§ 25.3 System information.

(a) There is established at the FBI a National Instant Criminal Background Check System.

(b) The system will be based at the Federal Bureau of Investigation, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306–0147.

(c) The system manager and address are: Director, Federal Bureau of Investigation, J. Edgar Hoover F.B.I. Building, 935 Pennsylvania Avenue, NW, Washington, D.C. 20535.

§ 25.4 Record source categories.

It is anticipated that most records in the NICS Index will be obtained from Federal agencies. It is also anticipated that a limited number of authorized state and local law enforcement agencies will voluntarily contribute records to the NICS Index. Information in the NCIC and III systems that will be searched during a background check has been or will be contributed voluntarily by Federal, state, local, and international criminal justice agencies.

§ 25.5 Validation and data integrity of records in the system.

(a) The FBI will be responsible for maintaining data integrity during all NICS operations that are managed and carried out by the FBI. This responsibility includes:

(1) Ensuring the accurate adding, canceling, or modifying of NICS Index records supplied by Federal agencies;

(2) Automatically rejecting any attempted entry of records into the NICS Index that contain detectable invalid data elements;

(3) Automatic purging of records in the NICS Index after they are on file for a prescribed period of time; and

(4) Quality control checks in the form of periodic internal audits by FBI personnel to verify that the information provided to the NICS Index remains valid and correct.

(b) Each data source will be responsible for ensuring the accuracy and validity of the data it provides to the NICS Index and will immediately correct any record determined to be invalid or incorrect.

§ 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 begin-
ing 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 disqual-
ified 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), which-
ever 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-
responded 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
transferee would violate 18 U.S.C. 922
or state law. The “Denied” response
will be provided to the requesting FFL
by the NICS Operations Center during
its regular business hours.

(2) None of the responses provided to
the FFL under paragraph (c)(1) of this
section will contain any of the under-
lying information in the records
checked by the system.

(d) Access to the NICS through POCs.
In states where a POC is designated to
process background checks for the
NICS, FFLs will contact the POC to
initiate a NICS background check.
Both ATF and the POC will notify
FFLs in the POC’s state of the means
by which FFLs can contact the POC.
The NICS will provide POCs with elec-
tronic access to the system virtually 24
hours each day through the NCIC com-
munication network. Upon receiving a
request for a background check from
an FFL, a POC will:

(1) Verify the eligibility of the FFL
either by verification of the FFL num-
ber or an alternative POC-verification
system;
(2) Enter a purpose code indicating
that the query of the system is for the
purpose of performing a NICS back-
ground check in connection with the
transfer of a firearm; and
(3) Transmit the request for a background check via
the NCIC interface to the NICS.

(e) Upon receiving a request for a
NICS background check, POCs may
also conduct a search of available files
in state and local law enforcement and
other relevant record systems, and
may provide a unique State-Assigned
Transaction Number (STN) to a valid
inquiry for a background check.

(f) When the NICS receives an inquiry
from a POC, it will search the relevant
databases (i.e., NICS Index, NCIC, III)
for any matching record(s) and will
provide an electronic response to the
POC. This response will consolidate the
search results of the relevant databases
and will include the NTN. The fol-
lowing types of responses may be pro-
vided by the NICS to a state or local
agency conducting a background check:

(1) No record response, if the NICS
determines, through a complete search,
that no matching record exists.
(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 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).