

To Washington Federal Firearms Licensees (FFL),

The following information is being provided, on behalf of the FBI Criminal Justice Information Services Division's National Instant Criminal Background Check System (NICS) Section, the Washington Department of Licensing (DoL), and the Washington State Patrol (WSP), to provide information to Washington FFLs regarding the correct entity to contact when processing firearm transfers within the state of Washington.

The following synopsis of firearm check processing is being provided for efficiency; however, review of this message is required for a complete understanding of the NICS processing of firearm transfers in Washington after July 1, 2019.

- **HANDGUN transfers: Washington FFLs will contact Washington law enforcement (LEA) to process the NICS check**
- **SEMIAUTOMATIC RIFLES (SAR), per Initiative 1639: Washington FFLs will contact Washington LEA to process the NICS check**
- **"OTHER" transfers: Washington FFLs will contact the NICS Section to process the NICS check**
- **LONG GUN transfers (not meeting the Washington SAR): Washington FFLs will contact the NICS Section to process the NICS check**

There are two different changes occurring in Washington regarding firearm transfers on July 1, 2019. Even though they both take affect the same day, they are not related. One change relates to the processing of handgun and "other" transactions in Washington based on Washington's NICS Point-of-Contact (POC) status. The second change relates to the processing of SAR transfers, and is a result of a voter initiative changing Washington law.

Please note the information provided below differs from previous communications to provide additional clarification and a change in instruction regarding "other" transfers:

Processing of handgun transfers:

Effective July 1, 2019, all Washington FFLs will contact Washington LEA to conduct the NICS check for **ALL** handgun transfers. This will include handgun transfers to individuals with a valid Washington Concealed Pistol License (CPL). **ALL** handgun transfers also include those involving pawn redemptions, *pre-pawns, and **rentals. The following is a list of transaction types, for which the NICS check will be processed exclusively by the Washington LEAs, and the Washington FFLs will no longer use the NICS E-Check or the NICS Contracted Call Center (NCCC) to initiate/process the NICS check:

Sale of a Handgun
*Pre-Pawn of a Handgun
Redemption of Handgun
**Rental of a Handgun
Private Sale of Handgun
Private Sale Returned to Seller Handgun

* *Pre-pawn checks are optional checks—they are not required to be conducted.*

** *Please refer to the attached 2013 "FFL Newsletter" for more information regarding firearm rentals.*

The change to the handgun NICS checks is not based on a change to state or federal law, or to the interpretation of such, but rather to align Washington with their current NICS POC status. In 1998, Washington elected to have the role of a “Partial-POC” for NICS. Partial-POC states are responsible for processing (accessing the NICS and making firearm eligibility determinations) handgun (*and “other”*) transfers occurring at FFLs within their state. The NICS Section is responsible for processing NICS checks for all long gun transfers occurring at FFLs for Partial-POC states, unless state law dictates otherwise. The NICS Section has provided assistance to Washington and other Full and Partial-POC states with some of their POC responsibilities. As with Washington State, the NICS Section has assisted personnel with their Partial-POC responsibilities by processing handgun or “other” transfers when the transferee possessed a valid Washington CPL. At the NICS Section’s request, Washington personnel have agreed to assume all Partial-POC responsibilities by processing ALL handgun-related transactions occurring at Washington FFLs. Washington law requires a NICS check be conducted at each “point of sale” (point of transfer), therefore, a NICS check is required on all handgun transfers at Washington FFLs, even transfers to Washington CPL holders—these NICS checks will be processed by the LEA beginning July 1, 2019.

The WSP has advised that as of July 1, 2019, Washington FFLs will forward the Firearm Transfer Application (FTA) to the transferee’s/customer’s local LEA for the transfer of a handgun, as directed in Revised Code of Washington (RCW) 9.41. Please note the FTA is a revision of the previous Pistol Transfer Application.

Processing of “other” transfers:

In recent weeks, many Washington personnel, including Washington FFLs, have requested additional information regarding “other” firearm transfers for NICS purposes. The NICS Section would like to provide the following information regarding “other” transfers to help alleviate any confusion.

“Other” includes frames and receivers, and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) provided guidance that “other” shall not be transferred across state lines or to persons under the age of 21. As such, “other” transfers must be processed similar to handguns for the purpose of a Brady-mandated background check. “Other” was added to the ATF Form 4473 in 2008, and in 2009 the NICS was modified to accommodate NICS checks for transfers meeting the federal definition of “other.” In 2009, Washington updated their LEA’s systems to include the “other” transaction codes for use when conducting NICS checks for “other” transfers when the transferee did not have a valid CPL. However, it appears as if the Washington FFLs were not advised to contact the Washington LEAs in these instances. Therefore, the process of contacting the Washington LEAs for “other” transfers was a new concept for Washington FFLs, Washington LEAs, and other Washington agencies.

As stated above, Washington’s role as a “Partial POC” requires the state to be responsible for processing handgun and “**other**” transfers occurring at FFLs within their state. However, the NICS Section has elected to delay enforcing this requirement and will postpone the transition of “other”-related transfer processing from the NICS Section to the Washington LEAs. Collaboration between the NICS Section, the WSP, the DoL, and the Washington Association of Sheriffs and Police Chiefs has identified many concerns prompting this decision. Those concerns include: the lack of clear direction for Washington FFLs and Washington LEAs regarding the processing of “other” transfers, the lack of an established form/method to provide LEAs with the “other” transferees’ descriptors, and confusion on if the

Washington LEAs have the authority—based on state statute—to conduct any background check (the NICS check or the state check) for “other” transfers, etc.

In the interest of public safety, the NICS Section will continue to process the NICS checks for “other” transfers occurring at Washington FFLs, and the Washington FFLs will continue to access the NICS E-Check or contact the NICS NCCC to initiate the NICS check. The delay of the “other” NICS check transition is postponed until July 1, 2020, to allow for possible changes in state statute to remove the concerns and shortcomings listed above.

FFLs needing further clarification on what falls within the category of “other” should contact their local ATF. Please note, the ATF will not answer questions pertaining to the *process* of conducting NICS checks for “other” transactions, but will assist with determining what falls in the “other” category.

Processing of transfers meeting the Washington SARs definition:

Effective July 1, 2019, per Initiative 1639, all Washington FFLs will contact local LEAs to conduct and process the NICS background checks for transfers involving SARs. Please note Washington’s definition of “semiautomatic assault rifle” may differ from the federal definition. The Washington FFL is responsible for identifying which firearms meet the “semiautomatic assault rifle” requirements per Initiative 1639. The NICS checks for Washington SAR transfers will be processed the same as handgun transfers and will fall under the same guidelines outlined in RCW 9.41.092. The WSP and DoL have advised that the Washington FFLs will use the FTA to provide the needed information to the LEA to process the background checks for SAR transactions.

Processing of long gun transfers that are not Washington SAR:

Since Washington continues to hold the NICS Partial-POC status, the NICS Section will continue to be available to process NICS checks for long gun transfers not meeting the Washington SAR criteria. Therefore, the NICS E-Check and the NCCC will remain available to Washington FFLs after July 1, 2019 for the purpose of long gun-related transfers. As noted above, the Washington FFL is responsible for identifying which firearms meet the Washington “semiautomatic assault rifle” requirements per Initiative 1639, and will only contact the NICS Section for long guns not meeting the criteria.

The FFLs must continue to initiate a NICS check prior to the transfer of firearms to ensure eligibility of individuals according to state and federal laws. This communication is merely providing information to the FFLs in Washington to ensure they correctly contact either the Washington LEA or the NICS Section to process the NICS check, as appropriate for the type of firearm transfer.

Questions or concerns regarding the changes related to the NICS Section may be directed to the NICS Business Relations Team via e-mail at NICSLiaison@fbi.gov.

Helpful Washington State Contacts:

- Washington DoL Firearms Unit: www.dol.wa.gov/business/firearms/index.html
- WSP: www.wsp.wa.gov/
- WA Attorney General FAQs: <https://www.atg.wa.gov/initiative-1639>
- Initiative 1639: https://www.sos.wa.gov/assets/elections/initiatives/finaltext_1531.pdf