

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-		
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

 AGENCY WITH RULEMAKING AUTHORITY
 Department of Justice

 AGENCY FILE NUMBER (if any)
 DOJ-18-013

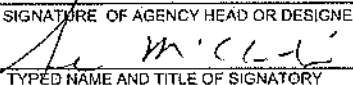
A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Firearms: Identifying Info - Existing and New California Residents		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT	
TITLE(S) 11		AMEND 5505, 5507, 5509, 5510, 5511, 5513, 5514, 5516, 5517	
3. TYPE OF FILING		REPEAL	
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b))			
<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)			
<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify)			
<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1) N/A			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100) <input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input checked="" type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> §100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify)			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY <input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify)			
7. CONTACT PERSON Jessie Romine		TELEPHONE NUMBER 916-227-4217	FAX NUMBER (Optional) E-MAIL ADDRESS (Optional) Jessie.Romine@doj.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 12/10/18
TYPED NAME AND TITLE OF SIGNATORY Sean McCluskie, Chief Deputy to the Attorney General	

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1a. SUBJECT OF REGULATION(S) Firearms: Identifying Info - Existing and New California Residents		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2018-1218-01E	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT	
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<input checked="" type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____			
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7. CONTACT PERSON Kamran Ali		TELEPHONE NUMBER (916) 227-5419	FAX NUMBER (Optional) E-MAIL ADDRESS (Optional) Kamran.Ali@doj.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

TYPED NAME AND TITLE OF SIGNATORY

Sean McCluskie, Chief Deputy to the Attorney General

For use by Office of Administrative Law (OAL) only

June 12, 2019

Notice of Proposed Emergency Action

Pursuant to the requirements of Government Code section 11346.1, subdivision (a)(1), the Department of Justice (Department) is providing notice of proposed re-adoption of emergency regulations regarding the Unique Serial Number Application process for new California residents. There have been no changes to the text of the previously adopted regulations.

Submission of Comments

Government Code section 11346.1, subdivision (a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law (OAL), the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the OAL, the OAL shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.

The text of the proposed emergency regulations and the “Finding of Emergency” are included with this Notice and are posted on the Department’s website at <http://oag.ca.gov/firearms>.

The Department plans to file the emergency rulemaking package with OAL at least five working days from the date at the top of this notice. After submission of the proposed emergency to the OAL, the OAL shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.

If you would like to comment on the proposed emergency regulation amendments or the Finding of Emergency, your comments must conform to the following:

- In writing only;
- Contain a notation that the comment is for OAL consideration in connection with proposed emergency regulations;
- Identify the topic of the emergency regulation, Firearms: Identifying Information and the Unique Serial Number Application Process for Self-Manufactured or Self-Assembled Firearms; Existing and New California Residents; and,
- Received by both the Department and the OAL within five days of the Department’s filing with OAL.

Responding to comments is strictly at the Department’s discretion.

Send comments simultaneously to:

Department of Justice
Bureau of Firearms
Attn: Kamran Ali
P.O Box 160487
Sacramento, CA 95816

Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

Or FirearmsIDregs@doj.ca.gov

California Code of Regulations

Title 11, Division 5

Note: The existing regulation text is set forth below in normal type. The proposed amendments are shown in underline to indicate additions and strikethrough indicate deletions. “***” indicates that sections of the regulation not printed are not changed.

Chapter 41 Firearms: Identifying Information and the Unique Serial Number Application Process for Self-Manufactured or Self-Assembled Firearms; Existing and New California Residents

Article 1. General

§ 5505. Title and Scope.

This chapter shall be known as the “Department of Justice Regulations for Firearms: Identifying Information and the Unique Serial Number Application Process for Self-Manufactured or Self-Assembled Firearms; Existing and New California Residents,” may be cited as such and is referred to herein as “these regulations.” The provisions of these regulations shall apply to an individual who owns a self-manufactured or self-assembled firearm before July 1, 2018 that is not recorded with the Department of Justice (Department), and shall also apply to an individual who intends to manufacture or assemble a firearm on or after July 1, 2018, and, on and after January 1, 2019, to a new resident to the state who wishes to possess in the state a previously self-manufactured or self-assembled firearm, or a firearm the resident owns, that does not have a unique serial number or other mark of identification. The individual in each situation shall make a request to the Department to obtain a unique serial number for the individual’s unrecorded self-manufactured or self-assembled firearm. These regulations apply to self-manufactured or self-assembled firearms made from any material, including wood, metal, or plastic, and made through any process, including those produced by 3D printers. These regulations do not apply to a firearm that satisfies one or more criterion of Penal Code section 29181.

Note: Authority cited: Section 29182, Penal Code. Reference: Sections 11106, 16520, 23910, 29180, 29181, 29182, 29183 and 29184, Penal Code.

Article 2. Definitions

§ 5507. Definition of Key Terms.

For the purposes of Penal Code Section 29180 and Chapter 41, the following definitions will apply:

- (a) “Antique firearm” means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition

system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(b) “Barrel” means the tube, usually metal and cylindrical, through which a projectile or shot charge is fired. Barrels may have a rifled or smooth bore.

(c) “Barrel length” means the length of the barrel measured as follows: without consideration of any extensions or protrusions rearward of the closed bolt or breech-face. The approved procedure for measuring barrel length is to measure from the closed bolt (or breech-face) to the furthest end of the barrel or permanently attached muzzle device. Permanent methods of attachment include full fusion gas or electric steel-seam welding, high temperature (1100°F) silver soldering, or blind pinning with the pin head welded over. Barrels are measured by inserting a dowel rod into the barrel until the rod stops against the closed bolt or breech-face. The rod is then marked at the furthest end of the barrel or permanently attached muzzle device, withdrawn from the barrel, and measured.

(d) “Bore” means the interior of a firearm’s barrel excluding the chamber.

(e) “Bureau” means the Bureau of Firearms of the California Department of Justice.

(f) “Caliber” means the nominal diameter of a projectile of a rifled firearm or the diameter between lands in a rifled barrel. In the United States, caliber is usually expressed in hundredths of an inch; in Great Britain in thousandths of an inch; in Europe and elsewhere in millimeters.

(g) “CFARS” means California Firearms Application Reporting System.

(h) “Conspicuously” means that all required markings shall be placed in such a manner as to be wholly unobstructed from plain view.

(i) “Curios” or “relics” means firearms that are of special interest to collectors by reason of some quality other than is associated with firearms intended for sporting use or as offensive or defensive weapons. These include firearms that were manufactured at least 50 years prior to the current date, but not including replicas of such firearms; firearms which are certified by the curator of a municipal, state, or federal museum which exhibits firearms to be curios or relics of museum interest; and any other firearms which derive a substantial part of their monetary value from the fact that they are novel, rare, bizarre, or because of their association with some historical figure, period, or event.

(j) “Department” means the California Department of Justice.

(k) “Firearms Eligibility Check” means a state and federal background check pursuant to Penal Code section ~~30405~~ 28220 that is used to determine an individual’s eligibility to possess a firearm.

- (l) “Frame” means the basic unit of a firearm that is a handgun.
- (m) “FSC” means Firearm Safety Certificate as defined in Penal Code section 16535.
- (n) “HSC” means Handgun Safety Certificate as defined in Penal Code section 16670.
- (o) “Legibly marked” means using exclusively Roman letters (A, a, B, b, C, c, and so forth) and numbers.
- (p) “Receiver” means the basic unit of a firearm that is a long gun. The receiver will generally house the firing and breech mechanisms to which the barrel and stock are assembled.
- (q) “Receiver or frame, unfinished” means a precursor part to a firearm that is not yet legally a firearm. Unfinished receivers or frames may be found in various levels of completion. As more finishing work is completed the precursor part gradually becomes a firearm. For example, some just have the shape of an AR-15 lower receiver, but are solid metal. Some have been worked on and the magazine well has been machined open.
- (r) “Rifle” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.
- (s) “Self-assembled or “self-manufactured” firearm means a firearm fabricated or constructed, including firearm constructed using a 3D printer or any other technology, by a person, or a firearm the component parts which were fit together by a person to construct a firearm, but does not include:
- (1) A firearm assembled or manufactured by a firearms manufacturer licensed by the State of California and/or the Federal Government, or
 - (2) A firearm with a serialized receiver purchased from a California gun store and later assembled it into a functional firearm. In this case, a licensed Federal Firearms Licensee is the manufacturer of the firearm and has applied its own serial number to the firearm.

Note: Authority cited: Section 29182, Penal Code. Reference: Sections 16520, 16535, 16670, 28220, 29180, 29181, 29182, 29183; and 29184 ~~and 30105~~, Penal Code.

Article 4. Firearms Regulated by Penal Code Section 29180

§ 5509. Persons Affected by These Regulations.

This article applies to the following:

- (a) An individual who owns a self-manufactured or self-assembled firearm originally made from an unfinished receiver or frame as of July 1, 2018; and
- (b) An individual who intends to manufacture or assemble a firearm from an unfinished receiver or frame on or after July 1, 2018; and
- (c) A new resident to the state who wishes to possess in the state a firearm previously self-manufactured or self-assembled or a firearm the resident owns, that does not have a unique serial number or other mark of identification.

Note: Authority cited: Sections 29180 and 29182, Penal Code. Reference: Section 29180, Penal Code.

§ 5510. Effective Dates.

- (a) An individual who owns a self-manufactured or self-assembled firearm originally made from an unfinished receiver or frame that has not yet been recorded with the Department shall:
 - (1) Beginning on July 1, 2018, apply to the Department to request a unique serial number to record the firearm with the Department. The individual shall submit an electronic application to request a serial number for the self-manufactured or self-assembled firearm to the Department before January 1, 2019.
- (b) As of July 1, 2018, no individual shall manufacture or assemble a firearm from an unfinished receiver or frame unless the individual applies to the Department for a unique serial number prior to manufacturing or assembling the firearm.
- (c) Beginning January 1, 2019, a new resident to the state shall apply for a unique serial number or other mark of identification pursuant to Section 29182 within 60 days of arrival for any firearm the resident wishes to possess in the state that the resident previously manufactured or assembled or a firearm the resident owns, that does not have a unique serial number or other mark of identification.

Note: Authority cited: Section 29182, Penal Code. Reference: Section 29180, Penal Code.

Article 5. CFARS Reporting of Self-Manufactured or Self-Assembled Firearms Pursuant to Section 29180.

§ 5511. Online Reporting with CFARS.

- (a) The application to request a unique serial number to record ownership of a self-manufactured or self-assembled firearm that was built prior to July 1, 2018, or to request a unique serial number to record ownership for a firearm that has not yet been manufactured or assembled as of July 1, 2018, shall be filed electronically using the Department's California Firearms Application Reporting System (CFARS), at the following website:
<https://cfars.doj.ca.gov/login.do>.

(b) A new resident to the state shall apply for a unique serial number or other mark of identification pursuant to Section 29182 within 60 days of arrival for any firearm the resident wishes to possess in the state that the resident previously manufactured or assembled or a firearm the resident owns, that does not have a unique serial number or other mark of identification. The application shall be filed electronically using CFARS, at the following website: <https://cfars.doj.ca.gov/login.do>.

~~(b)(c)~~ The applicationApplications will be located on CFARS under the link “Unique Serial Number Application.”

~~(e)(d)~~ The application to request a unique serial number to record ownership of a self-manufactured or self-assembled firearm that was built prior to July 1, 2018 shall only be available on the Department’s website until 11:59 p.m. of December 31, 2018. To be processed, all such applications shall be paid in full and submitted online before January 1, 2019.

Note: Authority cited: Section 29182, Penal Code. Reference: Section 29180, Penal Code.

§ 5513. Applicant and Firearm Identification Information Entered into CFARS by Applicant and the Department’s Privacy Notice.

(a) After creating a CFARS account, the applicant shall provide certain identifying information to demonstrate that the applicant is not prohibited under either state or federal law from possessing a firearm before the Department issues a unique serial number to the applicant. The applicant shall provide the following identifying information:

(1) The applicant’s full name, residence street address, email address, telephone number, date of birth, gender, military identification number (if applicable), California Driver License or Identification Card number, U.S. citizenship status, place of birth, country of citizenship, and alien registration number or I-94 (if applicable).

(A) The applicant shall be 18 years of age or older to apply for a unique serial number for a firearm that is not a handgun. Commencing February 1, 2019, the applicant shall be 21 years of age or older to apply for a unique serial number for a firearm that is not a handgun.

(B) The applicant shall be 21 years of age or older to apply for a unique serial number for a handgun.

(2) A description of the firearm that specifies: date of manufacture or the date its assembly will be complete, firearm type, caliber, firearm color, barrel length, type of material used to build the receiver (aluminum, steel, polymer plastic, or other), whether it is a frame or receiver only, all identification marks, and firearm city and state of origin.

- (B) If the applicant specifies that the receiver of the firearm being reported is made from material “other” than aluminum, steel, or polymer plastic, the applicant shall provide a brief explanation of the type of material that was used to build the receiver.
- (3) The applicant’s Firearms Safety Certificate (FSC) or Handgun Safety Certificate (HSC) number. Instructions on obtaining a FSC can be found on:
<https://oag.ca.gov/firearms/fscinfo>.
- (b) If any part of the identifying information in subdivisions (a), (b), and (c) of this section is missing, the Department shall not approve the applicant’s request for a unique serial number.
- (c) The applicant shall agree to the following terms of the Department’s Privacy Notice:
- (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 sections 29180, 29181, 29182, 29183, and 29184. The Bureau of Firearms uses this information to process and assign a unique serial number(s) to a firearm(s) and to record firearm ownership for an applicant. 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 on this application is mandatory. 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 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.
- (4) Possible Disclosure of Personal Information: in order to process and assign a unique serial number(s) to a firearm(s) for an applicant, we may need to share the information the applicant provides 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 as required by state or federal law.

Note: Authority cited: Section 29182, Penal Code. Reference: Sections 11106, 16400, 16535, 16670, 27510, 28160, 29180 and 29182, Penal Code and Section 1798.17, Civil Code.

§ 5514. Recording Fee for a Self-Manufactured or Self-Assembled Firearm.

(a) The initial fee for submitting an application for a unique serial number is \$35.00. This fee will cover the \$20.00 cost for the firearms eligibility check conducted by the Department and the issuance of one unique serial number for one firearm. If the applicant has multiple self-manufactured or self-assembled firearms or intends to manufacture or assemble multiple firearms, the applicant may request multiple unique serial numbers during the same transaction. It will be an additional \$15.00 for each subsequent request for a unique serial number within the same transaction. There is no limit to the number of unique serial numbers that an applicant may request within a single transaction to record the applicant's self-manufactured or self-assembled firearms.

(b) The fee for the firearms eligibility check and the issuance of a unique serial number for the self-manufactured or self-assembled firearm, shall be paid online by debit or credit card at the time the application is submitted to the Department for processing. If the fee is not paid, the application will not be processed.

(c) Once the firearms eligibility check is completed, an electronic copy of the original determination letter will be available on the applicant's CFARS account for a limited time. It is the applicant's responsibility to print out and save the determination letter for the applicant's records. The Department will not mail a physical copy of the original determination letter to the applicant's residence after the firearm eligibility check is conducted.

Note: Authority cited: Section 29182, Penal Code. Reference: Sections 28220, 29182 and 29183 and ~~30105~~, Penal Code.

§ 5516. Firearms Eligibility Check Conducted by the Department Prior to Issuing a Unique Serial Number.

(a) After the applicant pays for and submits an online application to request a unique serial number on CFARS, the Department will conduct a firearms eligibility check to determine that the applicant is not prohibited from possessing a firearm under either state or federal law. The Department will examine both state and federal records to ensure that neither state nor federal law prohibits the applicant from possessing a firearm.

(b) Once the Department processes the request application, it shall notify the applicant either that:

(1) The background check revealed that the applicant is eligible to own a firearm and it will assign a unique serial number to the applicant's firearm; or

(2) The background check revealed that the applicant is ineligible to own a firearm or that the background check could not generate a disposition for the applicant's criminal history. If the applicant is ineligible to own a firearm, the applicant shall not be issued a unique serial number.

(A) If an applicant is ineligible to own a firearm, the applicant will receive a denial notification, which will be sent to the applicant through the applicant's CFARS account. The denial notification that is sent through the applicant's CFARS account will explain the reason and instructions on how to get a copy of the record that resulted in the denial of the application. There will also be instructions on how to dispute and correct the information in the applicant's record that the applicant believes is incorrect.

(c) The Department will notify the applicant of its determination electronically by email. The applicant's CFARS account will generate a generic email notification that will be sent to the applicant's personal email address when the Department makes its determination so that the applicant can log onto the applicant's CFARS account online to view the decision.

Note: Authority cited: Section 29182, Penal Code. Reference: Sections 28220 and 29182, ~~and~~ 30105, Penal Code; Section 8104, Welfare and Institutions Code.

§ 5517. 15 Day Period for the Department to Approve or Deny the Applicant's Request for a Unique Serial Number.

The Department will grant or deny the applicant's request for a unique serial number within 15 calendar days after it receives the application. The 15-day decision timeframe will begin when the applicant's completed CFARS application has been paid for and is submitted to CFARS to commence the firearms eligibility check.

Note: Authority cited: Section 29182, Penal Code. Reference: Sections 28220, 29180, and 29182 ~~and~~ 30105, Penal Code.

Finding of Emergency

Statement Regarding Compliance With Government Code section 11346.1(e)

As explained herein, the Department of Justice (Department) has made substantial progress and proceeded with diligence toward compliance with Government Code section 11346.1(e). Specifically, as a result of experience gained since the implementation of the initial emergency regulations, the Department identified changes that will be reflected in the regulations that the Department intends to adopt by regular rulemaking (Certificate of Compliance). These changes include providing instructions for new residents on how to apply their unique serial number to their firearm and establish a deadline to submit digital photos to the Department confirming compliance. The Department is also implementing a process for new residents to reapply for a unique serial number if they fail to engrave their firearm in the allotted time. The Department has completed the proposed text of the regulations, and is currently working towards completion of the documentation necessary to submit the notification package within the next 30 days.

Statement Regarding Emergency Circumstances Since the Initial Adoption of Emergency Regulations

The Department finds it necessary to re-adopt these emergency regulations because the circumstances demonstrating the existence of an emergency are unchanged since the emergency regulations' initial adoption.

Subject Matter of Proposed Regulation Amendments

Firearms: Identifying Information and the Unique Serial Number Application Process for Self-Manufactured or Self-Assembled Firearms; Existing and New California Residents

Existing Regulations to Be Amended

Title 11, sections 5505, 5507, 5509, 5510, 5511, 5513, 5514, 5516, and 5517

Specific Facts Demonstrating the Need for Immediate Action:

Many homemade, or personally manufactured, firearms have no serial number, and therefore no record of existence. New technology makes it very easy to manufacture untraceable firearms and has created a threat to public safety. These untraceable firearms are showing up at crime scenes and in the hands of violent criminals, and criminal organizations are now in the business of manufacturing these firearms for criminal activity and profit. (Assem. Floor, Concurrence in Senate Amendments to Assem. Bill 857 (2015-2016 Reg. Sess), as amended by May 4, 2016.) In 2013, a man, who had a history of mental illness and was ineligible to purchase a firearm, killed five people and injured several others in Santa Monica using a firearm he had built. (Sen.

Com. on Public Safety, Analysis of Assem. Bill 857 (2015-1026 Reg. Sess.) as amended by May 4, 2016.)

In 2016, to address the threat to public safety caused by untraceable firearms (“ghost guns”), the Legislature passed Penal Code section 29180. Subject to certain exceptions, Penal Code section 29180 requires a person beginning on July 1, 2018 to first apply for and obtain a unique serial number from the Department before manufacturing or assembling a firearm. (Pen. Code, § 29180, subd. (b).) The statute also requires, any person who, as of July 1, 2018, owns a firearm without a serial number to apply for and obtain a serial number from the Department by January 1, 2019. (Pen. Code, § 29180, subd. (c).) Before issuing a serial number, the Department must perform a background check to ensure the applicant is not prohibited from owning a firearm. (Pen. Code, § 29182, subd. (b)(2).) The failure to obtain a serial number for an untraceable firearm is a misdemeanor. (Pen. Code, § 29180, subd. (g).) Untraceable firearms may be confiscated and destroyed by law enforcement officials. (Pen. Code, § 29180, subd. (d)(3).)

Penal Code section 29182 authorizes the Department to adopt regulations establishing an application process for issuing serial numbers for untraceable firearms. In 2018, the Department adopted regulations implementing an electronic application process on its California Firearms Application Report System. (Cal. Code Regs., tit. 11, § 5505 et seq.) The regulations became effective on July 1, 2018.

On September 26, 2018, after the Department adopted regulations establishing an electronic application process for issuing serial numbers, the Legislature passed Senate Bill 746 amending Penal Code section 29180 to require new residents to apply for a serial number for any firearm they own that does not have a serial number or other mark of identification. (Pen. Code, § 29180, subd. (e).) SB 746 went into effect on January 1, 2019.

The amendment fixes an omission in the statute caused by new residents who moved to California after July 1, 2018, but who may already own a firearm without a serial number. Without the amendment, new residents who already own an untraceable firearm were not eligible to apply for a serial number. This omission defeated the statute’s purpose of protecting public safety through reducing the number of untraceable firearms in the state and ensuring that an owner of a self-built firearm is not prohibited from owning it. The omission also created risk for new law-abiding residents who could be arrested and charged with a misdemeanor for possessing an untraceable firearm, and who might have their firearm confiscated by law enforcement. The omission also created confusion for law enforcement officials and prosecutors who would otherwise have to sort out whether an owner of an untraceable firearm is a new or existing resident.

As amended, Penal Code section 29180 requires new residents to apply for a serial number within 60 days of arrival for any firearm the resident wishes to possess in the state that does not have a unique serial number or other mark of identification. (Pen. Code, § 29180, subd. (e).)

The Department must readopt the existing emergency regulations to continue to allow new residents to apply for a serial number through its CFARS. Failure to readopt will threaten public

safety, put new law-abiding residents at risk of violating the law, and create confusion for law enforcement.

Authority and Reference Citations

Authority: Section 29182, Penal Code.

Reference: Sections 11106, 16400, 16520, 16535, 16590, 16670, 16880, 17170, 17180, 23910, 26710, 27510, 28160, 28220, 29180, 29181, 29182, 29183 and 29184, Penal Code, Section 8104, Welfare and Institutions Code, and Section 1798.17, Civil Code.

Information Digest/Policy Statement Overview

Summary of the Law: In 2016, the Legislature adopted Penal Code sections 29180, 29181, 29182, 29183 and 29184 to regulate the possession of self-manufactured or self-assembled firearms. Prior to adopting the statutes, there were no provisions in existing law addressing the do-it-yourself manufacturing of a firearm for personal use. Since a person purchasing an unfinished receiver under prior law did not have to undergo a background check, any person, even a person prohibited from possessing a firearm, could make a firearm at home. Thus, any person prohibited from owning a firearm could easily circumvent the law and build a firearm that could potentially be used in the commission of a crime.

Subject to certain exceptions, Penal Code section 29180 requires a person beginning on July 1, 2018 to first apply for and obtain a unique serial number or other identifying mark from the Department before manufacturing or assembling a firearm. (Pen. Code, § 29180, subd. (b).) The statute also requires, any person who, as of July 1, 2018, owns a firearm without a serial number or other identifying mark to apply for and obtain a serial number from the Department by January 1, 2019. (Pen. Code, § 29180, subd. (c).) Before issuing a serial number, the Department must perform a background check to ensure the applicant is not prohibited from owning a firearm. (Pen. Code, § 29182, subd. (b)(2).) The failure to obtain a serial number for an untraceable firearm is a misdemeanor. (Pen. Code, § 29180, subd. (g).) Untraceable firearms may be confiscated and destroyed by law enforcement officials. (Pen. Code, § 29180, subd. (d)(3).)

Penal Code section 29182 authorizes the Department to adopt regulations establishing an application process for issuing serial numbers for untraceable firearms. In 2018, the Department adopted regulations implementing an electronic application process on its CFARS. (Cal. Code Regs., tit. 11, § 5505 et seq.) The regulations became effective on July 1, 2018.

The Legislature amended Penal Code section 29180 through 29184, which regulate the Department's issuance of unique serial numbers for self-manufactured or self-assembled firearms, and for firearms that do not have a unique serial number or other identifying mark. As amended, Penal Code section 29180 requires new residents to apply for a serial number within

60 days of arrival for any firearm the resident wishes to possess in the state that does not have a unique serial number or other mark of identification. (Pen. Code, § 29180, subd. (e).)

Benefits: This rulemaking protects public safety and new California residents by allowing new residents to access the Department's CFARS to obtain a unique serial number for a self-manufactured or self-assembled firearm or a firearm they own that does not have a unique serial number or other identifying mark.

Chapter 41. Firearms: Identifying Information and the Unique Serial Number Application Process for Self-Manufactured or Self-Assembled Firearms; Existing and New California Residents

The title of Chapter 41 has changed to specify existing and new California residents.

§ 5505. Title and Scope.

This section has been amended to include new California residents in the title and scope of the regulations.

§ 5507. Definition of Key Terms.

This section has been amended to delete language that has been superseded by a changed statute and to add language to conform to mandated statutory language by redefining firearms eligibility check as the state and federal background check pursuant to Penal Code section 28220 that is used to determine an individual's eligibility to possess a firearm.

This section has also been amended with the addition of Penal Code section 28220 and the removal of Penal Code section 30105 as a reference citation in order to comply with existing law.

§ 5509. Persons Affected by These Regulations.

This section has been amended to include new California residents who wish to possess in the state a previously self-manufactured or self-assembled firearm, or a firearm the resident owns, that does not have a unique serial number or other mark of identification.

§ 5510. Effective Dates.

This section has been amended to include the January 1, 2019 effective date for new California residents.

§ 5511. Online Reporting with CFARS.

This section has been amended to allow new California residents to use CFARS to apply for a unique serial number or other mark of identification for a self-manufactured or self-assembled firearm, or for a firearm that the new California resident owns that does not have a unique serial number or other identifying mark.

§ 5513. Applicant and Firearm Information Entered into CFARS by Applicant and the Department's Privacy Notice.

This section has been amended to delete language that has been superseded by a changed statute and to add language to conform to mandated statutory language by including the new age restriction of 21 to obtain a unique serial number for a firearm that is not a handgun.

§ 5514. Recording Fee for a Self-Manufactured or Self-Assembled Firearm.

This section has been amended with the addition of Penal Code section 28220 and the removal of Penal Code section 30105 as a reference citation in order to comply with existing law.

§ 5516. Firearms Eligibility Check Conducted by the Department Prior to Issuing a Unique Serial Number.

This section has been amended with the addition of Penal Code section 28220 and the removal of Penal Code section 30105 as a reference citation in order to comply with existing law.

§ 5517. 15 Day Period for the Department to Approve or Deny the Applicant's Request for a Unique Serial Number.

This section has been amended with the addition of Penal Code section 28220 and the removal of Penal Code section 30105 as a reference citation in order to comply with existing law.

Forms Incorporated by Reference

None.

Evaluation of the Proposed Regulation for Consistency and Compatibility with Existing Regulations

CCR sections within title 11, division 5, Chapter 41 are consistent and compatible with the proposed rulemaking.

Other Matters Prescribed by Statute Applicable to the Agency or to Any Specific Regulation or Class of Regulations

None.

Mandate on Local Agencies or School Districts

The Department has determined the proposed emergency regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

Technical, Theoretical, and Empirical Study, Report, or Similar Document, if any, Upon Which the Department Relied

None.

Cost Estimates/Impact of Regulatory Action

The Department has assessed the potential for significant adverse impact that might result from the proposed emergency action and has determined:

- There will be no non-discretionary costs or savings to local agencies
- There will be no costs to school districts
- There will be no costs or savings in federal funding to the State
- There will be no effect on housing costs.

The Department will receive a minimal increase in revenue from recording fees paid by new residents who apply for a serial number. The Department estimates that between 25 and 125 new residents will apply for unique serial numbers per year. The fee for submitting an application for a serial number is \$35, which covers the cost for the background check and one serial number. (Cal. Code of Regs., tit. 11, § 5514.) If the applicant requests multiple serial numbers in the same application, the fee is \$15 for each additional serial number. The increase in revenue to the Department as a result of this rulemaking will depend on how many new residents move to California and apply for a serial number for an untraceable firearm.

Nonduplication

Pursuant to the California Code of Regulations title 1, section 12, the proposed regulations duplicate Penal Code section 29180, which is necessary to satisfy the clarity standard.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME Justice	CONTACT PERSON Jessie Romine	EMAIL ADDRESS Emergencyregs@doj.ca.gov	TELEPHONE NUMBER 916-227-4217
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Firearms: Identifying Information - Existing and New California Residents			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|--|---|
| <input type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input checked="" type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input type="checkbox"/> h. None of the above (Explain below): |

*If any box in Items 1 a through g is checked, complete this Economic Impact Statement.**If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.***Department of Justice**2. The _____ estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- ☒ Below \$10 million
- ☐ Between \$10 and \$25 million
- ☐ Between \$25 and \$50 million
- ☐ Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a [Standardized Regulatory Impact Assessment](#) as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: 0Describe the types of businesses (Include nonprofits): N/AEnter the number or percentage of total businesses impacted that are small businesses: N/A4. Enter the number of businesses that will be created: 0 eliminated: 0Explain: This regulations package only allows new California residents to acquire a serial number for a firearm.5. Indicate the geographic extent of impacts: ☒ Statewide
☐ Local or regional (List areas): _____6. Enter the number of jobs created: 0 and eliminated: 0Describe the types of jobs or occupations impacted: N/A7. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here? ☐ YES ☒ NO

If YES, explain briefly: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ Unknown
- a. Initial costs for a small business: \$ N/A Annual ongoing costs: \$ N/A Years: N/A
- b. Initial costs for a typical business: \$ N/A Annual ongoing costs: \$ N/A Years: N/A
- c. Initial costs for an individual: \$ 35 Annual ongoing costs: \$ Unknown Years: Unknown
- d. Describe other economic costs that may occur: There is also a \$15 fee required for each additional serial number requested. The Department expects to receive 25-125 applications from new California residents each year.
2. If multiple industries are impacted, enter the share of total costs for each industry: N/A
3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted. \$ N/A
4. Will this regulation directly impact housing costs? ☐ YES ☒ NO
If YES, enter the annual dollar cost per housing unit: \$ _____
Number of units: _____
5. Are there comparable Federal regulations? ☐ YES ☒ NO
Explain the need for State regulation given the existence or absence of Federal regulations: _____
Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ _____

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: These regulations are beneficial because they allow new residents to acquire a unique serial number for a self-manufactured or self-assembled firearm.
2. Are the benefits the result of: ☒ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?
Explain: Existing law requires individuals to obtain a serial number for a self-manufactured or self-assembled firearm.
3. What are the total statewide benefits from this regulation over its lifetime? \$ Unknown
4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: New California residents may seek the services of Federal Firearms Licensees in order to engrave a serial number on their self-manufactured or self-assembled firearm. These regulations may promote positive economic impact for business.

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: Alternatives were not considered because the Department has already established a process for an individual to acquire a unique serial number.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ Unknown Cost: \$ UnknownAlternative 1: Benefit: \$ Unknown Cost: \$ UnknownAlternative 2: Benefit: \$ Unknown Cost: \$ Unknown3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: Unknown4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ YES ☒ NO

Explain: _____

E. MAJOR REGULATIONS *Include calculations and assumptions in the rulemaking record.**California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.*1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million? ☐ YES ☒ NO*If YES, complete E2. and E3**If NO, skip to E4*

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES ☒ NO*If YES, agencies are required to submit a [Standardized Regulatory Impact Assessment \(SRIA\)](#) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: _____

The incentive for innovation in products, materials or processes: _____

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT**A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- ☐ a. Funding provided in _____
Budget Act of _____ or Chapter _____, Statutes of _____

- ☐ b. Funding will be requested in the Governor's Budget Act of _____
Fiscal Year: _____

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- ☐ a. Implements the Federal mandate contained in _____
- ☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- ☐ e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

- ☐ 3. Annual Savings. (approximate)

\$ _____

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☐ 6. Other. Explain _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT (CONTINUED)**B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

It is anticipated that State agencies will:☐ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the _____ Fiscal Year☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☐ 4. Other. Explain _____**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain _____

FISCAL OFFICER SIGNATURE

DATE



12/10/18

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY

DATE



12/10/18

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER

DATE



STATEMENT OF CONFIRMATION OF MAILING OF FIVE-DAY EMERGENCY NOTICE

(Title 1, CCR section 11346.1(a)(2))

The Department sent notice of the proposed emergency action to every person who has filed a request for notice of regulatory action at least five working days before submitting the emergency regulation to the Office of Administrative Law in accordance with the requirements of Government Code section 11346.1(a)(2).