

**§ 24.307**

for any difference between the amount requested and the amount awarded.

**§ 24.307 Department review.**

The decision of the adjudicative officer will be reviewed to the extent permitted by law by the Department in accordance with the Department's procedures for the type of proceeding involved. The Department will issue the final decision on the application.

**§ 24.308 Judicial review.**

Judicial review of final Department decisions on awards may be sought as provided in 5 U.S.C. 504(c)(2).

**§ 24.309 Payment of award.**

An applicant seeking payment of an award shall submit a copy of the final decision granting the award to the Department's Accounting Office for processing. A statement that review of the underlying decision is not being sought in the United States courts, or that the process for seeking review of the award has been completed, must also be included.

**PART 25—DEPARTMENT OF JUSTICE INFORMATION SYSTEMS**

**Subpart A—The National Instant Criminal Background Check System**

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AUTHORITY: Pub. L. 103-159, 107 Stat. 1536.

SOURCE: Order No. 2186-98, 63 FR 58307, Oct. 30, 1998, unless otherwise noted.

**Subpart A—The National Instant Criminal Background Check System**

**§ 25.1 Purpose and authority.**

The purpose of this subpart is to establish policies and procedures implementing the Brady Handgun Violence Prevention Act (Brady Act), Public Law 103-159, 107 Stat. 1536. The Brady Act requires the Attorney General to establish a National Instant Criminal Background Check System (NICS) to be contacted by any licensed importer, licensed manufacturer, or licensed dealer of firearms for information as to whether the transfer of a firearm to any person who is not licensed under 18 U.S.C. 923 would be in violation of Federal or state law. The regulations in this subpart are issued pursuant to section 103(h) of the Brady Act, 107 Stat. 1542 (18 U.S.C. 922 note), and include requirements to ensure the privacy and security of the NICS and appeals procedures for persons who have been denied the right to obtain a firearm as a result of a NICS background check performed by the Federal Bureau of Investigation (FBI) or a state or local law enforcement agency.

**§ 25.2 Definitions.**

*Appeal* means a formal procedure to challenge the denial of a firearm transfer.

*ARI* means a unique Agency Record Identifier assigned by the agency submitting records for inclusion in the NICS Index.

*ATF* means the Bureau of Alcohol, Tobacco, and Firearms of the Department of Treasury.

*Audit log* means a chronological record of system (computer) activities that enables the reconstruction and examination of the sequence of events and/or changes in an event.

*Business day* means a 24-hour day (beginning at 12:01 a.m.) on which state offices are open in the state in which the proposed firearm transaction is to take place.

*Control Terminal Agency* means a state or territorial criminal justice agency recognized by the FBI as the agency responsible for providing state- or territory-wide service to criminal justice users of NCIC data.

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*Data source* means an agency that provided specific information to the NICS.

*Delayed* means the response given to the FFL indicating that the transaction is in an “Open” status and that more research is required prior to a NICS “Proceed” or “Denied” response. A “Delayed” response to the FFL indicates that it would be unlawful to transfer the firearm until receipt of a follow-up “Proceed” response from the NICS or the expiration of three business days, whichever occurs first.

*Denied* means denial of a firearm transfer based on a NICS response indicating one or more matching records were found providing information demonstrating that receipt of a firearm by a prospective transferee would violate 18 U.S.C. 922 or state law.

*Denying agency* means a POC or the NICS Operations Center, whichever determines that information in the NICS indicates that the transfer of a firearm to a person would violate Federal or state law, based on a background check.

*Dial-up access* means any routine access through commercial switched circuits on a continuous or temporary basis.

*Federal agency* means any authority of the United States that is an “Agency” under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10).

*FFL (federal firearms licensee)* means a person licensed by the ATF as a manufacturer, dealer, or importer of firearms.

*Firearm* has the same meaning as in 18 U.S.C. 921(a)(3).

*Licensed dealer* means any person defined in 27 CFR 178.11.

*Licensed importer* has the same meaning as in 27 CFR 178.11.

*Licensed manufacturer* has the same meaning as in 27 CFR 178.11.

*NCIC (National Crime Information Center)* means the nationwide computerized information system of criminal justice data established by the FBI as a service to local, state, and Federal criminal justice agencies.

*NICS* means the National Instant Criminal Background Check System, which an FFL must, with limited ex-

ceptions, contact for information on whether receipt of a firearm by a person who is not licensed under 18 U.S.C. 923 would violate Federal or state law.

*NICS Index* means the database, to be managed by the FBI, containing information provided by Federal and state agencies about persons prohibited under Federal law from receiving or possessing a firearm. The NICS Index is separate and apart from the NCIC and the Interstate Identification Index (III).

*NICS operational day* means the period during which the NICS Operations Center has its daily regular business hours.

*NICS Representative* means a person who receives telephone inquiries to the NICS Operations Center from FFLs requesting background checks and provides a response as to whether the receipt or transfer of a firearm may proceed or is delayed.

*NRI (NICS Record Identifier)* means the system-generated unique number associated with each record in the NICS Index.

*NTN (NICS Transaction Number)* means the unique number that will be assigned to each valid background check inquiry received by the NICS. Its primary purpose will be to provide a means of associating inquiries to the NICS with the responses provided by the NICS to the FFLs.

*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.

*ORI (Originating Agency Identifier)* means a nine-character identifier assigned by the FBI to an agency that has met the established qualifying criteria for ORI assignment to identify the agency in transactions on the NCIC System.

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*Originating Agency* means an agency that provides a record to a database checked by the NICS.

*POC (Point of Contact)* means a state or local law enforcement agency serving as an intermediary between an FFL and the federal databases checked by the NICS. A POC will receive NICS background check requests from FFLs, check state or local record systems, perform NICS inquiries, determine whether matching records provide information demonstrating that an individual is disqualified from possessing a firearm under Federal or state law, and respond to FFLs with the results of a NICS background check. A POC will be 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).

[Order No. 2186-98, 63 FR 58307, Oct. 30, 1998, as amended by Order No. 2727-2004, 69 FR 43900, July 23, 2004]

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#### § 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.