DEPARTMENT OF SAFETY AND HOMELAND SECURITY

STATE BUREAU OF IDENTIFICATION

Statutory Authority: 11 Delaware Code, Section 8572(f) (11 **Del.C.** §8572(f))

FINAL

ORDER

Firearms Transaction Approval Program Regulations

Summary of the Evidence

Title 11, Section 8572(f) of the Delaware Code authorizes the Delaware State Bureau of Identification to promulgate regulations to enforce and administer the Firearms Transaction Approval Program ("FTAP"). The proposed Regulations were published in the Delaware Register of Regulations on June 2, 2025. A written comment period was held open through July 3, 2025. FTAP did not receive any written comments. The regulations are necessary to administer FTAP effectively.

An assessment of the impact of the proposed regulations on the achievement of the State's greenhouse gas emissions reduction target and the State's resiliency to climate change is not practical for this regulation.

ORDER

These Regulations shall become effective 10 days from the date of the publication in *Delaware Register of Regulations* in accordance with 29 *Del. C.* §10118(g).

IT IS SO ORDERED, this 25th day of February, 2026:

Captain Michael Dill *468
Director of SBI

Firearms Transaction Approval Program Regulations

1.0 Authority and Purpose

1.1 Pursuant to 11 **Del.C.** §8572(f), the State Bureau of Identification promulgates this regulation which shall have the force and effect of law in the counties, cities, and political sub-divisions of this State.

1.2 This regulation is compliant with the Federal Brady Act.

1.3 This regulation, in conjunction with statutory authority found in Chapter 85 of Title 11 of the Delaware Code, establishes Delaware as a Point of Contact State for the National Instant Criminal Background Check System.

1.4 The purpose of this regulation is to enforce the required background checks for the lawful sale, transfer, or delivery of firearms under federal and Delaware law. The Firearms Transaction Approval Program will also make eligibility determinations, communicate with FFLs and NICS, and process denial challenges as well as appeals.

2.0 Definitions

The following words and terms, when used in this regulation, have the following meaning:

"**ATF**" means the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

"**ATF 4473 Form**" means the form used by FFLs to determine whether the FFL may lawfully sell or deliver a firearm to the prospective buyer.

"**Federal Firearms Licensee**" or "**FFL**" means a person licensed by the federal ATF as a manufacturer, importer, or dealer of firearms.

"**Firearm**" means any weapon from which a shot, projectile, or other object may be discharged by force of combustion, explosive, gas, or mechanical means, whether operable or inoperable, loaded or unloaded, the frame or receiver of any such weapon, any firearm muffler or firearm silencer, or any destructive device.

"**Firearms Transaction Approval Program**" or "**FTAP**" means the Delaware State Police Firearms Transaction Approval Program established by 11 **Del.C.** Ch. 85, Subchapter VI.

"**NICS**" means the National Instant Criminal Background Check System.

"**NICS POC**" means a point of contact for the National Instant Criminal Background Check System.

"**NICS POC Guidelines**" means the guidelines established and published by the federal government for the operation and implementation of the NICS program by a POC agency.

"**Prospective buyer**" means a person who intends to purchase a firearm and includes a prospective transferee.

"**Prospective seller**" means a person who intends to sell a firearm and includes a prospective transferor.

"**State Transaction Number**" means a number assigned to a specific transaction.

"**Transfer**" means assigning, pledging, leasing, loaning, giving away, or otherwise disposing of, but does not include any of the following:

- The loan of a firearm for any lawful purpose, for a period of 14 days or less, by the owner of the firearm to a person known personally to the owner.
- A temporary transfer for any lawful purpose that occurs while in the continuous presence of the owner of the firearm, if the temporary transfer does not exceed 24 hours in duration.
- The transfer of a firearm for repair, service, or modification to a licensed gunsmith or other person lawfully engaged in these activities as a regular course of trade or business.
- A transfer that occurs by operation of law or because of the death of a person for whom the prospective transferor is an executor or administrator of an estate or a trustee of a trust created in a will.

"**Transferee**" means a person who receives a firearm by way of transfer.

3.0 General Procedures

3.1 FFLs must contact FTAP to receive authorization to sell, or facilitate the transfer of, a firearm by telephone or electronic request.

3.1.1 A toll-free telephone number is operational between the hours of 9:00am and 9:00pm Monday through Saturday, 9:00am and 5:00pm on Sundays, except on the following holidays: Thanksgiving Day, Christmas Day, Good Friday, and Easter Sunday.

3.1.2 An internet-based portal is available to make electronic requests.

3.1.2.1 The FFL may enroll at https://ftap.delaware.gov/enroll and provide necessary identification information.

3.1.2.2 The FFL primary account must be reviewed by the FTAP before being approved. FTAP may contact the FFL using the provided information to verify the identity and authority of the FFL enrolling for access.

3.1.2.3 Once the FFL primary account is approved, the FFL may create multiple secondary accounts for employees, administrative staff, and kiosk terminals.

3.1.2.4 FTAP must review and approve employee and secondary administrator accounts in compliance with applicable State laws before each account becomes active.

3.1.2.5 Every FFL employee must use unique log on credentials.

3.1.2.6 FFLs must submit and maintain current file of employee's name, date of birth, and social security number for a criminal background check to obtain access to the system upon initial employment and annually thereafter. This can be completed either by telephone or by e-mail utilizing ATF Form #544-A.

3.1.2.7 Employee lists are confidential; however, the lists must be open for inspection by FTAP at the place of business during regular business hours.

3.1.2.8 When an employee resigns, is terminated, or in some manner becomes a person prohibited, the FFL must contact FTAP within 3 days by telephone or by e-mail informing FTAP the employee is no longer employed by the business. Once FTAP has been notified an employee is no longer employed by the FFL, FTAP will suspend the identified employee's log on privileges.

3.1.2.9 Failure to comply with this regulation may result in sanctions in accordance with the Administrative Procedures Act, 29 **Del.C.** §§10101-10161.

3.2 FTAP may share information with other state or federal law enforcement agencies or the Judicial Information System when necessary to affect the FTAP goals.

3.3 FTAP may not maintain, longer than 6 months, any records containing the names of FFLs who have received unique approval numbers or any records of firearms transactions related to citizens who are not prohibited under 11 **Del.C.** §1448 or federal law.

3.3.1 FTAP may retain the records described in subsection 3.3 of this regulation if it has reason to believe the prospective purchaser or transferee is committing a crime.

3.3.2 FTAP will monitor record retention at regular intervals. All records that will not be maintained will be destroyed in accordance with the applicable State Archives Policies.

3.4 FTAP will maintain strict confidentiality and security of NICS information received from FFLs.

4.0 Background Check Procedures

4.1 Upon receipt of a request for an FTAP background check FTAP will:

4.1.1 Ensure all necessary information was provided by the FFL using the ATF 4473 Form. The necessary information includes name, driver's license number and state of issue, date of birth, social security number, race, address, phone number, country of citizenship, place of birth, height, weight, sex (male, female, or non-binary), ICE Number (if applicable).

4.1.1.1 If necessary information is missing, FTAP will reject the request.

4.1.1.2 The FFL may compile the missing information and refile the request.

4.1.2 Assign the request a unique State Transaction Number.

4.1.3 Collect a fee for the background check in an amount to be determined by the Superintendent of the State Police.

4.1.4 Search all available federal and local databases to determine if the prospective buyer or transferee is prohibited from possession of a firearm.

4.1.5 Compile the information from the searched databases to determine eligibility.

4.1.6 Notify the FFL that the prospective buyer or transferee is approved, denied, or delayed.

4.1.6.1 Approved. The prospective buyer or transferee is eligible.

4.1.6.1.1 FTAP will notify the FFL that the sale or transfer may proceed.

4.1.6.1.2 The FFL is not required to transfer a firearm after receiving a response that the transfer may proceed. The FFL may determine the transfer is not appropriate based on observations of the prospective buyer or transferee. If the FFL knows or has reasonable cause to believe the prospective buyer or transferee is prohibited from receiving or possessing a firearm, even after FTAP issues a proceed, the FFL may not lawfully transfer the firearm.

4.1.6.2 Denied. The prospective buyer or transferee is not eligible. FTAP will notify the FFL that the sale or transfer was denied. FTAP will not provide the FFL with the reason or reasons for the denial.

4.1.6.2.1 The FFL should give a denied prospective buyer or transferee a denial form, which will be available for printing from the web based portal, and the State Transaction Number directly linked to the denial. This denial form will inform the prospective buyer or transferee of explanation and appeal options, as outlined in Section 5.0 and Section 6.0.

4.1.6.2.2 In the alternative, the FFL may give the prospective buyer or transferee the contact information to FTAP with the State Transaction Number.

4.1.6.3 Delayed

4.1.6.3.1 In the event of an electronic failure or other emergency beyond the control of FTAP, then FTAP will immediately notify the FFL of the delay, including the reason and estimated length. FTAP will notify the FFL to provide a further response within 3 business days.

4.1.6.3.2 In the event of an investigatory delay, FTAP will notify the FFL of the delay. FTAP will provide a further response within 25 calendar days.

4.2 The FFL may not complete the transfer unless it receives an approval or more than 25 calendar days have elapsed since the background check request was submitted and the FFL has not received a denial.

5.0 Denial Procedures

5.1 In response to a denial, the prospective buyer or transferee may request a written explanation from FTAP within 30 calendar days of the date of the denial.

5.1.1 FTAP will accept requests for explanation by U.S. Mail to Delaware State Police FTAP, 600 S. Bay Rd, Dover, DE 19901 or by electronic mail to DSP_FTAP_Appeals@Delaware.gov.

5.1.2 Any requests pursuant to subsection 5.1.1 must include the prospective buyer or transferee's name, date of birth, address, telephone number, NICS Transaction Number or State Transaction Number, date of denial, and name of FFL.

5.2 FTAP will respond to all requests for explanations within 30 days of the receipt of the request. The response will be mailed to the prospective buyer or transferee's address listed on the ATF 4473 Form.

6.0 Appeal Procedures

6.1 A prospective buyer or transferee who received a denial may file an appeal with FTAP within 30 calendar days of receipt of the denial. FTAP will not consider appeals where jurisdiction lies elsewhere.

6.1.1 FTAP will accept appeals, in writing, by U.S. Mail to Delaware State Police FTAP, 600 S. Bay Rd., Dover, DE 19901 or by electronic mail to DSP_FTAP_Appeals@Delaware.gov.

6.1.1.1 Upon receipt of an appeal, FTAP will thoroughly review the records which caused the denial.

6.1.1.2 FTAP will advise the prospective buyer or transferee if fingerprints or additional information is necessary.

6.1.1.3 The prospective buyer or transferee may request a hearing before the Director of SBI, or designee.

6.1.1.3.1 The hearing will occur at the FTAP office, located at 600 S. Bay Rd., Dover, DE 19901.

6.1.1.3.2 The prospective buyer or transferee may be represented by legal counsel at the expense of the prospective buyer or transferee, if desired.

6.1.1.3.3 If the prospective buyer or transferee wishes for the Director of SBI, or designee, to consider documentary evidence, then the documents must bear signs of authenticity, such as a raised seal or other insignia suggesting validity.

6.1.2 Within 30 days of the receipt of the appeal, including any additional information, or the date of the hearing (whichever is later), the Director of SBI or designee will issue a final decision regarding the denial.

6.1.2.1 Under exceptional circumstances, FTAP may extend the filing deadline for an additional 30 days. FTAP will provide the prospective buyer or transferee with notification of the extension and the exceptional circumstances causing the extension.

6.1.2.2 The Director of SBI or designee's final decision will be sent in writing to the prospective buyer or transferee at the address provided on the ATF 4473 Form.

6.2 A prospective buyer or transferee whose appeal was denied may do the following:

6.2.1 Follow the applicable process for potential corrections to the criminal history information at the originating agency, the initial agency of record, or other appropriate location.

6.2.2 Appeal to the Superior Court of Delaware.

6.3 A prospective buyer or transferee whose appeal is successful may return to the FFL to follow the procedures set forth in Section 4.0.

6.4 In the event of a successful appeal related to inaccurate information, FTAP will communicate with the entity from which it received the disqualifying information.

6.4.1 FTAP will ask the entity to amend its records to reflect accurate information.

6.4.2 FTAP will ask the entity to destroy any records containing erroneous information.

6.4.3 FTAP will destroy any of its own records containing erroneous information.

6.4.4 FTAP will submit a NICS Deny Overturn (NDO) message to NICS.

6.4.5 FTAP will notify the prospective buyer or transferee in writing.

7.0 Transfers without Photographic Identification

7.1 FTAP recognizes that a prospective buyer or transferee may be a bona fide member or adherent of an organized church or religious group which prohibits photographic identification.

7.2 FTAP shall facilitate transfers of firearms without photographic identification in the following way:

7.2.1 The prospective buyer or transferee and prospective seller or transferor must schedule a meeting for the background check with the FTAP Director, or designee, at the FTAP offices, located at 600 S. Bay Rd., Dover, DE 19901.

7.2.1.1 The prospective buyer or transferee and prospective seller or transferor shall bring the firearm to be transferred to the meeting with the FTAP Director, or designee, for inspection.

7.2.1.2 The prospective buyer or transferee must submit a signed affidavit stating that photographic identification conflicts with the tenets of an organized church or religious group of which the prospective buyer or transferee is a bona fide member.

7.2.1.3 The prospective buyer or transferee must submit to fingerprinting.

7.2.1.4 The prospective buyer or transferee must submit any additional information necessary to complete the background check as determined by FTAP.

7.2.2 The fee for the background check, in an amount to be determined by the Superintendent of the State Police, may be paid by the prospective buyer or transferee or the prospective seller or transferor.

7.2.3 FTAP will inform the prospective buyer or transferee of the results of the background check within 25 calendar days.

7.3 FTAP will maintain records of all background checks performed under this section to the same extent as those background checks performed under Section 4.0.

8.0 Investigation Procedures

8.1 FTAP will investigate any persons who purchase or attempt to purchase, a firearm, while being a person prohibited from receipt of possession of a firearm under 11 **Del.C.** §1448 or federal law.

8.2 FTAP will investigate any persons who willfully and intentionally make any materially false statements or who exhibit any false identification intended to deceive.

8.3 FTAP will investigate any FFL or employee thereof who willfully and intentionally sells or transfers a firearm in violation of 11 **Del.C.** §1448A.

8.4 FTAP will investigate any person who engages in a firearms transfer on behalf of another.

8.5 FTAP will investigate the status of stolen firearms purchased or received by FFLs.

9.0 Administrative Responsibilities

9.1 SBI will provide an annual report to the Senate and House Judiciary committees as required by 11 **Del.C.** §1448A(i).

9.2 The FTAP Director will incorporate FTAP information into the annual report from SBI.