

Notice of Proposed Emergency Action

December 3, 2019

Pursuant to the requirements of Government Code section 11346.1, subdivision (a)(1), the Department of Justice (Department) is providing notice of proposed emergency readoption of regulations regarding Identification Requirements for Firearms and Ammunition Eligibility Checks.

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.

The text of the proposed emergency regulations and the “Finding of Emergency” are posted on the Department’s website at <https://oag.ca.gov/firearms/regs/id-fa-ammo>.

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:

- Be 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, Identification Requirements for Firearms and Ammunition Eligibility Checks; and,
- Be 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: Jacqueline Dosch
P.O. Box 160487
Sacramento, CA 95816

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

Or Emergencyregs@doj.ca.gov

Or staff@oal.ca.gov

Text of Emergency Regulations

Title 11, Division 5

Chapter 1. Bureau of Firearms Fees

§ 4002. Miscellaneous Report Fees.

As authorized pursuant to section 28230 and subdivision (b) of section 28240 of the Penal Code, the Bureau of Firearms processing fee is \$19 for each of the following reports:

- (a) Firearm Ownership ~~Record Report~~, form BOF 4542A (Rev. ~~07/2017-05/2019~~), which is hereby incorporated by reference.
- (b) Report of Operation of Law or Intra-Familial Firearm Transaction, form BOF 4544A (Rev. ~~07/2017-05/2019~~), which is hereby incorporated by reference.
- (c) New Resident Report of Firearm Ownership, form BOF 4010A (Rev. ~~07/2017-05/2019~~), which is hereby incorporated by reference.
- (d) Curio or Relic Firearm Report, form BOF 4100A (Rev. ~~07/2017-05/2019~~), which is hereby incorporated by reference.
- (e) Collector In-State Acquisition of Curio or Relic Long Gun Report, form BOF 961 (Rev. ~~07/2017-05/2019~~), which is hereby incorporated by reference.

Note: Authority cited: Sections 27560, 27565, 27875, 27920, 27966, 28000, 28230 and 28240, Penal Code. Reference: Sections 27560, 27565, 27875, 27920, 27966, 28000, 28230, 28235 and 28240, Penal Code; and Section 1798.17, Civil Code.

Chapter 4. ~~Evidence of Residency Documentation~~ Documentation Requirements for Firearms and Ammunition Eligibility Checks

Article 1. Evidence of Residency Documentation

§ 4045. Definitions and Requirements.

[No changes are being made to this section.]

Article 2. Additional Documentation Requirements

§ 4045.1. Additional Documentation Requirements for Eligibility Checks with Federal Non-Compliant California Driver License or Identification Card.

This section applies to all firearms and ammunition eligibility checks, including any eligibility check described in Division 5. For the purposes of this section, “eligibility checks” refers to background checks based on any application or report for which an applicant is required to submit a driver license or identification card, or the number from a driver license or

identification card, so that the Department of Justice may determine the applicant's eligibility to possess a firearm or ammunition under state or federal law.

- (a) For all eligibility checks, a copy of the applicant's California driver license or identification card, or out-of-state driver license, if applicable, shall be submitted, as specified in subdivisions (d) through (g).
- (b) For all eligibility checks, if the applicant presents a federal non-compliant California driver license or identification card with the notation "FEDERAL LIMITS APPLY" on the front, the applicant shall also submit proof of lawful presence in the United States, as specified in subdivisions (d) through (g), in the form of one of the following documents:
 - (1) Valid, unexpired U.S. passport or passport card.
 - (2) Certified copy of U.S. birth certificate.
 - (3) Certification of Birth Abroad (FS-545), Certification of Report of Birth (DS-1350) or Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240), issued by the U.S. Department of State.
 - (4) Valid, unexpired foreign passport with valid U.S. immigrant visa and approved Record of Arrival/Departure (I-94) form.
 - (5) Certified copy of birth certificate from a U.S. Territory.
 - (6) Certificate of Naturalization or U.S. Citizenship.
 - (7) Valid, unexpired Permanent Resident Card.
- (c) For all eligibility checks, if the applicant's name as it appears on the federal non-compliant California driver license or identification card differs from the name on the proof of lawful presence document submitted in accordance with subdivision (b), the applicant shall also submit, as specified in subdivisions (d) through (g), one of the following certified documents:
 - (1) An adoption document that contains the legal name of the applicant as a result of the adoption.
 - (2) A name change document that contains the applicant's legal name both before and, as a result of, the name change.
 - (3) A marriage certificate.
 - (4) A dissolution of marriage document that contains the legal name of the applicant as a result of the court action.
 - (5) A certificate, declaration or registration document verifying the formation of a domestic partnership.

(6) A dissolution of domestic partnership document that contains the legal name of the applicant as a result of the court action.

(d) Applications or reports submitted in a paper format.

For eligibility checks based on an application or report submitted to the Department of Justice in a paper format, copies of the documents required in subdivisions (a) through (c) shall be submitted along with the paper application. These applications and reports include:

(1) Certificate of Eligibility applications, pursuant to Penal Code section 26710.

(2) Firearm Ownership Reports:

- (A) New Resident Report of Firearm Ownership, form BOF 4010A (Rev. 5/2019), pursuant to Penal Code section 27560.
- (B) Firearm Ownership Report, form BOF 4542A (Rev. 05/2019), pursuant to Penal Code section 28000.
- (C) Curio or Relic Firearm Report, form BOF 4100A (Rev. 05/2019), pursuant to Penal Code section 27565.
- (D) Collector In-State Acquisition of Curio or Relic Long Gun Report, form BOF 961 (Rev. 05/2019), pursuant to Penal Code section 27966.
- (E) Report of Operation of Law or Intra-Familial Firearm Transaction, form BOF 4544A (Rev. 05/2019), pursuant to Penal Code sections 27875 and 27920.

(3) The application forms referenced in section 4142 of Chapter 7 of this Division 5 and amended for purposes of this division as follows: Dangerous Weapons License/Permit(s) Application, form BOF 030 (Rev. 05/2019), or Dangerous Weapons License/Permit(s) Renewal Application, form BOF 031 (Rev. 05/2019). These forms include options to apply for the following licenses/permits:

- (A) Assault Weapon/.50 BMG Rifle Permit, pursuant to Penal Code sections 31000 and 31005.
- (B) Short-Barreled Shotgun/Rifle Permit, pursuant to Penal Code sections 33300 and 33305.
- (C) Destructive Device Permit, pursuant to Penal Code sections 18900 and 18905.
- (D) Machinegun Permit, pursuant to Penal Code sections 32650 and 32655.
- (E) Machinegun License, pursuant to Penal Code sections 32700 to 32715.

(e) Applications or reports submitted electronically via the California Firearms Application Reporting System (CFARS).

For eligibility checks based on an application or report submitted to the Department of Justice electronically via CFARS, copies of the documents required in subdivisions (a)

through (c) shall be uploaded to CFARS as prompted during the application or reporting process. These applications and reports include:

(1) Certificate of Eligibility applications, pursuant to Penal Code section 26710 and Chapter 3 of this Division 5.

(2) Unique Serial Number Applications, pursuant to Penal Code section 29182 and Chapter 41 of this Division 5.

(3) Firearm Ownership Reports, including:

(A) New Resident Report of Firearm Ownership, pursuant to Penal Code section 27560.

(B) Firearm Ownership Report, pursuant to Penal Code section 28000.

(C) Curio or Relic Firearm Report, pursuant to Penal Code section 27565.

(D) Collector In-State Acquisition of Curio or Relic Long Gun Report, form pursuant to Penal Code section 27966.

(E) Report of Operation of Law or Intra-Familial Firearm Transaction, pursuant to Penal Code sections 27875 and 27920.

(f) Applications or reports submitted electronically via the Dealer Record of Sale Entry System (DES), including applications or reports submitted pursuant to Chapters 8 and 11 of this Division 5.

For eligibility checks based on applications or reports submitted to the Department of Justice electronically via the DES, the firearm dealer or ammunition vendor shall examine the applicant's driver license or identification card. If the applicant's California driver license or identification card is federal non-compliant with the notation "FEDERAL LIMITS APPLY" on the front, the firearm dealer or ammunition vendor shall require the applicant to submit a copy of the document required in subdivision (b), as well as a copy of the document required in subdivision (c) if applicable. These applications and reports include:

(1) Application(s) to purchase a firearm. The firearm dealer shall confirm compliance with this subdivision on DES, as necessary during the application or reporting process. The firearm dealer shall keep a copy of the document(s) required in subdivisions (a) through (c) as part of the permanent record of the transaction described in Penal Code section 28215, subdivision (c).

(2) Applications to purchase ammunition, as described in Penal Code section 30370. The firearm dealer or ammunition vendor shall confirm compliance with this subdivision on DES, as necessary during the application or reporting process. The firearm dealer or ammunition vendor shall keep a copy of the document(s) required in subdivisions (a) through (c).

(g) Applications or reports submitted to other agencies that include fingerprint data to be used by the Department of Justice to determine the applicant's eligibility to possess a firearm or ammunition under state or federal law.

For eligibility checks based on applications or reports submitted to other agencies that include fingerprint data to be used by the Department of Justice to determine the applicant's eligibility to possess a firearm or ammunition under state or federal law, if the applicant presents a federal non-compliant California driver license or identification card with the notation "FEDERAL LIMITS APPLY" on the front, the agency shall require the applicant to submit copies of the documents required in subdivision (b), as well as a copy of the document required in subdivision (c) if applicable. The agency shall keep a copy of the documents required in subdivisions (a) through (c) as part of the permanent record of the application. The Department of Justice may request a copy of the document(s) at a future date. Applicants of these applications and reports include:

- (1) Peace officer applicants, custodial officers, or transportation officers, pursuant to Penal Code section 832.15.
- (2) Peace officers, pursuant to Penal Code section 832.16.
- (3) Applicants for admission to a basic course of training certified by the Commission on Peace Officer Standards and Training that includes the carrying and use of firearms, pursuant to Penal Code section 13511.5.
- (4) Applicants for an explosives permit, pursuant to Health & Safety Code section 12101.

Note: Authority cited: Sections 28060, 28100, 28155, 28215 and 28220, Penal Code.

Reference: Sections 832.15, 832.16, 13511.5, 16400, 18900, 18905, 23000, 26150, 26155, 26170, 26710, 26815, 27540, 27560, 27565, 27875, 27920, 27966, 28000, 28160, 28215, 28220, 28250, 29182, 29500, 30105, 30370, 31000, 31005, 32650, 32655, 32700, 32705, 32710, 32715, 33300, 33305 and 33850, Penal Code; Section 12101, Health & Safety Code; and Section 922, Title 18, United States Code.

Chapter 7. Dangerous Weapons

Article 6. Application Forms, Processing Time, Reporting Requirements, Renewals, Fees, Denials, Revocations

§ 4142. Application Forms.

(a) Initial applicants shall do all of the following:

- (1) Submit fingerprint impressions at a DOJ approved Live Scan station and obtain an Applicant Tracking Identifier (ATI) number.
- (2) Complete an initial Dangerous Weapons License/Permit(s) Application, ~~F~~form BOF 030 (Rev. ~~01/2012~~ 05/2019), including the ATI number obtained pursuant to paragraph (1).
- (3) If applicable, complete the Facility and Vehicle Security Compliance, Form BOF 045 (Rev. 01/2012) statement as described by section 4140, subdivision (b) of these regulations.

(4) Submit the completed initial Dangerous Weapons License/Permit(s) Application, ~~Form~~ BOF 030 (Rev. ~~01/2012~~ 05/2019), applicable fees pursuant to section 4145, and/or the Facility and Vehicle Security Compliance, Form BOF 045 (Rev. 01/2012) statement to the DOJ.

(b) Renewal applicants shall submit a Dangerous Weapons License/Permit(s) Renewal Application, form BOF 031 (Rev. ~~01/2012~~ 05/2019), which is hereby incorporated by reference, identifying the permit(s)/license(s) for which they are applying and/or requesting renewal.

(c) The forms described in paragraph (2) of subdivision (a) and subdivision (b) require the applicant to provide the following information:

(1) Initial application will require the following information signed, dated, and certified under penalty of perjury: application type requested; applicant's name; business physical addresses; business mailing address; business phone number; business facsimile number (if any); residence address, residence phone number; gender, date of birth, Applicant Tracking Identifier (ATI) number, United States citizenship; if not a United States citizen, the country of citizenship and the federal Alien Registration Number or federal I-94 number; California driver's license number; social security number; height, weight, eye color, hair color; past and present employer data; spousal history; personal history including criminal and medical history background; personal references; business history; identification of the permit location, and a documentation of necessity for obtaining the license/permit.

(d) Renewal application form requires the following information signed, dated, and certified under penalty of perjury: application type requested; applicant's name; business physical addresses; business mailing address; business phone number; current supervisor's name; residence address, residence phone number; gender, date of birth, United States citizenship; if not a United States citizen, the country of citizenship and the federal Alien Registration Number or federal I-94 number; California driver's license number; social security number; height, weight, eye color, hair color, and updates to any changes of information required by the initial application described in paragraph (1).

(e) False statements on application forms or the Facility and Vehicle Security Compliance statement constitute cause for denial or revocation of license/permit.

Note: Authority cited: Sections 18900, 18910, 31000, 32655, 32700, 32705, 32710, 32715, 32720 and 33305, Penal Code. Reference: Sections 18900, 18910, 31000, 32655, 32700, 32705, 32710, 32715, 32720 and 33305, Penal Code.

Chapter 39. Assault Weapons and Large-Capacity Magazines

Article 3. Assault Weapon Registration

§ 5478. Registration of Assault Weapons Pursuant to Penal Code Section 30900(b)(1); Voluntary Deregistration.

(a) The Department will accept voluntary deregistration requests for assault weapons that are no longer possessed by the registrant, in the form of a completed Form BOF 4546, "Notice of No Longer in Possession," (Rev. 07/2017) hereby incorporated by reference. Deregistration requests

will also be accepted for assault weapons, as defined in Penal Code section 30515, that have been modified or reconfigured to no longer meet that definition. Deregistration requests must be in writing, signed, dated, and provide the following information:

(1) Registrant's full name, telephone number, and current address; make, model, and serial number of the assault weapon; and the Department assault weapon registration number (as indicated on the registration confirmation letter provided to the registrant at the time of registration). If the Department assault weapon registration number is unknown, the request must be notarized.

(2) If the firearm has been modified or reconfigured to no longer meet the definition of assault weapon, one or more photographs clearly depicting the firearm in its current configuration shall be attached to the written deregistration request. Additional information, photographs, or inspection may be requested by the Department before determining eligibility for deregistration.

(3) If the registrant is no longer in possession of the firearm, proof of sale or transfer of the firearm shall be attached to the written deregistration request. Acceptable proof includes receipts from out-of-state gun stores, or law enforcement reports depicting the seizure and/or destruction of the firearm(s).

(b) Upon determining eligibility for deregistration, the Department will delete the assault weapon registration for the specified firearm(s), and, if the weapon is still in the possession of the registrant, will convert the information to a Firearm Ownership Report, form BOF 4542A, ~~“Firearm Ownership Report, (Rev. 07/2017-05/2019), hereby incorporated by reference.~~

(c) If the registrant has sold the weapon to a party outside of the State of California or otherwise lawfully disposed of the weapon, or if the weapon was seized by law enforcement, the Department will create a “No Longer In Possession” entry in the Automated Firearms System.

(d) Upon completion of the assault weapon deregistration, the Department will mail confirmation of deregistration and updated firearm ownership information to the registrant at the address provided on the request.

Note: Authority cited: Section 30900, Penal Code. Reference: Sections 30515 and 30900, 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 adjusting fee provisions, amending forms incorporated by reference in the regulations, improving the overall clarity of the regulations based on feedback from the public and stakeholders, and creating and incorporating several additional forms into the regulations.

The Department is currently drafting the final text of the regulations in order to incorporate the above-mentioned provisions and is preparing the necessary documentation to initiate the 45-day comment period. A readoption of the emergency regulations is necessary because the Department will not be able to complete the rulemaking process before the emergency regulations expire on December 31, 2019.

Statement Regarding Emergency Circumstances Since the Adoption of Emergency Regulations

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

Subject Matter of Proposed Regulation Amendments

Identification Requirements for Firearms and Ammunition Purchases and Eligibility Checks.

Regulation to Be Adopted

Title 11, section 4045.1.

Regulations to Be Amended

Title 11, section 4002, 4142, 5478.

Specific Facts Demonstrating the Need for Immediate Action

The Department is statutorily required to perform an eligibility check under state and federal law for all firearms purchases in California. The Department is also statutorily required to perform an eligibility check to determine eligibility to possess a firearm or ammunition under state and federal law in numerous other contexts. Eligibility checks are also required for certificates of eligibility, firearm ownership reports, law enforcement gun release applications, dangerous weapons

license/permit applications, entertainment firearms permit applications, as well as for peace officer applicants, custodial officers, transportation officers, applicants to a basic course of training certified by the Commission on Peace Officer Standards and Training that includes the carrying and use of firearms, applicants for an explosives permit, and applicants for a permit to carry a concealed weapon. Eligibility checks are required for ammunition sales (as of July 1, 2019). Federal law prohibits certain categories of non-citizens from purchasing or possessing a firearm or ammunition, including any alien who is “illegally or unlawfully in the United States.” (18 U.S.C. § 922 (d)(5)(A), (g)(5)(A).)

California law requires a prospective firearms purchaser to present “clear evidence of [the purchaser’s] identity and age.” (Pen. Code, §§ 26815, subd. (c), 27540, subd. (c), 28215, subd. (a)(1).) A valid California driver license or identification card satisfies this requirement. (*Id.*, § 16400.) California law also requires a prospective ammunition purchaser to provide a driver license or identification card. (Pen. Code, § 30352, subd. (a)(2).) Before recent changes in the law, an applicant for a California driver license or identification card had to show to the Department of Motor Vehicles proof of lawful presence in the United States during the application process. (Cal. Code Regs., tit. 13, § 15.00.)

In 2013, California passed Assembly Bill (AB) 60, the Safe and Responsible Driver’s Act, creating a driver license program for individuals who could not provide proof of lawful presence in the United States. (Stats. 2013, Ch. 524.) AB 60 became effective in 2015 and allows individuals to apply for a driver license or identification card in California regardless of their immigration status and without providing proof of lawful presence in the United States. AB 60 driver licenses and identification cards were distinguishable from regular California driver licenses and identification cards, by the notation “FEDERAL LIMITS APPLY” imprinted on the front. After the AB 60 licenses and identification cards became available, the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) issued guidance to firearm dealers stating that because the AB 60 driver license or identification card “is only issued to a person who cannot provide proof of lawful presence in the United States,” there is “reasonable cause to believe a potential transferee in possession of an AB [60] driver license is illegally or unlawfully in the United States and prohibited from receiving or possessing firearms or ammunition. As such, you may not transfer firearms or ammunition to the person. . . .” (“Open Letter to All California Federal Firearm Licensees,” June 30, 2016.)

At the beginning of 2018, California began issuing driver licenses and identification cards in accordance with the federal REAL ID Act. Passed by Congress in 2005, the REAL ID Act enacted the 9/11 Commission’s recommendation that federal government set standards for the issuance of sources of identification. Obtaining a REAL ID version of a driver license or identification card is optional. However, after October 1, 2020, California residents will need to have a REAL ID-compliant driver license or identification card (or another REAL ID-compliant identification, such as a passport), rather than a regular California driver license or identification card, to board a domestic flight or enter secure federal facilities. In 2018, the Department of Motor Vehicles began offering two types of identification—a federal compliant REAL ID driver license/identification card, and a federal non-compliant California driver license/identification card. The federal non-compliant California driver licenses and identification cards with the words “FEDERAL LIMITS APPLY” on the front are issued to both: (1) individuals applying under AB 60; and (2) individuals

who are able to submit satisfactory proof that their presence in the United States is authorized under federal law, but choose not to apply for a “REAL ID” driver license or identification card. The AB 60 driver license/identification card is no longer distinguishable from a regular California driver license/identification card. It is thus unclear whether a person with a federal non-compliant California driver license or identification card is eligible to purchase a firearm under federal law, because that person was not necessarily required to submit satisfactory proof of lawful presence in the United States. Because of this change, ATF rescinded the June 30, 2016 open letter, by removing the letter from its website.

At the end of 2018, California passed another law, Senate Bill (SB) 244, affecting AB 60 driver licenses and identification cards, which went into effect on January 1, 2019. (Stats. 2018, Ch. 885.) That law prohibits AB 60 driver licenses and identification cards—those issued to persons who were not required to submit satisfactory proof of lawful presence in the United States—from being used as evidence of an individual’s citizenship or immigration status for any purpose. (Veh. Code § 12801.9, subd. (l).) Because AB 60 driver licenses and identification cards are indistinguishable from other federal non-compliant California driver licenses and identification cards issued to individuals who have provided satisfactory proof of lawful presence in the United States, neither form of identification may be used to determine an individual’s eligibility to purchase a firearm.

As set forth above, there have been significant changes recently to California driver licenses and identification cards, as well as to California law governing their use as evidence of citizenship or immigration status. These changes have affected the eligibility check process and have left firearm dealers and ammunition vendors, as well as law enforcement agencies, unable to rely on federal non-compliant licenses when determining whether a prospective purchaser or applicant is permitted to possess a firearm or ammunition, consistent with state and federal law.

Failure to act may result in significant public harm. The Department is concerned that firearm dealers and ammunition vendors may inadvertently sell firearms or ammunition to individuals who are not eligible under federal law because they are not lawfully present in the United States.

The result is widespread confusion for firearm dealers, law enforcement agencies, and the public. Current regulations do not address the recent changes to California law regarding California driver licenses and identification cards. Some firearm dealers have declined to sell firearms to persons who only have a federal non-compliant license or identification card without proof of lawful presence in the United States. But the Department has no way of knowing whether all firearm dealers follow the same protocol. Before the passage of SB 244, the National Rifle Association had advised firearm dealers to ask for additional information at their discretion if the dealer had “cause to believe the individual using one of these licenses may be prohibited from possessing firearms.” (National Rifle Association Institute for Legislative Action, “California Special Alert: Update Regarding Use of Non-REAL IDs for Firearm Purchases,” March 22, 2018.)

This confusion has had a negative financial impact on 1800 firearm dealers and their employees throughout the state, and will negatively impact 250 ammunition vendors (as of July 1, 2019). Also, firearm dealers that require additional documentation may lose business to those that do not require any additional documentation. This confusion also increases the risk that firearms or

ammunition will be inadvertently sold to persons who are not eligible to make such purchases under federal law.

This emergency regulation is necessary to secure the eligibility check process, and to assist firearm dealers and ammunition vendors, as well as law enforcement agencies, to obtain sufficient information that will allow for an accurate determination of whether a prospective purchaser or applicant is permitted to possess firearms or ammunition, consistent with federal law.

Explanation of Failure to Adopt Nonemergency Regulations

The change to California driver licenses and identification cards that created confusion over identification requirements for firearms purchases took effect on January 22, 2018. The Department did not have advance notice of this change, and the issue came to the Department's attention through inquiries from firearm dealers and the public in the spring of 2018. Through the spring and summer of 2018, the Department was consulting with the California Department of Motor Vehicles and the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives, regarding the changes to California driver licenses and identification cards, and their effect on eligibility checks. The Department was also analyzing, preparing guidance, and drafting potential regulations regarding the driver license and identification card changes and their impact on the eligibility check process and firearms dealers' ability to comply with their obligations under federal law.

Senate Bill (SB) 244 had been introduced in the Legislature in 2017, but was substantively amended and ultimately passed by the Legislature on August 31, 2018. It was signed into law by the Governor on September 28, 2018. As described in the Finding of Emergency, the Department determined that SB 244, which was scheduled to take effect on January 1, 2019, would further impact the eligibility check process and firearms dealers' and ammunition vendors' ability to comply with their obligations under federal law.

On November 20, 2018, the Department issued guidance to firearm dealers suggesting that they consider asking prospective purchasers with federal non-compliant driver licenses or identification cards for additional documentation establishing lawful presence in the United States, as well as a consumer alert to California residents with a federal non-compliant license or identification that a firearm dealer may require additional documentation for firearm purchases.

Because the guidance issued by the Department is voluntary and not all firearm dealers follow the guidance, the Department has determined after six months that the guidance is not sufficient to address the threat of public harm resulting from changes in California law relating to California driver licenses and identification cards. The Department has also determined that the additional procedures required to secure the eligibility check process for firearm purchases should be implemented for all other eligibility check processes through which the Department determines whether an applicant is permitted to possess a firearm or ammunition. The Department thus needed to develop procedures and revise documentation for various types of eligibility checks, as part of this emergency rulemaking. The Department filed these proposed emergency regulations with the Office of Administrative Law on June 17, 2019.

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

National Rifle Association Institute for Legislative Action, “California Special Alert: Update Regarding Use of Non-REAL IDs for Firearm Purchases,” March 22, 2018.

U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, “Open Letter to All California Federal Firearms Licensees,” June 30, 2016.

Authority and Reference Citations

Authority: Sections 28060, 28100, 28155, 28215, and 28220, Penal Code.

Reference: Sections 832.15, 832.16, 13511.5, 16400, 18900, 18905, 23000, 26150, 26155, 26170, 26710, 26815, 27540, 27560, 27565, 27875, 27920, 27966, 28000, 28160, 28215, 28220, 28250, 29182, 29500, 30105, 30370, 31000, 31005, 32650, 32655, 32700, 32705, 32710, 32715, 33300, 33305, and 33850, Penal Code; Section 12101, Health & Safety Code; 18 U.S.C. § 922(d) and (g)

Informative Digest/Policy Statement Overview

Penal Code section 28060 authorizes the Department to adopt regulations to allow the seller or transferor of a firearm or the person loaning the firearm, and the purchaser or transferee of a firearm or the person being loaned the firearm, to complete a sale, loan, or transfer through a firearm dealer. Penal Code section 28220 requires the Department to examine its records to determine if a purchaser or transferee is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm. Penal Code section 30370 requires the Department to approve the purchase or transfer of ammunition through a vendor to individuals who are not prohibited, and authorizes the Department to write regulations regarding this process. Further, the United States Code, Title 18, section 922, subdivisions (d) and (g), and the Code of Federal Regulations, Title 27, section 478.99, subdivision (c)(5) provide that an alien illegally or unlawfully in the United States is prohibited from owning or possessing firearms or ammunition.

The only way for the Department to fulfill its statutory obligation to determine that an individual is not prohibited from purchasing or possessing firearms or ammunition is through this emergency rulemaking. This regulation is also imperative for firearm dealers and ammunition vendors to determine that an individual is not prohibited. If this emergency regulation is not readopted, there will be continued uncertainty regarding firearms and ammunition sales in California for which the purchaser presents a federal non-compliant driver license or identification card, as well as continued uncertainty regarding eligibility checks involving federal non-compliant driver licenses and identification cards. This uncertainty increases the risk that firearms and ammunition will fall into the hands of individuals who are prohibited by either state or federal law, creating an imminent threat to the public safety and general welfare of California residents.

The Department has determined that this proposed regulation is not inconsistent or incompatible with existing state regulations which do not address the possibility that persons without lawful

presence in the United States could hold a validly issued California driver license or identification card. In determining that the proposed regulations are not inconsistent or incompatible with existing state regulations, the Department performed a search of existing state regulations on this subject.

§ 4002. Miscellaneous Report Fees.

This section has been amended to update the revision dates of BOF forms 4542A, 4544A, 4010A, 4100A and 961 from 07/2017 to 05/2019. It also been amended to rename form 4542A from “Firearm Ownership Record” to “Firearm Ownership Report” in order to be consistent with other firearm regulations sections.

§ 4045.1. Additional Documentation Requirements for Eligibility Checks.

This section describes “eligibility checks” as background checks based on any application or report for which an applicant is required to submit a driver license or identification card, or the number of a driver license or identification card, so that the Department may determine whether the applicant is eligible to possess a firearm or ammunition. California law requires eligibility checks in multiple contexts. This section is necessary to capture all eligibility checks required under California law. Furthermore, this section establishes guidelines regarding how copies of the driver licenses or identification cards and proof of lawful presence in the United States shall be retained by law enforcement agencies, firearm dealers, ammunition vendors, or submitted by the applicant.

Subdivision (a) states the basic requirement that when submitting any application or report for which an applicant is required to submit a driver license or identification card, or the number from a driver license or identification card, a copy of the applicant’s driver license or identification card shall also be submitted. This subdivision is necessary to inform applicants that a copy of the applicant’s driver license or identification card is required as part of the application or report.

Subdivision (b) establishes that if the applicant presents a federal non-compliant California driver license or identification card with the notation “FEDERAL LIMITS APPLY” on the front, instead of a REAL ID, the applicant shall also submit proof of lawful presence in the United States. In addition, this subdivision establishes and lists the forms of acceptable proof of lawful presence in the United States. This list of accepted documentation is drawn from the list the California Department of Motor Vehicles accepts as proof of lawful presence. (Cal. Code Regs., tit.13, § 15.00). This subdivision is necessary so that individuals with a federal non-compliant California driver license or identification card will know what additional document(s) they need to provide the Department when undergoing an eligibility check to purchase a firearm or ammunition.

Subdivision (c) addresses name mismatches. If the name on the driver license or identification card does not match the name on the document submitted in accordance with subdivision (b), the applicant must provide additional documentation as to the name change. The acceptable types of documentation are listed. This subdivision is necessary because it is common, whether due to marriage, divorce, or some other circumstance, that an individual’s name may not match their birth certificate, passport, or other document listed in subdivision (b).

Subdivision (d) describes eligibility checks initiated by applications or reports submitted to the Department in a paper format and establishes how an individual shall prove lawful presence in the United States when using a paper form. These forms have been updated and are incorporated by reference, as it would be cumbersome, unduly expensive, or otherwise impractical to publish all of the forms listed in their entirety in the California Code of Regulations. This section is necessary to identify all the paper applications and reports that will be affected by the regulation.

Under Penal Code section 27560, subdivision (a), the “New Resident Report of Firearm Ownership,” form BOF 4010A is used by individuals who are moving into California and wish to bring all of their California-legal firearms with them. These individuals must report the firearm(s) to the Department. The Department has revised this form by adding language regarding the document(s) that should be included if the applicant has a “FEDERAL LIMITS APPLY” driver license or identification card and not a REAL ID. This was necessary so an individual will know what document(s) to include preventing the form from being returned without processing.

Under Penal Code section 28000, the “Firearm Ownership Report,” form BOF 4542A is used by individuals who wish to report firearm ownership to the Department. The Department has revised this form by adding instructions that pertain to the requirements being adopted in section 4045.1. The Department has revised this form by adding language regarding the document(s) that should be included if the applicant has a “FEDERAL LIMITS APPLY” driver license or identification card and not a REAL ID. This was necessary so an individual will know what document(s) to include preventing the form from being returned without processing.

Under Penal Code section 27565, the “Curio or Relic Firearm Report,” form BOF 4100A, is used by individuals who must report their out-of-state purchase of a curio or relic firearm. The Department has revised this form by adding language regarding the document(s) that should be included if the applicant has a “FEDERAL LIMITS APPLY” driver license or identification card and not a REAL ID. This was necessary so an individual will know what document(s) to include preventing the form from being returned without processing.

Under Penal Code section 27966, the “Collector In-State Acquisition of Curio or Relic Long Gun Report,” form BOF 961 is used by individuals who must report their in-state acquisition of a curio or relic firearm. The Department has revised this form by adding language regarding the document(s) that should be included if the applicant has a “FEDERAL LIMITS APPLY” driver license or identification card and not a REAL ID. This was necessary so an individual will know what document(s) to include preventing the form from being returned without processing.

Under Penal Code sections 27875 and 27920, the “Report of Operation of Law or Intra-Familial Transaction,” form BOF 4544A is used by individuals who must report the possession of a firearm by operation of law, or the transfer of a firearm to a family member (Intra-Familial transfer). The Department has revised this form by adding language regarding the document(s) that should be included if the applicant has a “FEDERAL LIMITS APPLY” driver license or identification card and not a REAL ID. This was necessary so an individual will know what document(s) to include preventing the form from being returned without processing.

Under various Penal Code statutes, the “Dangerous Weapons License/Permit(s) Application,” form BOF 030, and the “Dangerous Weapons License/Permit(s) Renewal Application,” form BOF 031,

are used by individuals who wish to apply for or renew a dangerous weapons license or permit. The Department has revised these forms by adding language regarding the document(s) that should be included if the applicant has a “FEDERAL LIMITS APPLY” driver license or identification card and not a REAL ID. This was necessary so an individual will know what document(s) to include preventing the form from being returned without processing.

Subdivision (e) describes the eligibility checks initiated by applications and reports submitted electronically through the Department’s California Firearms Application Reporting System (CFARS). This subdivision also indicates what forms to upload in CFARS to prove lawful presence in the United States. This subdivision is necessary to identify the forms that may be submitted electronically through CFARS.

Subdivision (f) describes the eligibility checks initiated by applications or reports submitted electronically through the Department’s Dealer Record of Sale (DROS) Entry System. This subdivision also indicates what documentation an individual shall provide through the DROS Entry System to prove lawful presence in the United States. This subdivision is necessary to identify the forms that may be submitted electronically through the DROS Entry System.

Subdivision (g) addresses eligibility checks initiated by applications or reports submitted to other agencies that include fingerprint data to be used by the Department in order to determine whether an individual is eligible to possess a firearm or ammunition under state or federal law. This subdivision is necessary to inform other government agencies of what the Department has determined is acceptable documentation to prove lawful presence in the United States.

§ 4142. Application Forms.

This section has been amended to update the revision dates of BOF forms 030, 045 and 031 from 01/2012 to 05/2019.

§ 5478. Registration of Assault Weapons Pursuant to Penal Code Section 30900(b)(1); Voluntary Deregistration.

This section has been amended to update the revision dates of BOF form 4542A from 07/2017 to 05/2019.

Forms Incorporated by Reference

The only changes being made to these forms pertain to adding instructions that correspond to the requirements being adopted in section 4045.1.

Form BOF 030 (Rev. 05/2019), Dangerous Weapons License/Permit(s) Application

Form BOF 031 (Rev. 05/2019), Dangerous Weapons License/Permit(s) Renewal Application

Form BOF 961 (Rev. 05/2019), Collector In-State Acquisition of Curio or Relic Long Gun Report

Form BOF 4010A (Rev. 05/2019), New Resident Report of Firearm Ownership

Form BOF 4100A (Rev. 05/2019), Curio or Relic Firearm Report

Form BOF 4542A (Rev. 05/2019), Firearm Ownership Report

Form BOF 4544A (Rev. 05/2019), Report of Operation of Law or Intra-Familial Firearm Transaction

Mandate on Local Agencies or School Districts

The Department has determined the proposed emergency regulation does 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. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed emergency regulations.

Duplication of State Statutes as Necessary to Satisfy Government Code Section 11349.1(a)(3)

To satisfy the requirements of Government Code section 11349.1(a)(6), the text of the proposed regulations are non-duplicative.

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

None.

Fiscal Impacts

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 not be any cost or savings to any state agency

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

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME Justice	CONTACT PERSON Jacqueline Dosch	EMAIL ADDRESS jacqueline.dosch@doj.ca.gov	TELEPHONE NUMBER 916-227-7614
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Identification Requirements for Firearms and Ammunition Eligibility Checks			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 type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input checked="" type="checkbox"/> h. None of the above (Explain below): |

The proposed regulations specify the documentation used to identify yourself when submitting a form or application that is already in regulation.

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 regulation package only specifies the documentation used to prove lawful presence in the United States.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? \$ N/A
- 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: \$ N/A Annual ongoing costs: \$ N/A Years: N/A
- d. Describe other economic costs that may occur: N/A

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: See Attachment A.

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 inform California citizens what types of identification may be used to prove lawful presence in the United States when establishing eligibility to possess or purchase firearms or ammunition.
2. Are the benefits the result of: ☒ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?
Explain: Federal law requires individuals to have a lawful presence in the U.S. in order to possess a firearm or ammunition.
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: _____

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: No alternatives were considered because there are only a few specific ways in which to identify yourself as having a lawful presence in the United States.

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: \$ Unknown

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives:

Unknown

4. 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

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

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

Economic and Fiscal Impact Statement (Std. 399)

Attachment A

Section B. Estimated Costs

5. Are there comparable Federal regulations? Yes.

Per the Code of Federal Regulations, Title 27 section 478.99 subdivision (c)(5), an alien illegally or unlawfully in the United States is prohibited from owning or possessing firearms or ammunition. Federal regulations explain who is prohibited from what activities. The Department's regulation is necessary to explain the process of how the Department will determine if an individual is prohibited (i.e. does not have lawful presence in the United States). In addition, it clarifies what documentation an individual shall provide to prove they have lawful presence in the United States if they possess a driver license or identification card that states, "FEDERAL LIMITS APPLY."

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)


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) Identification Requirements for Firearms & Ammo Eligibility Checks		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2019-0617-04	
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 4045.1	
		AMEND 4002, 4142, 5478	
TITLE(S) 11		REPEAL	
3. TYPE OF FILING			
<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 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 checked="" 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 type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> \$100 Changes Without Regulatory Effect <input checked="" type="checkbox"/> Effective other (Specify) 12/31/19			
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 Julia Zuffelato		TELEPHONE NUMBER (916) 210-6040	FAX NUMBER (Optional) E-MAIL ADDRESS (Optional) Julia.Zuffelato@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 12/2/19
TYPED NAME AND TITLE OF SIGNATORY Sean McCluskie, Chief Deputy to the Attorney General	

For use by Office of Administrative Law (OAL) only