



COLORADO
Department of Public Safety

Colorado Bureau of Investigation

Implementation of the National Instant Criminal Background Check System with the Colorado Bureau of Investigation Serving as the Point of Contact

8 CCR 1507-20

STATEMENT OF BASIS, STATUTORY AUTHORITY, AND PURPOSE

In February 2000, the Colorado General Assembly passed SB 00-125, implementing the National Instant Criminal Background Check System (NICS) with the Colorado Bureau of Investigation serving as the state point of contact for the system. Pursuant to Section 24-33.5-424(7), C.R.S., the Director of the Colorado Bureau of Investigation shall adopt rules pertaining to the Colorado Bureau of Investigation's administration as the state point of contact to the National Instant Criminal Background Check System. As the state point contact, the Colorado Bureau of Investigation shall adopt rules as necessary to carry out the duties set forth in federal law and assist in implementing 18 U.S.C. sec. 922(t), all federal regulations and application guidelines adopted pursuant thereto, and the NICS system. Additionally, the adopted rules are necessary to ensure the proper maintenance, confidentiality, and security of all records and data provided to carry out these duties and to specify procedures and forms pursuant to Section 24-33.5-424(7), C.R.S. The rules are intended to be consistent with the requirements of the State Administrative Procedures Act, Section 24-4-101 et seq., C.R.S. (the "APA").

The purpose of this rulemaking is to amend the permanent rules to update the time frame to render a final administrative decision for appeals of denial decisions, to delete an obsolete provision in the background check hours of operation, to update the title of the administrator of this rule's public point of contact, and to correct minor formatting and grammatical errors to better align the rules with statute.

Because the statute is necessary for the preservation of public safety, delay in the amendment of these rules would be contrary to the statutory provisions. The absence of updating and amending these rules to carry out the purpose of the statute would be contrary to this declaration. For these reasons, it is imperatively necessary that the proposed amended rules be adopted.

Chris Schaefer
Director Colorado Bureau of Investigation

Date of Adoption



DEPARTMENT OF PUBLIC SAFETY

Colorado Bureau of Investigation

IMPLEMENTATION OF THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM WITH THE COLORADO BUREAU OF INVESTIGATION SERVING AS THE POINT OF CONTACT

8 CCR 1507-20

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

CBI-IC-1

Definitions

The term **business day** means a 24-hour day (beginning at 12:01 a.m.) on which all state offices are open.

The term **the bureau** means the Colorado Bureau of Investigation.

The term **firearm** means (a) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (b) the frame or receiver of any such weapon; (c) any firearm muffler or firearm silencer; or (d) any destructive device. Such term does not include an antique firearm.

The term **destructive device** means:

- (a) any explosive, incendiary, or poison gas-
 - (1) Bomb,
 - (2) Grenade,
 - (3) Rocket having a propellant charge of more than four ounces,
 - (4) Missile having an explosive or incendiary charge of more than one-quarter ounce,
 - (5) Mine, or
 - (6) Device similar to any of the devices described.
- (b) any type of weapon (other than a shotgun or a shotgun shell which the Secretary finds is generally recognized as particularly suitable of sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and
- (c) any combination of parts either designed or intended for use in converting any **device** into a destructive device described in subparagraph (a) or (b) and from which a destructive device may be readily assembled.

The term **destructive device** shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army; or any other device which the Secretary of the Treasury finds is not likely to be used as a weapon, or is an antique.

The term **antique firearm** means:

(a) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; ~~or~~

(b) any replica of any firearm described in subparagraph (a) if such replica:-

- (1) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; ~~or~~
- (2) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; or

(c) any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is designed to use black powder, or a black powder substitute, and which cannot use fixed ammunition. For purposes of this subparagraph, the term **antique firearm** shall not include any weapon which incorporates a firearm frame or receiver, any firearm which is converted into a muzzle loading weapon, or any muzzle loading weapon which can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.

CBI-IC-2

Maintenance, Confidentiality, and Security of Records

The Bureau shall ensure that the InstaCheck Unit has adequate security to protect against any unauthorized personnel gaining access to the computer equipment or to any stored data.

Personnel having access to data collected pursuant to background checks for firearm transfers shall be screened thoroughly by the Bureau. This screening shall apply to non-criminal justice maintenance or technical personnel. Employees accessing the NICS will be kept to a minimum.

All visitors to the InstaCheck Unit must be accompanied by staff personnel at all times.

The Bureau shall maintain appropriate software to prevent data concerning background checks for firearm transfers from being accessible to any unauthorized terminals.

The Bureau shall maintain a central computer; through which each inquiry must pass for screening and verification.

Bureau personnel shall not release any information collected, created, or provided pursuant to a background check for firearm transfer, except as provided by law.

CBI-IC-3

Procedures for Appealing a Denial Decision

Any individual who has received a denial may within 30 days of the date of the issuance of the denial request a review of the denial. For any Individual who has submitted the request for review of the denial, the CBI will by statute review and ~~uphold or reverse the denial~~ render a final administrative decision within ~~30-60~~ days from the date of receipt of the review request.

All official forms shall be maintained on the official CBI website.

Unless otherwise noted, the term "days" means "calendar days".

CBI-IC-4

Destruction of Records

Information pertaining to an approved individual ~~which is~~ collected or created pursuant to a background check for a firearm transfer shall be destroyed within 24 hours of the issuance of the approval consistent with federal law.

The Bureau shall maintain the transaction number, the date and time of its issuance, and the **Federal Firearm Licensee (FFL)** to whom it was relayed. Nothing in this rule shall be interpreted so as to prohibit the updating of criminal history records to accurately reflect dispositions.

CBI-IC-5

Forms to be Adopted/Identification of Transferee

The Bureau shall adopt the Bureau of Alcohol, Tobacco and Firearms ~~Form 4473~~ to document the transaction and to avoid unnecessary duplication. Transferors shall ensure that ~~the Form 4473 form~~ is completed by both the transferor and transferee prior to contacting the Bureau for a background check. Form 4473 shall be maintained in accordance with Federal law and rule.

Transferors shall identify transferees with a valid government issued photo identification and shall verify the name, date of birth, and address given by the transferee. Additional documents may be required to establish residency.

CBI-IC-6

Hours of Operation

The Bureau shall be open to conduct background checks for firearm transfers from 9am to 9pm every calendar day except Christmas Day and Thanksgiving Day. ~~Requests submitted by Federal Firearms Licensees to the Bureau which originated prior to 9pm will be handled until the queue is empty.~~

CBI-IC-7

Access to the System/When contact is Made

The Bureau shall maintain a toll-free and a local telephone number for Federal Firearms Licensees to contact the Bureau to request background checks prior to the transfer of firearms. Nothing in this rule shall preclude the Bureau from providing alternate means of contacting the Bureau for the purpose of conducting such checks. The toll-free and local number shall be operational every day that the Bureau is open for business. The toll-free number is not available to local Federal Firearms Licensees.

Contact shall not be considered to have been made until information regarding the transferee has been transmitted to and acknowledged by the Bureau.

CBI-IC-8

Bureau Personnel and Training

Within fiscal restraints established by legislation, the Bureau shall employ personnel at levels, ~~which~~ **that** correspond to the reasonably anticipated volume of inquiries. The Bureau shall assign such personnel according to the anticipated demand load. The Bureau shall provide adequate training for personnel commensurate with their duties, to include system usage, customer service, and reasons for approval and denial.

CBI-IC-9

Forms, Publications, and Rules Incorporated by Reference

All forms, publications, and rules adopted and/or incorporated by reference in these regulations are on file and available for public inspection by contacting the ~~Agent in Charge of Program Manager~~ of the InstaCheck Program, Colorado Bureau of Investigation, Department of Public Safety, 690 Kipling Street, ~~Denver, Lakewood~~, Colorado 80215.

This rule does not include later amendments to or editions of any materials incorporated by reference. All publications and rules adopted and incorporated by reference in these regulations may be examined at any state publications depository library.

Editor's Notes

History

Rules CBI-IC-1 – CBI-IC-3, CBI-IC-9 eff. 11/14/2016.