

CALIFORNIA DEPARTMENT OF JUSTICE

April 15, 2019

NOTICE OF MODIFICATION TO TEXT OF PROPOSED REGULATIONS AND CORRECTION TO THE NOTICE OF PROPOSED RULEMAKING

AUTOMATED FIREARMS SYSTEM INFORMATION UPDATES

[OAL File No. 2018-0910-02]

Updates to Proposed Text

Pursuant to the requirements of Government Code section 11346.8 (c), and section 44 of Title 1 of the California Code of Regulations, the California Department of Justice (Department) is providing notice of modification to text of the proposed regulation sections 4350, 4351, 4352, and 4353, which were the subject of a public comment period which closed on November 7, 2018.

Correction to the Notice of Proposed Rulemaking

In the Notice of Proposed Rulemaking, the “Disclosures Regarding the Proposed Action” section, the Department stated: “Cost or savings to any state agency: There will be a cost for the Department to hire additional personnel to verify each AFS record update and additional cost to maintain the AFS. The Department projects there will be approximately one million (1,000,000) AFS record updates completed in the first year that these regulations are in effect.”

This statement was incorrect. The Results of the Economic Impact Assessment/Analysis within the Notice of Proposed Rulemaking, and the Standard 399 Economic and Fiscal Impact Statement are both correct in that there is no fiscal impact to the Department regarding this regulatory rulemaking.

If you have any comments regarding the proposed changes, the Department will accept written comments between April 15, 2019 and April 30, 2019. All written comments shall be submitted to the Department no later than 5:00 p.m. on April 30, 2019, and addressed to:

Kelan Lowney
Department of Justice
P.O. Box 160487
Sacramento, CA 95816-0487
Email: BOFregulations@doj.ca.gov
Fax: (916) 227-7615

All written comments received by April 30, 2019, which pertain to the indicated changes will be reviewed and responded to by the Department’s staff as part of the compilation of the rulemaking file. **Please limit your comments to modified proposed text and this notice.**

The original proposal is in single underline and single strikeout. Changes are illustrated by double underline for proposed additions and double strikeout for proposed deletions.

TEXT OF PROPOSED REGULATIONS

California Code of Regulations Title 11, Division 5

Chapter 13: Automated Firearms System Information Updates.

Article 1. General.

§ 4350. Title and Scope.

This chapter shall be known as the “Department of Justice Regulations for Automated Firearms System Information Updates,” may be cited as such and is referred to herein as “these regulations.” The provisions of these regulations shall apply to an individual who seeks to electronically correct or update an Automated Firearms System (AFS) record with the Department of Justice (Department). The Automated Firearms System is a repository of firearm records maintained by the Department, as established by Penal Code section 11106. The AFS is populated by way of firearm purchases or transfers at a California licensed firearm dealer, registration of assault weapons, an individual’s report of firearm ownership to the Department, Carry Concealed Weapons Permit records, or records entered by law enforcement agencies.

Note: Authority cited: Sections 11106, and 30370, Penal Code. Reference: Sections 11106, and 30370, Penal Code.

§ 4351. Purpose.

(a) Commencing on or before July 1, 2019, an individual shall be able to electronically update one or more AFS records through the California Firearms Application Reporting System (CFARS) to match his or her current name, date of birth, address, and California Driver License, California Identification Card, or military identification number.

Note: Authority cited: Sections 11106, and 30370, Penal Code. Reference: Sections 11106, and 30370, Penal Code.

§ 4352. Privacy Notice Requirements.

(a) An individual shall agree to the following terms of the Department’s Privacy Notice before they may electronically correct or update one or more AFS records.

(1) Collection and Use of Personal Information: The Division of Law Enforcement,

Bureau of Firearms in the Department of Justice collects the information on this application pursuant to Penal Code section 11106. The Bureau of Firearms uses this information to correct or update personal information in the Automated Firearms System for the purchase of ammunition. In addition, any personal information collected by state agencies is subject to the limitations in the Information Practices Act and state policy. The Department of Justice's general privacy policy is available at <http://oag.ca.gov/privacy-policy>.

(2) Providing Personal Information: All personal information fields marked with an asterisk ~~on this application are mandatory~~ must be completed. Failure to provide the mandatory personal information will result in the application not being processed.

(3) Access to Your Information: You may review the records maintained in the Automated Firearms System by the Division of Law Enforcement, Bureau of Firearms in the Department of Justice that contain your personal information, as permitted by the Information Practices Act. See below for contact information.

(4) Possible Disclosure of Personal Information: ~~We~~ The Bureau of Firearms may ~~need to share~~ the information you provide ~~us~~ with any Bureau of Firearms representative or any other person designated by the Attorney General upon request. The information you provide may also be disclosed in the following circumstances:

(A) With other persons or agencies when necessary to perform their legal duties, and their use of your information is compatible and complies with state law, such as for investigations, licensing, certification, or regulatory purposes.

(B) To another government agency as required by state or federal law.

(5) Contact Information: For questions about this notice or access to your records, you may contact the Staff Services Analyst in the Customer Support Center at (916) 227-7527, via email at firearms.bureau@doj.ca.gov, or by mail at P.O. Box 820200 Sacramento, CA 94203-0200.

Note: Authority cited: Sections 11106, and 30370, Penal Code. Reference: Section 30370, Penal Code; ~~Section 1798.17, Civil Code.~~

§ 4353. Updating AFS Records.

(a) Before an individual can electronically correct or update one or more AFS records, ~~they~~ the individual shall create a CFARS account as prescribed by California Code of Regulations, Title 11, section 4340.

(b) The individual shall provide his or her current information: Full name, ~~current~~ residence address, zip code, date of birth, and identification type and number, ~~and date of birth.~~

(c) The individual shall provide his or her personal information, as it was, at the time when a ~~for one or more firearms~~ firearm was purchased or transferred into his or her ownership, as reported to the Department: Full name, ~~previous~~ residence address, zip code, date of birth, and identification type and number.

(d) The individual shall provide information for one or more firearms that were purchased or transferred into his or her ownership and possession with the same owner information at the time of purchase or transfer. The individual ~~will need to~~ shall provide the following information for each firearm: Make, model, caliber, serial number information, and/or type.

(e) The individual may add another firearm purchased or transferred at another time by providing additional firearm identifying information as prescribed by subdivision (d).

(f) Updates or corrections to name, date of birth, identification type and/or identification number require the individual to electronically upload documents verifying the change as prompted by CFARS. The individual will be prompted to upload a copy of his or her current California Driver License, California Identification Card, or military identification card (with military station orders) along with the following documentation to verify an AFS record update:

(1) A change of name requires a copy of his or her marriage license, endorsed court order regarding restoration of former name, or endorsed court order regarding name change.

(2) A change to the date of birth requires a copy of his or her birth certificate.

(3) An update to identification type, and/or identification number requires a copy of his or her California Driver License, California Identification Card, or out-of-state driver license.

(g) The individual shall then agree to the following personal declaration: I declare under penalty of perjury under the laws of the ~~state~~ State of California that the foregoing is true and correct.

(h) ~~The~~ Once the individual has provided the necessary information and/or supporting documentation for the AFS record update or correction, ~~and~~ the individual will then submit the information.

(i) The Department shall either approve or reject the individual's request to update or correct one or more AFS records and notify the ~~user~~ individual of the approval or rejection via electronic mail. If the request is rejected, the electronic mail notification shall provide information on how to proceed.

Note: Authority cited: Sections 11106, and 30370, Penal Code. Reference: Section 30370, Penal Code.