “Denied” response, when at least
one matching record is found in either
the NICS Index, NCIC, or III that pro-
vides information demonstrating that
receipt of a firearm by the prospective

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(2) Partial response, if the NICS has not completed the search of all of its records. This response will indicate the databases that have been searched (i.e., III, NCIC, and/or NICS Index) and the databases that have not been searched. It will also provide any potentially disqualifying information found in any of the databases searched. A follow-up response will be sent as soon as all the relevant databases have been searched. The follow-up response will provide the complete search results.

(3) Single matching record response, if all records in the relevant databases have been searched and one matching record was found.

(4) Multiple matching record response, if all records in the relevant databases have been searched and more than one matching record was found.

(g) Generally, based on the response(s) provided by the NICS, and other information available in the state and local record systems, a POC will:

(1) Confirm any matching records; and

(2) Notify the FFL that the transfer may proceed, is delayed pending further record analysis, or is denied. “Proceed” notifications made within three business days will be accompanied by the NTN or STN traceable to the NTN. The POC may or may not provide a transaction number (NTN or STN) when notifying the FFL of a “Denied” response.

(h) POC Determination Messages. POCs shall transmit electronic NICS transaction determination messages to the FBI for the following transactions: open transactions that are not resolved before the end of the operational day on which the check is requested; denied transactions; transactions reported to the NICS as open and later changed to proceed; and denied transactions that have been overturned. The FBI shall provide POCs with an electronic capability to transmit this information. These electronic messages shall be provided to the NICS immediately upon communicating the POC determination to the FFL. For transactions where a determination has not been communicated to the FFL, the electronic messages shall be communicated no later than the end of the operational day on which the check was initiated. With the exception of permit checks, newly created POC NICS transactions that are not followed by a determination message (deny or open) before the end of the operational day on which they were initiated will be assumed to have resulted in a proceed notification to the FFL. The information provided in the POC determination messages will be maintained in the NICS Audit Log described in §25.9(b). The NICS will destroy its records regarding POC determinations in accordance with the procedures detailed in §25.9(b).

(i) Response recording. FFLs are required to record the system response, whether provided by the FBI NICS Operations Center or a POC, on the appropriate ATF form for audit and inspection purposes, under 27 CFR part 178 recordkeeping requirements. The FBI NICS Operations Center response will always include an NTN and associated “Proceed,” “Delayed,” or “Denied” determination. POC responses may vary as discussed in paragraph (g) of this section. In these instances, FFLs will record the POC response, including any transaction number and/or determination.

(j) Access to the NICS Index for purposes unrelated to NICS background checks required by the Brady Act. Access to the NICS Index for purposes unrelated to NICS background checks pursuant to 18 U.S.C. 922(t) shall be limited to uses for the purpose of:

(1) Providing information to Federal, state, or local criminal justice agencies in connection with the issuance of a firearm-related or explosives-related permit or license, including permits or licenses to possess, acquire, or transfer a firearm, or to carry a concealed firearm, or to import, manufacture, deal in, or purchase explosives; or

(2) Responding to an inquiry from the ATF in connection with a civil or criminal law enforcement activity relating to the Gun Control Act (18 U.S.C. Chapter 44) or the National Firearms Act (26 U.S.C. Chapter 53).