

Rulemaking Comments

**PR 73
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From: Gray, Roberta J. [Roberta.Gray@ic.fbi.gov]
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Attachments: FBI COMMENTS ON NRC NPRM 08022011.xlsx

August 3, 2011 (10:28 am)
OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Please see attached Excel Spreadsheet for comments from the FBI's National Instant Criminal Background Check System (NICS) Section. Thank you.

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National Instant Criminal Background Check System (NICS) Section Comments on
Nuclear Regulatory Commission Notice of Proposed Rulemaking

DOCUMENT	PAGE / SLIDE	NUMBER / FIGURE	PARA / BULLET	LINE	AS WRITTEN	COMMENT
FED REG 76 #23	6200	II	A.	last sentence	"Federal National Instant Background Check System (NICS)"	Should be "National Instant Criminal Background Check System (NICS)"
FED REG 76 #23	6202	III	A, third column	4th paragraph from bottom	". . . Provisions in the NRC Form are appropriately consistent with the ATF form."	Should say ". . . Provisions in the NRC Form are appropriately consistent with the ATF Form 4473."
FED REG 76 #23	6203	B	third column	11 lines from bottom	Individuals who have been removed from duties requiring access to covered weapons and who subsequently complete a satisfactory firearms background check would be permitted to be returned to duties . . .	Should say ". . . requiring access to covered weapons and who successfully appeal would be permitted to be returned to duties."
FED REG 76 #23	6204	4	1st column Under "Solution"	6th line from bottom	incorrect "delayed" or "denied" NICS responses	Should be "extended delays and erroneous denials." Delays are not necessarily incorrect.
FED REG 76 #23	6204	4	2nd Column	9	incorrect "delayed" or "denied" NICS responses	Should be "extended delays and erroneous denials." Delays are not necessarily incorrect.
FED REG 76 #23	6204	4	Solution	10 lines from bottom	. . . individuals can apply to the FBI to check their status under the NICS databases.	Individuals should not apply to the VAF to check their status. Change to state " individuals can request the NICS Section to maintain specific information about them for use in subsequent background checks to determine their eligibility to receive firearms."
FED REG 76 #23	6205	third column	11	3rd and 5th lines from bottom	ATF FFL	Should be FFL (delete ATF)
FED REG 76 #23	6206	13	1st column	last line of paragraph	. . . Firearms background check, NICS check, NICS response, and Satisfactory firearms background check.	. . . Firearm background check, NICS check, NICS response, and Proceed firearm background check.
FED REG 76 #23	6209	I	A, B, C	All	Is it appropriate to require a 3 year ...?	We should make sure the re-checks are spaced out and do not come in one large quantity all at one time.
FED REG 76 #23	6209	I	A	C	If not 3 years or 5 years, what is an appropriate periodicity for recurring firearms background checks, keeping in mind that the Firearms Guidelines require no less than 5 years?	We recommend yearly recurrence; initiate the background checks in accordance with the employees' general security background checks, not via batchload, in order to spread the background checks out over time so they are not sent in a large quantity all at one time.

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FED REG 76 #23	6220	3rd column	4th para	2nd line from bottom	... To conduct a firearms background check and would specify a retention period for this information.	Should state the retention period information, which is "On proceed transactions, all personally identifiable information is purged within 24 hours of notification to the licensee/certificate holder; the FFL number and state of residence are purged within 90 days from the creation date; and the NTN and creation date are retained indefinitely. On denied transfers, all information is retained for 110 years after the subject's date of birth or 110 years after the creation date of the transaction, whichever is sooner. For cancelled requests, all information is purged within 90 days from the creation date."
FED REG 76 #23	6221	E	3rd column, 1st paragraph	5th line from bottom of paragraph	Except for VAF records, the FBI purges the results of all NICS checks after 30 days...	Statement is incorrect; should state, "Except for VAF records, all personally identifying information is purged within 24 hours of notification to the licensee/certificate holder of an allowed transfer; the FFL number and state of residence are purged within 90 days from the creation date; and the NTN and creation date are retained indefinitely. On denied transfers, all information is retained for 110 years after the subject's date of birth or 110 years after the creation date of the transaction, whichever is sooner. For cancelled requests, all information is purged within 90 days from the creation date."
FED REG 76 #23	6237	§73.19	(6)	2nd line from bottom of para	...must remove any security personnel who receive a "delayed" NICS response from duties requiring access to enhanced weapons.	Should specify the time of the delay. Would they be removed if the check is immediately delayed, within three business days, or within 30 days? We would recommend three business days as that is what is applicable to Brady background checks.
FED REG 76 #23	6238	73.19 (g)	2nd column, g	Whole paragraph	Notification of removal	Question: If NRC finds a person has been removed from their job due to a disqualifying event, will you notify NICS in case they are in VAF or if we need to change a status?
FED REG 76 #23	6239	2nd Column	4 instances	4 instances	NICS Transaction Number is used 4 times in this column.	NICS Transaction Number is used 4 times in the whole document--all in this column. The acronym NTN is never established. It should be established and used.
FED REG 76 #23	6240	1st column	(9)	middle of paragraph	... Maintain information about himself or herself in a Voluntary Appeal File to be established by the FBI and checked ...	Should be "... Maintain information about himself or herself in a VAF established by the FBI and checked ..."
FED REG 76 #23	through out	throughout	throughout	throughout	"firearms background checks"	Change to "firearm background checks"
FED REG 76 #23	through out	throughout	throughout	throughout	"... NICS check response ..."	Should say "... NICS response ..."