

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF CRIMINAL JUSTICE SERVICES**

**REGULATIONS GOVERNING THE PRIVACY AND SECURITY OF CRIMINAL HISTORY
RECORD INFORMATION CHECKS FOR FIREARM PURCHASE**

PART I.

6 VAC 20-130-10. GENERAL.

Pursuant to the provisions of Section 18.2-308.2:2 of the Code of Virginia, criminal history record information checks are required prior to the sale, rental, trade or transfer of certain firearms. A criminal history record information check shall be requested by licensed dealers from the Department of State Police to determine the legal eligibility of a prospective purchaser to possess or transport certain firearms under state or federal law. The Department of Criminal Justice Services hereby promulgates the following regulations governing these criminal history record information checks as required under Section 18.2-308.2:2(11) of the Code of Virginia. The purpose of these regulations is to ensure that criminal history record information checks are conducted in a manner which ensures the integrity of criminal history record information, guarantees individual rights to privacy, and supports the needs of law enforcement, while allowing nearly instantaneous sales of firearms to the law abiding public.

6 VAC 20-130-20 § 1.1. DEFINITIONS.

The following words and terms, when used in these regulations, shall have the following meaning unless the context clearly dictates otherwise:

"Antique firearm" means any firearm, including those with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898, and any replica of such a firearm, provided such replica: (i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or; (ii) 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.

"Criminal History Record Information" means records and data collected by criminal justice agencies on ~~adult~~ individuals, consisting of notations of arrests, detentions, indictments, informations, or other formal charges and any disposition arising therefrom.

"Criminal History Record Information Check" (also "criminal history record check" and "record check") means a review of a potential purchaser's state and federal criminal history record information, state and federal wanted files, state and federal mental health files, state and federal protective order files and any other information required pursuant to federal law, to be conducted by the Department of State Police at the initiation of a dealer in order to establish a prospective purchaser's eligibility to possess or transport a firearm, as defined herein, under state or federal law.

"Dealer" means any person licensed as a dealer pursuant to 18 U.S.C. Section 921 et seq.

"Dealer Identification Number" (DIN) means a unique identifying number assigned by the Department of State Police to each individual dealer as defined in Section 18.2-308.2:2(C) of the Code of Virginia, in order to identify such dealers when they request criminal history record information to determine the eligibility of a prospective purchaser to possess or transport a firearm.

"Denied Transaction" means the dealer is not authorized to transfer a firearm to a prospective purchaser because of state or federal prohibitions.

"Department" means the Virginia Department of State Police.

"Disciplinary Action" means any action taken by the Department or Department of Criminal Justice Services for violations of these regulations and may include any of the following: invalidation of DIN, revocation of DIN, probation.

"Firearm" means any handgun, shotgun, or rifle which expels a projectile by action of an explosion.

"Handgun" means any firearm including a pistol or revolver designed to be fired by the use of a single hand.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any member of the Regulatory Division of the Department of Alcoholic Beverage Control vested with police authority, any police agent appointed under Section 56-353 of the Code of Virginia (provides railroad officials with the authority to appoint police agents), or any game warden who is a full-time sworn member of the enforcement division of the Department of Game and Inland Fisheries. Part-time employees are compensated officers who are not full-time employees as defined by the employing police department or sheriff's office.

"Prospective purchaser" means an individual who intends to buy, rent, trade, or transfer a firearm or firearms as defined herein, and has notified a dealer of this intent.

"Resident of Virginia" means a person who resides and has a present intent to remain within the Commonwealth, as shown by an ongoing physical presence and a residential address within Virginia. If a person does not reside in Virginia, but is on active duty as a member of the U. S. Armed Forces and Virginia is the person's permanent duty station, the person shall, for the purposes of these regulations, be considered a resident of Virginia.

"Transfer" means to sell, rent, trade, or transfer a firearm as defined herein.

"Virginia Firearms Transaction Record Form" means the form issued by the Department of State Police provided to dealers and required for requesting a criminal history record check, also known as "SP-65", the "VFTR form" or the "VFTR".

PART II.
REGULATIONS.

6 VAC 20-130-20 § 3.1. APPLICABILITY OF REGULATIONS CONCERNING CRIMINAL HISTORY RECORD CHECKS FOR FIREARM PURCHASE.

A. These regulations apply to:

1. All licensed dealers in firearms;
2. The Department of State Police.

B. These regulations shall not apply to:

1. Transactions between persons who are licensed as firearms importers or collectors, manufacturers or dealers pursuant to 18 U.S.C. Section 921 et seq.;

~~2. Purchases by or sale to any law enforcement officer or agent of the United States, Commonwealth or any local government;~~

32. Antique firearms; or

43. Transactions in any county, city or town that has a local ordinance adopted prior to January 1, 1987, governing the purchase, possession, transfer, ownership, conveyance or) transportation of firearms which is more stringent than Section 18.2-308.2:2 of the Code of Virginia.

6 VAC 20-130-40 § 2.2. RESPONSIBILITIES OF DEALERS.

It shall be the responsibility of dealers that transfer firearms in Virginia to comply with the following:

A. Register with the Department and obtain from the Department a Dealer Identification Number (DIN) and the toll-free telephone number to participate in the criminal history record check program.

B Prior to transferring any firearm, determine if the firearm is a "firearm" as defined in these regulations and Section 18.2-308.2:2 of the Code of Virginia.

C. Deny the transfer of a handgun to a non-Virginia resident in accordance with 18 U.S.C. Section 922(b)(3).

D. Accurate ~~C~~ompleteion of the VFTR form.

1. The failure of a dealer to accurately complete sections A and B of the VFTR form shall be a violation of Section 2.9 of these regulations.

E. Request a criminal history record information check prior to the transfer of any such firearm.

F. Request a criminal history record check: either by telephone, direct computer access or by mail prior to the sale of shotguns and rifles to non-Virginia residents.

G. Maintain required forms and records according to the procedures outlined in these regulations.

H. Deny the transfer of a firearm if advised by the Department of State Police that the prospective purchaser is ineligible to possess such a firearm and the Department disapproved the transfer of a firearm to the prospective purchaser.

1. Allow the Department of Criminal Justice Services access to all forms and records required by these regulations.

2. Respond immediately to inquiries from the Firearms Transaction Center concerning the transfer of a firearm.

6 VAC 20-130-50 § 2.3. RESPONSIBILITIES OF THE DEPARTMENT OF STATE POLICE.

A. The Department of State Police shall operate a telephone, direct computer access and mail response system to provide dealers in firearms (as defined herein) with information on the legal eligibility of prospective purchasers to possess or transport firearms covered under these regulations. This information shall be released only to authorized dealers. Prior to the release of the information, the identity of the dealer and the prospective purchaser should be reasonably established.

B. In no case shall the Department release to any dealer actual criminal history record information as defined herein. The dealer shall only receive from the Department a statement of the Department's approval or disapproval of the transfer, and an approval code number, if applicable, unique to the transaction. A statement of approval or disapproval shall be based on the Department's review of the prospective purchaser's criminal history record information and restrictions on the transfer of firearms to felons enumerated in Section 18.2-308.2 of the Code of Virginia or federal law. This statement shall take one of the following two statuses: (i) approval with an approval code number, (ii) disapproval with no approval code number.

C. The Department shall provide to dealers a supply of VFTR forms, a DIN, and a toll-free number to allow access to the telephone criminal history record check system available for approval of firearms purchases.

D. The Department shall supply all dealers in the Commonwealth with VFTR forms in a manner which allows the Department to use the forms to identify dealers and monitor dealers' use of the system to avoid illegal access to criminal history records and other Department information systems.

E. The Department shall hire and train such personnel as are necessary to administer criminal history record information checks, insure the security and privacy of criminal histories used in such records checks, and monitor the record check system.

F. Allow the Department of Criminal Justice Services access to all forms and records required by these regulations.

6 VAC 20-130-60 § 2.4. PREPARING FOR A CRIMINAL HISTORY RECORDS CHECK.

A. GENERAL PROCEDURES.

1. If any firearm which a prospective purchaser intends to obtain in transfer is a firearm as defined herein, the dealer shall request that the Department of State Police conduct a criminal history record check on the purchaser. The dealer may obtain the required record check from the Department for purchasers who are residents of Virginia by telephoning or direct computer accessing the Department, using the provided toll-free numbers, ~~and requesting the record check~~. For out-of-state residents who purchase rifles or shotguns, the dealer may request the record check from the Department by telephone, direct computer access, mail or delivery. However, Virginia residents may, if they elect, request the dealer to obtain a record check by mail. The initial required steps of completion of the VFTR, obtaining consent of the purchaser, determining residency and verifying identity are common to both telephone and mail methods of obtaining the record check.

2. The dealer shall request a criminal history record check and obtain the prospective purchaser's signature on the consent portion of the form for each new transfer of a firearm or firearms to a given purchaser. One record check is sufficient for any number of firearms in a given transfer, but once a transaction has been completed, no transfer to the same purchaser shall proceed without a new records check.

3. A criminal history record check shall be conducted prior to the actual transfer of a firearm.

B. COMPLETING SECTION A OF THE VIRGINIA FIREARMS TRANSACTION RECORD: OBTAINING CONSENT FOR A CRIMINAL HISTORY RECORD INFORMATION CHECK FOR FIREARMS PURCHASE.

As a condition of any sale, the dealer shall advise the prospective purchaser to legibly complete and sign Section A of a VFTR form.

1. The dealer shall require the prospective purchaser to complete Section A of the VFTR form in the prospective purchaser's own handwriting, and without the dealer's assistance. The purchaser shall answer the questions listed and shall complete the items that establish residency and describe identity, including name, sex, height, weight, race, date of birth, social security or other identification number and place of birth.

2. If the prospective purchaser cannot read or write, Section A of the VFTR form may be completed by any person other than the dealer or any employee of the dealer according to the procedures specified on the reverse side of the VFTR form.

3. The dealer shall also obtain the prospective purchaser's signature or, if he cannot read or write, his mark, following the consent paragraph at the bottom of Section A, two persons other than the dealer or an

employee of the dealer must sign the form alongside the buyer's mark as a witness to his identity and ~~which~~ shall certify that the information supplied by the purchaser in Section A is true and correct.

C. COMPLETING SECTION B OF THE VIRGINIA FIREARMS TRANSACTION RECORD: ESTABLISHING PURCHASER IDENTITY AND RESIDENCY AND DEALER IDENTITY.

Prior to making a request for a criminal history record information check, the dealer shall complete all of Section B of the VFTR form for which the dealer is responsible. Information recorded on the VFTR form shall be sufficient to: (i) reasonably establish a prospective purchaser's identity and determine the residency of the prospective purchaser; and (ii) identify the dealer.

1. IDENTIFY PROSPECTIVE PURCHASER AND DETERMINE RESIDENCY.

a. The dealer shall determine residency and verify the prospective purchaser's identity as required in Section B of the VFTR, by requiring at least two forms of identification that denote the address of the prospective purchaser. Only the forms of identification listed in this subsection shall be acceptable to establish identity and residency. The primary form of identification shall consist of a valid photo-identification form issued by a governmental agency of the Commonwealth. Additionally, when the photo-identification presented to a dealer by the prospective purchaser is a driver's license or other photo-identification issued by the Department of Motor Vehicles, and such identification form contains a date of issue, the dealer shall not, except for a renewed driver's license or other photo-identification issued by the Department of Motor Vehicles, sell or otherwise transfer a firearm to the prospective purchaser until thirty days after the date of issue of an original or duplicate driver's license unless the prospective purchaser also presents a copy of his Virginia Department of Motor Vehicles driver's record showing that the original date of issue of the driver's license was more than thirty days prior to the attempted purchase. In addition, no dealer shall sell, rent, trade or transfer from his inventory any assault firearm to any person who is not a citizen of the United States or who is not a person lawfully admitted for permanent residence. To establish citizenship or lawful admission for a permanent residence for purposes of purchasing an assault firearm, a dealer shall require a prospective purchaser to present a certified birth certificate or a certificate of birth abroad issued by the United States State Department, a certificate of citizenship or a certificate of naturalization issued by the Immigration and Naturalization Service, an unexpired U.S. Passport, a United States citizen identification card, a current voter registration card, a current selective service registration card, or an immigrant visa or other documentation of status as a person lawfully admitted for permanent residence issued by the Immigration and Naturalization Service. The secondary form of identification shall include ~~an~~ a name and address identical to that shown on the primary form of identification. Accordingly, the dealer shall require the prospective purchaser to furnish a primary form of identification and at least one other current form of identification included in the list below that documents residence and corroborates that the prospective purchaser resides in Virginia:

- (1) ~~valid Virginia driver's license or photo identification card provided by the Virginia Department of Motor Vehicles or another state's issuing authority~~ Valid Virginia Concealed Handgun Permit;
- (2) military identification card accompanied by proof that Virginia is the permanent duty station;
- (3) valid passport;
- (4) current voter registration card;

- (5) current evidence of paid personal property tax or real estate taxes;
- (6) valid automobile registration;
- (7) valid hunting or fishing license;
- (8) current lease;
- (9) current utility or telephone bill;
- (10) current bank check; or
- (11) other identification allowed as evidence of residency by Part 178.124 of Title 27, Code of Federal Regulations, and ATF Ruling 79-7.

b. For non-Virginia residents purchasing shotguns or rifles, the dealer shall require the prospective purchaser to furnish one valid photo-identification form issued by a governmental agency of the person's state of residence and one other form of identification as provided in subsection (C)(l)(a) above.

c. The dealer will ensure that the form(s) of identification support the listing of the identifying characteristics and the resident's address as supplied by the prospective purchaser in Section A of the VFTR.

d. If the dealer discovers any unexplained discrepancy between the two forms of identification (different addresses, birth dates, names), the dealer shall not request a criminal history record check until the prospective purchaser can be adequately identified with two acceptable forms of identification as required.

e. The dealer shall name and identify on the VFTR form the document(s) used to verify the prospective purchaser's identity and residence, and shall record all pertinent identifying numbers on the VFTR form.

f. The dealer shall identify by category the number of firearms intended to be sold rented, traded or transferred.

¶ g. While the dealer is required to collect sufficient information to establish the prospective purchaser's identity and residency from the form(s) of identification listed above, in no case is the dealer authorized to collect more information on the prospective purchaser than is reasonably required to establish identity and state of residence.

2. IDENTIFY DEALER, The dealer or his employee shall note on Section B of the form:

- a. the dealer's or employee's signature;
- b. his position title (owner, employee);
- c. ~~the trade or corporate name and business address~~ Dealer Identification Number (DIN); and
- d. the dealer's federal firearms license number.
- e. jurisdiction of sale

6 VAC 20-130-70 § 2.5. PROCEDURES FOR REQUESTING A CRIMINAL HISTORY RECORD INFORMATION CHECK BY TELEPHONE OR DIRECT COMPUTER ACCESS:

A. Once the prospective purchaser has completed Section A of the VFTR form and the dealer has completed the necessary portions of the VFTR form and determined that the prospective purchaser is a resident of Virginia, the dealer shall ~~call~~ contact the Department of State Police and request a criminal history record information check by telephone or direct computer access for the firearm transfer. For non-Virginia residents purchasing rifles or shotguns, the dealer may also request a criminal history record check by telephone or direct computer access. The dealer shall use the toll-free numbers provided by the Department of State Police. However, no provision of these regulations shall prohibit a Virginia resident from obtaining a written record check through the dealer for any firearm transfer.

B. The dealer shall identify himself to the Department by providing his DIN and the printed number on the upper right-hand corner of the VFTR form prepared by the prospective purchaser.

C. The dealer shall allow the Department to verify this identifying information. The Department of State Police may disapprove a firearm purchase if the Department determines that the identifying information supplied by the dealer is incomplete, incomprehensible or in error, raises a reasonable doubt as to the origin of the call, or is otherwise unusable.

D. The dealer shall then supply to the Department over the telephone or direct computer access all identifying data on the prospective purchaser which is recorded on Section A of the VFTR, in the order requested by the Department. This information shall be transmitted to the Department in a discrete and confidential manner, assuring to the extent possible that the identifying data is not overheard by other ~~from~~ persons in the dealer's place of business. If the dealer cannot provide sufficient information to allow the Department to conduct a criminal history record check, the Department will not accept the request on the basis of insufficient information to conduct a check. The Department may adopt procedures to appropriately address such occurrences.

E. The Department of State Police will respond to the dealer's request for a criminal history record check by consulting the ~~criminal history record information~~ required indexes and files, during the dealer's ~~call~~ contact. In the event of electronic failure or other difficulties, the Department shall immediately advise the dealer of the reason for such delay and provide to the dealer an estimate of the length of such delay.

F. If no evidence of a criminal record or other information is found that would preclude the purchaser possessing or transporting a firearm under state or federal law, the Department will immediately notify the dealer that the transfer may proceed, and will provide the dealer with a unique approval code number, which the dealer shall enter in a clear, visible, and convenient manner on the original of the VFTR form.

G. If the initial search discloses that the prospective purchaser may not be eligible to possess a firearm, the Department will notify the dealer that the sale is not approved at this time ~~a further check must be completed before the end of the dealer's next business day, to determine if the prospective purchaser has a criminal record that makes him ineligible to possess or transport a firearm under state or federal law~~. This statement of ineligibility shall then be communicated by the dealer to the prospective purchaser in a discrete and confidential manner, recognizing the

individual's rights to the privacy of this information. The dealer shall advise the Department of his next business day and closing time and other identifying information pertaining to the purchaser as indicated of the VFTR form.

H. In any circumstance in which the Department must return the dealer's telephone call or direct computer access, whether due to electronic or other failure or in order to allow a further search, the dealer shall await the Department's ~~call~~ response and make no transfer of a firearm to the individual whose record is being checked until:

1. The dealer receives notification of approval of the transfer by telephone or direct computer access from the Department; or

2. The Department fails to disapprove the transaction of the prospective purchaser before the end of the next business day.

3. Exception: If the Department knows at the time of the dealer's telephone call or direct computer access that it will not be able to respond to the request by the end of the dealer's next business day, it will so notify the dealer. Upon receiving notification, the dealer shall note in a clear and visible manner on the VFTR that the Department was unable to respond. The dealer may in such case complete the transfer immediately after his telephone call.

I. In the event that the Department is unable to immediately respond to the dealers' request for a criminal history record check and the prospective purchaser is also unable to await the Department's response to the dealer's request and the Department ultimately approves of the transfer, the dealer may transfer any firearm or firearms, as listed on the VFTR form the initiated the request for a record check, to the prospective purchaser, after the receipt of the approval of the transfer from the Department. The actual transfer of the firearm shall be accomplished in a timely manner. A second record check shall not be required provided that the actual transfer of the firearm occurs within a time period specified by the Department.

J. If the dealer is notified by the Department that the transfer request is denied ~~prospective purchaser is not eligible to possess or transport a firearm or firearms under state or federal law, and the transfer is disapproved~~, and if he is so notified before the end of the next business day after his accepted telephone or direct computer access request, the dealer shall not complete the transfer.

K. The dealer shall immediately notify the Department upon the transfer of a handgun wherein an approval or non-approval has not been received and the close of the dealer's next business day has passed.

~~K L. Within 24 hours of any~~ On the last day of the week following the sale or transfer of a firearm covered by these regulations on the basis of a telephone or direct computer access inquiry, the dealer shall send by mail or shall deliver to the Department the appropriate copies of the VFTR other than the original, with Sections A and B properly completed. No information on the type, caliber, serial number, or characteristics of the firearms transferred shall be noted on the copies of the VFTR submitted to the Department, but the forms shall otherwise be complete. The dealer shall note the date of mailing on the form, or shall have the form date stamped or receive a dated receipt if the dealer delivers the form.

L.M. AFTER SALE CHECK.

1. Following the receipt of the required copies of a completed VPTR form recording a transfer, the Department shall as needed immediately initiate a search of all data bases in order to verify that the purchaser was eligible to possess or transport the firearm(s) under state or federal law.

2. If the search discloses that the purchaser is ineligible to possess or transport a firearm, the Department shall inform the chief law-enforcement officer in the jurisdiction where the transfer occurred, and the dealer of the purchaser's ineligibility without delay. The Department shall mark "disapproved" on a copy of the VFTR submitted by the dealer after the transfer and return the form by mail to the dealer.

6 VAC 20-130-80 § 2.6. PROCEDURES FOR REQUESTING A CRIMINAL HISTORY RECORD CHECK BY MAIL

A. At the request of a Virginia resident or a non-Virginia resident, a dealer may request a record check by mail for a firearm transfer. In either case, the dealer shall follow the procedures as set forth below. In addition, the dealer shall follow the provisions for establishing identity and residency as set forth in Section 2.4(C)(l)(a) and (b) of these regulations.

B. The dealer shall mail or deliver to the Department the appropriate copies of the completed VFTR form according to procedures established by the Department (which shall not describe, list, or note the actual firearms to be transferred) within 24 hours of the prospective purchaser's signing and dating of the consent paragraph in Section A of the VFTR form. This shall be evidenced by the dealer's notation of the mailing date on the VFTR, if mailed, or the date stamp of the Department on the VFTR form or a receipt provided to the deliverer, if delivered. The original of the completed VFTR form shall be retained at the dealer's place of business.

C. The Department will initiate a search only upon receipt of the appropriate copies of the VFTR form at Department headquarters. The Department may challenge and refuse to accept any VFTR form if there is an unreasonable, extended time period between the date of the mailing and the date of the receipt of the copies of the form at the Department.

D. Following its search of ~~Virginia and national criminal history record~~ required indexes and files, the Department will return to the dealer a copy of the VFTR form, marked "approved," or "not approved". When a dealer receives approval, he may transfer any firearm or firearms, as listed on the VFTR form that initiated the request for a record check, to the prospective purchaser, after his receipt of the approval. The actual transfer of the firearm shall be accomplished in a timely manner. A second record check shall not be required provided that the actual transfer of the firearm occurs within a time period specified by the Department. If the transfer is disapproved, he is not authorized to transfer any firearm to the prospective purchaser-, and the dealer will be notified forthwith by telephone of the status in addition to the return of the form.

E. In the case of written requests for a criminal history record check, initiated by the submission of VFTR forms, the dealer shall wait up to 10 days after the mailing date (noted on the form) or delivery date stamp (if not mailed) of the request for written approval from the Department, prior to transferring a firearm as defined herein.

F. However, if 10 days elapse from the date the VFTR form was mailed (as noted on the VFTR form) or delivered to the Department of State Police (as indicated by the date stamped by the Department), and the Department has not responded to the request initiated by the form by approving or disapproving the transaction proposed, the dealer may complete the transfer to the prospective purchaser on his next business day, after the tenth day, or thereafter, and not be in violation of the law or these regulations. After completion of the transfer in this case, as in all cases, any new or further transfer of firearms not listed on the VFTR form that initiated the request for a records check to the same purchaser will require a new criminal history records check.

6 VAC 20-130-90 § 2.7. PROPER USE OF THE COMPONENTS OF THE CRIMINAL HISTORY RECORD CHECK SYSTEM: FORMS, RECORDS, TOLL-FREE TELEPHONE NUMBERS AND DIN.

A. The VFTR forms will be provided to the dealer by the Department. VFTR forms shall not be transferred from one dealer to another. All VFTR forms partially completed, torn, defaced or otherwise rendered unusable shall be marked "VOID" and disposed of in a manner which will not allow their reuse. All unused forms shall remain the property of the Department of State Police and shall be returned immediately to the Department in the event that a dealer ceases to engage in the transfer of firearms in a manner which is regulated by the Department of Criminal Justice Services.

B. The dealer will retain the original of the VFTR form for his own files for not less than two years.

C. The dealer shall keep all blank and completed VFTR originals, and all returned copies in a secure area, which will restrict access to the information contained on the VFTR forms to authorized employees only.

D. The Department shall retain a copy of all VFTR forms received from dealers according to the procedures outlined below.

a. APPROVED TRANSFERS: Thirty days ~~after~~ from the date of the dealer's request ~~the Department has notified the dealer of an approved transfer,~~ the Department shall destroy the VFTR form still in its possession and all identifiable information collected pertaining to a prospective purchaser.

b. APPROVED TRANSFERS MULTIPLE HANDGUN: VFTR form shall be retained by the Department for twelve months from the date of the transaction.

~~b~~ c. DISAPPROVED TRANSFERS: VFTR forms recording a transfer that was not approved shall be maintained by the Department in a separate file, maintained by name of the prospective purchaser.

(1) The information contained in these forms shall be used by the Department for legitimate law enforcement purposes only, and shall be governed by existing regulations concerning the privacy and security of criminal history record information.

(2) The Department may maintain any other printouts or reports with these copies of the VFTR form, provided they are treated as criminal history record information.

E. The Department of State Police shall maintain a running log of all requests for criminal history record information checks for firearms transfer, which shall include the following:

1. DIN and name of requester;
2. Dealer's Transaction Number;
3. Approval Code Number, if sale is approved;
4. Date of telephone or direct computer access request or mailing or delivery date of mail request;
5. Notation of type of record request - either telephone, direct computer access or mail request;
6. Approved or Not Approved status; and
7. ~~Date of clearance from Department file through mailing of VFTR form to the dealer or other final action.~~
7. Jurisdiction of sale

F. A log shall be retained at the Department on each request ~~which leads to approvals of firearm transfers~~ for 12 months from the date of each request and shall include the name of the purchaser, the dealer identification number and the transaction date.

G. ~~Requests which lead to disapprovals~~ The VFTR form and supporting documents of denied transactions shall be maintained by the Department ~~on a log~~ for a period of two years from the date the request was accepted by the Department for processing.

H. The Department shall monitor and distribute all VFTR forms in an appropriate manner to ensure their proper control and use. This includes designing, redesigning, numbering, distributing, tracking, and processing all VFTR forms.

1. No dealer shall provide his DIN or the toll-free numbers to another party for any reason.

J. The DIN's and the toll-free number may be changed periodically to ensure that these numbers are not improperly used by unauthorized dealers or unauthorized parties.

6 VAC 20-130-100 § 2.8. AUDITS.

A. The Department of State Police shall continuously observe compliance with requirements regarding VFTR form completion, notification of the Department of State Police following firearm transfers, forms management and storage, and confidentiality and proper use of the DIN and the toll-free telephone numbers for Virginia resident telephone and direct computer access record checks.

B. The Department of State Police shall notify the Department of Criminal Justice Services if a dealer has used or may have used the criminal history record information check system improperly in a manner that may jeopardize the confidentiality and security of criminal history record information systems.

C. Upon such notification, the Department of Criminal Justice Services shall audit the dealership in question and recommend corrective action without delay. The corrective action may include disciplinary action.

1. Pending the outcome of an audit, the Department may invalidate a particular DIN to ensure the continuous integrity of the criminal history record information, the criminal history record check and the required completion of the VFTR form. Prior to such invalidation, the Department shall notify the dealer orally, telephonically or in writing of the reasons for such invalidation and allow the dealer the opportunity to respond. The Department shall also notify the Department of Criminal Justice Services when a DIN has been invalidated.

2. Should the results of an audit reveal that the provisions of these regulations have not been violated, the Department of Criminal Justice Services shall advise the Department to immediately reinstate the invalidated DIN.

3. Should the results of an audit reveal minor violations of the provisions of these regulations, the Department of Criminal Justice Services may notify the Department to monitor all future requests of the dealer for criminal history record checks for a period not to exceed ninety days. In the event that the DIN of the dealer has been invalidated, the Department of Criminal Justice Services shall also notify the Department to reinstate the invalidated DIN. Any additional violations that may occur during this time period shall be reported to the Department of Criminal Justice Services. Occurrences of additional violations shall invoke the provisions of these regulations for the handling of major or repeated violations, as outlined below, and may result in a subsequent audit of the dealer.

4. Should the results of an audit reveal major or repeated violations of the provisions of these regulations, the Department of Criminal Justice Services shall advise the Department to invalidate the DIN if not invalidated previously and that the invalidated DIN should not be reinstated until the dealer submits a written request to the Department of Criminal Justice Services for reinstatement of the DIN. The request shall demonstrate to the reasonable satisfaction of the Department of Criminal Justice Services that corrective action has been taken by the dealer to comply with the provisions of these regulations.

5. Should the results of an audit reveal that the privacy and security of criminal history record information has been compromised, the Department of Criminal Justice Services shall send written notification to the dealer, the office of the local commonwealth's attorney and the Department.

D. The Department of Criminal Justice Services shall annually audit the Department of State Police to ensure the following:

1. That records, VFTR's and other materials, except for the maintenance of the log as outlined above, on purchasers found to be eligible to possess or transport firearms (approved) are being routinely destroyed 30 days from the notification, mailing or delivery date of the accepted request for a records check; and

2. That VFTR's and other materials gathered on persons found to be ineligible to purchase a firearm (disapproved) are governed by the regulations for criminal history record information.

3. That logs recording the approvals and disapprovals of firearm transfers are being correctly maintained according to the provisions of these regulations

6 VAC 20-130-110 § 2.9. VFTR FORM VIOLATIONS BY DEALERS

A. The first failure to accurately complete the VFTR form will result in a letter and a copy of the incomplete VFTR form being sent to the dealer. The letter will outline the problem and the importance of completeness of this form.

B. The second failure to accurately complete the VFTR form within 12 months of the first violation will result in a certified letter being sent to and a telephone call being made to the dealer by the Firearms Transaction Center. These contacts will outline the problem and the importance of completeness of this form.

C. The third failure to accurately complete the VFTR form within 12 months of the first violation will result in a visit from an employee of the Firearms Transaction Center.

D. The fourth failure to accurately complete the VFTR form within 12 months of the third violation will result in the invalidation of a dealer's DIN and authorization to transfer a firearm for seven (7) days. The dealer will be notified in writing of the date the invalidation is to commence.

E. Any subsequent failures to accurately complete the VFTR form within 12 months of the fourth violation will result in the invalidation of a dealer's DIN and authorization to transfer a firearm for thirty (30) days. The dealer will be notified in writing of the date the invalidation is to commence.

6 VAC 20-130-120 §2.10. Violations of these regulations by Dealers

A. Failure to comply with these regulations by a dealer shall be consider a violation and shall result in disciplinary action.

B. The disciplinary action may result in probation, invalidation of DIN or revocation of DIN.

C. The dealer will be notified in writing of the type of disciplinary action and the date the disciplinary action is to commence.

D. This section shall not include violations as described in §2.9 of these regulations.

6 VAC. 20-130-130 §2.11 Appeal of Disciplinary Action

A. A dealer has the right to appeal the enactment of disciplinary actions by the Department or the Department of Criminal Justice Services. The dealer must initiate the appeal in compliance with this section. The dealer has three levels of appeal which shall be followed in sequence.

B. First Level of Appeal

Within thirty days of notification of disciplinary action a dealer may appeal such action to the Criminal Justice Information Services Officer, Department of State Police. Such appeal shall be in writing, setting forth any grounds which the dealer wishes to be considered. The Criminal Justice Information Services Officer, Department of State Police shall consider each such appeal, and notify the dealer in writing of his decision within five business days after the day on which the appeal is received. A dealer may appeal the decision to the second level.

C. Second Level of Appeal

Within ten days of notification of the decision of his appeal a dealer may appeal such decision to the Superintendent, Department of State Police. Such appeal shall be in writing, setting forth any grounds which the dealer wishes to be considered. The Superintendent, Department of State Police shall consider each such appeal, and notify the dealer in writing of his decision within five business days after the day on which the appeal is received. A dealer may appeal the decision to the third level.

D. Third Level of Appeal

Within ten days of notification of the decision of his appeal a dealer may appeal such decision to the Director, Department of Criminal Justice Services. Such appeal shall be in writing, setting forth any grounds which the dealer wishes to be considered. The Director, Department of Criminal Justice Services shall consider each such appeal, and notify the dealer in writing of his decision within five business days after the day on which the appeal is received.

EFFECTIVE DATE:

These regulations shall be effective on _____ and until amended or rescinded.

A DOPTED:

_____, Chairman
Criminal Justice Services Board

AMENDED:
