

# NOTICE OF PROPOSED RULEMAKING

Notice to be published on December 20, 2019

The Department of Justice (Department) proposes to adopt section 4045.1 of Chapter 4, and to amend section 4002 of Chapter 1, section 4142 of Chapter 7, and section 5478 of Chapter 39, of Title 11, Division 5 of the California Code of Regulations. Chapter 4 is now titled “Documentation Requirements for Firearms and Ammunition Eligibility Checks.” The adoption and amendments provide what documentation shall be presented if someone possesses a California driver license or identification card with the words “FEDERAL LIMITS APPLY” at the top.

## PUBLIC HEARING

The Department has not scheduled a public hearing on this proposed regulatory action. However, the Department will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

## WRITTEN COMMENT PERIOD

Any interested person or their authorized representative may submit written comments relevant to the proposed regulatory action. The written comment period closes at 5:00 p.m. on Tuesday, February 4, 2020. Only comments received by that time will be considered. Written comments must be submitted to:

Kamran Ali  
Bureau of Firearms  
Division of Law Enforcement  
Department of Justice  
P.O. Box 160487  
Sacramento, CA 95816-0487  
Phone: 916-210-2353  
Email: REALIDregs@doj.ca.gov

## AUTHORITY AND REFERENCE

Authority: Sections 18900, 18910, 27560, 27565, 27875, 27920, 27966, 28000, 28060, 28100, 28155, 28215, 28220, 28230, 28240, 31000, 30900, 32655, 32700, 32705, 32710, 32715, 32720 and 33305, Penal Code.

Reference: Sections 832.15, 832.16, 13511.5, 16400, 18900, 18910, 18905, 23000, 26150, 26155, 26170, 26710, 26815, 27540, 27560, 27565, 27875, 27920, 27966, 28000, 28160, 28215, 28220, 28230, 28235, 28240, 28250, 29182, 29500, 30105, 30370, 30515, 30900, 31000, 31005, 32650, 32655, 32700, 32705, 32710, 32715, 32720, 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.

These regulations are necessary for the Department to fulfill its statutory obligation to determine whether an individual is prohibited by state or federal law from purchasing or possessing firearms or ammunition. This regulation will also assist firearm dealers and ammunition vendors to determine whether an individual is prohibited by state or federal law from purchasing or possessing firearms. If this regulation is not promulgated 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 prohibited individuals. This uncertainty hinders the Departments ability to fulfill its statutory duties and increases the risk that weapons will be possessed in California in violation of state and/or federal law.

This rulemaking action would interpret and make specific the details of these laws as follows:

Chapter 1, section 4002 was amended to include the current revision dates for the forms that are incorporated by reference.

The title of Chapter 4 was amended to better represent the subject of the chapter.

Article 2 was added to organize the chapter and create a new article for the new section.

Section 4045.1 was added to identify what additional documentation shall be presented to a firearm dealer or ammunition vendor for an eligibility check when the individual possess a federal non-compliant California driver license or identification card that states "FEDERAL LIMITS APPLY" at the top. Additionally, this section instructs individuals what documents need to be presented if the name on his or her driver license or identification card does not match the document presented to prove lawful presence in the United States. This section also provides the process for providing additional documentation when submitting paper applications and reports to the Department. In addition, this section describes the process for providing additional

documentation when submitting electronic applications and forms through the California Firearms Application Reporting System (CFARS), and the Dealer Record of Sale (DROS) Entry System. There are detailed descriptions of the changes that have been made to forms that are incorporated by reference as well as two forms newly being incorporated by reference. Lastly, this section includes instruction for eligibility check 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.

Chapter 7, section 4142 was amended to include the current revision dates for the forms that are incorporated by reference.

Chapter 39, section 5478 was amended to include the current revision dates for the forms that are incorporated by reference.

### ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

The proposed regulation will benefit the public by ensuring compliance with state and federal firearm laws and preventing firearms from falling into the hands of prohibited persons. The Department is concerned that, without this regulation, 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. Additionally, this regulation will benefit firearm dealers and ammunition vendors because it will clarify the eligibility check process and allow them 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 state and federal law. Furthermore, firearm dealers and ammunition vendors will not need to turn away customers with California driver licenses and identification cards with the words “FEDERAL LIMITS APPLY”, thereby losing revenue, because now they will be able to determine lawful presence from the additional required documentation.

### EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

Pursuant to Government Code section 11346.5, subdivision (a)(3)(D), the Department shall evaluate whether the proposed regulation is inconsistent or incompatible with existing state regulations. Pursuant to this evaluation, the Department has reviewed existing regulations pertaining to firearms within California Code of Regulations (“CCR”) Title 11, Division 5, and has determined that these proposed regulations are not inconsistent or incompatible. This determination is based on the fact that no regulations currently exist which address the process of additional documentation for eligibility checks when an individual possesses a federal non-compliant California driver license or identification card that states “FEDERAL LIMITS APPLY” at the top. The Department has also determined that the proposed regulations are consistent with California Code of Regulations, title 13, section 15.00, the Department of Motor Vehicle regulation concerning acceptable proof of lawful residence.

## COMPARABLE FEDERAL REGULATIONS

The proposed action does not differ substantially from an existing comparable federal regulation or statute. 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."

## FORMS INCORPORATED BY REFERENCE

Form BOF 030 (Rev. 01/2020), Dangerous Weapons License/Permit(s) Application

Form BOF 031 (Rev. 01/2020), Dangerous Weapons License/Permit(s) Renewal Application

Form BOF 051, (Rev. 01/2020), Entertainment Firearms Permit Application

Form BOF 116, (Rev. 01/2020), Personal Firearm Eligibility Check Application

Form BOF 961 (Rev. 01/2020), Collector In-State Acquisition of Curio or Relic Long Gun Report

Form BOF 4010A (Rev. 01/2020), New Resident Report of Firearm Ownership

Form BOF 4100A (Rev. 01/2020), Curio or Relic Firearm Report

Form BOF 4542A (Rev. 01/2020), Firearm Ownership Report

Form BOF 4544A (Rev. 01/2020), Report of Operation of Law or Intra-Familial Firearm Transaction

## OTHER STATUTORY REQUIREMENTS

None.

## DISCLOSURES REGARDING THE PROPOSED ACTION

The Department made the following initial determinations:

Mandate on local agencies or school districts: None

Cost to any local agency or school district which shall be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Cost or savings to any state agency: The fees related to newly incorporated forms 051 and 116 will generate revenue for the Department that will not exceed the costs incurred by the Bureau of Firearms to process the forms. The Department estimates that the fees will generate approximately \$76,228 in revenue to help offset costs that can be as high as \$797,620.

Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a Private Person or Business: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Business report requirement: None.

Significant effect on housing costs: None.

Small business determination: The Department determined that the proposed regulation will not affect the creation or elimination of small businesses because the regulations pertain to new residents to the state and does not directly affect small business.

## RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Department concludes that it is not likely that the proposed rulemaking will

- (1) Create or eliminate jobs within California;
- (2) Create new businesses or eliminate existing businesses within California; or
- (3) Affect the expansion of businesses currently doing business within California.

The proposed regulation will benefit the public by protecting them from harm. The Department is concerned that, without this regulation, 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.

## CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. Any person interested in presenting statements or arguments with respect to alternatives to the proposed

regulations may do so at the scheduled hearing (if one is requested) or during the written comment period.

### CONTACT PERSONS

Please direct inquiries concerning the proposed administrative action to:

Kamran Ali  
Bureau of Firearms  
Division of Law Enforcement  
Department of Justice  
P.O. Box 160487  
Sacramento, CA 95816-0487  
Phone: 916-210-2353  
Email: REALIDregs@doj.ca.gov

The back-up contact person for these inquiries is:

Jacqueline Dosch  
Bureau of Firearms  
Division of Law Enforcement  
Department of Justice  
P.O. Box 160487  
Sacramento, CA 95816-0487  
Phone: (916) 210-2364  
Email: REALIDregs@doj.ca.gov

### AVAILABILITY OF RULEMAKING FILE INCLUDING THE INITIAL STATEMENT OF REASONS

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process. The text of the proposed regulation (the “express terms”), the initial statement of reasons, and the information upon which the proposed rulemaking is based are available at the Department’s website at <http://oag.ca.gov/firearms/regs>. Copies may also be obtained by contacting Kamran Ali at the address or phone number listed above.

### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days and accept written comments before the Department adopts the regulations. Copies of any modified text will be available on the Department’s website at <http://oag.ca.gov/firearms/regs>. A written copy of any modified text may be obtained by contacting Kamran Ali at the address or phone number listed above.

### AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon completion, the Final Statement of Reasons will be available on the Department's website at <http://oag.ca.gov/firearms/regs>. You may also obtain a written copy of the final statement of reasons by contacting Kamran Ali at the address or phone number listed above.

### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format, as well as the Final Statement of Reasons once completed, are available on the Department's website at <http://oag.ca.gov/firearms/regs>.

# Text of 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. ~~12/2019~~ 01/2020), which is hereby incorporated by reference.

(b) Report of Operation of Law or Intra-Familial Firearm Transaction, form BOF 4544A (Rev. ~~12/2019~~ 01/2020), which is hereby incorporated by reference.

(c) New Resident Report of Firearm Ownership, form BOF 4010A (Rev. ~~012/2019~~ 01/2020), which is hereby incorporated by reference.

(d) Curio or Relic Firearm Report, form BOF 4100A (Rev. ~~12/2019~~ 01/2020), which is hereby incorporated by reference.

(e) Collector In-State Acquisition of Curio or Relic Long Gun Report, form BOF 961 (Rev. ~~12/2019~~ 01/2020), 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 (issued by a city, county, or state vital statistics office). "Abbreviated" or "Abstract" certificates are NOT accepted.

(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, the documents required in subdivisions (a) through (c) shall be submitted along with the paper application. Do not send any original documentation when submitting 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. 01/2020), pursuant to Penal Code section 27560.

(B) Firearm Ownership Report, form BOF 4542A (Rev. 01/2020), pursuant to Penal Code section 28000.

(C) Curio or Relic Firearm Report, form BOF 4100A (Rev. 01/2020), pursuant to Penal Code section 27565.

(D) Collector In-State Acquisition of Curio or Relic Long Gun Report, form BOF 961 (Rev. 01/2020), pursuant to Penal Code section 27966.

(E) Report of Operation of Law or Intra-Familial Firearm Transaction, form BOF 4544A (Rev. 01/2020), 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. 01/2020), or Dangerous Weapons License/Permit(s) Renewal Application, form BOF 031 (Rev. 01/2020). 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.

(4) Entertainment Firearms Permit Application, form BOF 051 (Rev. 01/2020), hereby incorporated by reference, pursuant to Penal Code section 29500.

(5) Personal Firearms Eligibility Check Application, form BOF 116 (Rev. 01/2020), hereby incorporated by reference, pursuant to Penal Code section 30105.

(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, 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 (DROS) 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. The firearm dealer or ammunition vendor shall retain a copy of the "FEDERAL LIMITS APPLY" driver license or identification card, as well as the supporting documents, as part of the permanent record. 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, Form BOF 030 (Rev. ~~01/2012~~ 01/2020), including the ATI number obtained pursuant to paragraph (1).

(3) If applicable, complete the Facility and Vehicle Security Compliance, Form BOF 045 (Rev. 01/2020) 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~~ 01/2020), 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~~ 01/2020), 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. 12/2019 01/2020), 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.

# INITIAL STATEMENT OF REASONS

## PROBLEM STATEMENT

The Department of Justice (Department) is statutorily required to perform an eligibility check under state and federal law for all firearms and ammunition purchases in California. Eligibility checks also are 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. 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 firearm 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 was required to provide 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. When AB 60 first took effect, AB 60 driver licenses and identification cards were physically 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 sets minimum security standards for driver license and identification card issuance and production, and prohibits federal agencies from accepting for certain purposes driver licenses and identification cards from states not meeting the Act’s minimum standards. 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 who choose not to apply for a “REAL ID” driver license or identification card. Driver licenses/identification cards issued pursuant to AB 60 are no longer physically distinguishable from a regular California driver license/identification card that may be issued to someone with lawful presence in the United States. 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 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 driver licenses and identification cards issued pursuant to AB 60—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 Driver licenses and identification cards issued pursuant to AB 60 are physically 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.

The result of the changes to California driver licenses and identification cards is 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 approximately 1,800 firearm dealers and their employees throughout the state, as well as 250 ammunition vendors as of July 1, 2019. 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.

## BENEFITS

The proposed regulation will benefit the public by protecting them from harm. The Department is concerned that, without this regulation, 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. Additionally, this regulation will benefit firearm dealers and ammunition vendors because it will clarify the eligibility check process and allow them 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. Furthermore, firearm dealers and ammunition vendors will not need to turn away customers with California driver licenses and identification cards with the words “FEDERAL LIMITS APPLY”, thereby losing revenue, because now they will be able to determine lawful presence from the additional requirement documentation.

## PURPOSE AND NECESSITY

### 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.

This rulemaking will assist the Department to fulfill its statutory obligation to determine whether an individual is prohibited from purchasing or possessing firearms or ammunition. If this regulation is not promulgated 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 prohibited individuals.

## **Chapter 1. Bureau of Firearms Fees**

### **§ 4002. Miscellaneous Report Fees.**

This section identifies various forms that an individual may use to report ownership of a firearm. This section also sets the fee for filing each form at \$19, pursuant to Penal Code section 28230 and 28240, subdivision (b).

In addition to the revisions described below, subdivisions (a) through (e) of this section were revised to reflect the current revision date of each form. All of the forms to which this section refers include instructions regarding the additional documentation necessary to establish lawful presence in the United States when the individual possesses a California driver license or identification card containing the words “FEDERAL LIMITS APPLY.” Updating the revision date is necessary in order to allow a user to make sure they are using the correct version of the form.

In subdivision (a), the Firearm Ownership Report, Form BOF 4542A (Rev. 01/2010) has been revised and incorporated by reference. The name of this form was changed from “Firearm Ownership Record,” to “Firearm Ownership Report.” The name change was necessary to reflect the correct name of the form and to match the electronic form available on the California Firearms Application Reporting System which ensures consistency across all versions of the form. This subdivision imposes the fee under Penal Code section 28230 on individuals who wish to report firearm ownership to the Department. Having a firearm ownership report on file with the Department will authorize the return of a firearm in the event it is subsequently lost or stolen.

In subdivision (b), the Report of Operation of Law or Intra-Familial Firearm Transaction, Form BOF 4544A (Rev. 01/2020) has been revised and incorporated by reference. This subdivision imposes the fee under Penal Code section 28230 on individuals who wish to report the possession of a firearm by operation of law, or the transfer of a firearm to a family member (intra-familial transfer) to Department.

In subdivision (c), the New Resident Report of Firearm Ownership, Form BOF 4010A (Rev. 01/2020) has been revised and incorporated by reference. This subdivision imposes the fee under Penal Code section 28230 on individuals who are moving into California from another state and own firearms. In this circumstance, an individual is considered a personal firearm importer and must report all of their California-legal firearms to the Department within 60 days.

In subdivision (d), the Curio or Relic Firearm Report, Form BOF 4100A (Rev. 01/2020) has been revised and incorporated by reference. This subdivision imposes the fee under Penal Code section 28230 on individuals who wish to report their out of state purchase of a curio or relic firearm. These individuals are licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. This individual must possess a Federal Firearms License Type 03, and Certificate of Eligibility issued by the California Department of Justice.

In subdivision (e), the Collector In-State Acquisition of Curio or Relic Long Gun Report, Form BOF 961 (Rev. 01/2020) has been revised and incorporated by reference. This subdivision

imposes the fee under Penal Code section 28230 on individuals who wish to report their curio or relic firearm. These individuals are licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. This individual must possess a Federal Firearms License Type 03, and Certificate of Eligibility issued by the California Department of Justice. This report must be made within 30 days of acquiring the firearm.

#### **Chapter 4. Documentation Requirements for Firearms and Ammunition Eligibility Checks**

The title for this chapter has been amended from “Evidence of Residency Documentation” to “Documentation Requirements for Firearms and Ammunition Eligibility Checks” because federal firearm and ammunition eligibility requirements in this respect are predicated on lawful presence in the United States, not residency. Updating the title better describes the intent of the regulations.

#### **Article 2. Additional Documentation Requirements**

This article is new and was added to organize the chapter and have a separate article to add the new section.

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

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, to allow the Department to determine whether the applicant is eligible to possess a firearm or ammunition. The section describes the process and document retention requirements for the eligibility checks.

##### Subdivision (a)

Subdivision (a) states the basic requirement that when submitting any application or report to the Department’s Bureau of Firearms 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 they are submitting as listed in subdivisions (d) through (g) of this section.

##### Subdivision (b)

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, the applicant shall also submit proof of lawful presence in the United States. This subdivision establishes the forms of acceptable proof of lawful presence in the United States, which is drawn from the list of documents that 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 to firearm dealers, ammunition vendors, law

enforcement agencies or the Department when undergoing an eligibility check to purchase a firearm or ammunition.

#### Subdivision (c)

Subdivision (c) addresses the situation where the name on the driver license or identification card does not match the name on the document proving lawful presence in the United States because of a name-changing event. The acceptable types of documentation for the name-change 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)

Subdivision (d) relates to applications or reports submitted to the Department's Bureau of Firearms in a paper format. For these applications or reports, it requires that the documents required in subdivisions (a) through (c) be submitted with the paper application. Additionally, there is a caution against sending an original. This subdivision is necessary to inform applicants who are submitting a paper application or report, and possess a federal non-compliant California driver license or identification card with the notation "FEDERAL LIMITS APPLY" on the front, that a photocopy or certified copy of the documents proving lawful U.S. presence, as applicable, must accompany a paper application or report. The Department has been receiving original birth certificates with these applications or reports and wants to establish that individuals are not to submit an original.

#### Subdivisions (d)(1) and (d)(2)

Subdivisions (d)(1) and (d)(2) sets forth the applications or reports submitted to the Department's Bureau of Firearms in a paper format that would require an eligibility check. These forms have been revised 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.

#### Subdivisions (d)(2)(A), (d)(2)(C), and (d)(2)(D)

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. 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. 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. These three forms have been revised as follows:

On page one of each form, in the heading, the word "total" was added to state, "The total processing fee of \$19.00 must accompany this report." This addition was necessary as the public did not understand the amount of the fee to send, and they were sending varying amounts. The

checks would have to be returned and the correct amount of payment resubmitted. This caused a delay in the process.

The Department revised the first line of the owner information section to match the sequence of information listed in the California Firearms Application Reporting System (CFARS). This is necessary for staff entering information from a paper form into CFARS, so they can follow the same order of information and will have fewer errors.

Each form was revised to indicate with an asterisk (\*) what fields are mandatory. This is necessary so the applicant will complete the form and it will not have to be returned without processing, which is time-consuming, costly for the Department, and frustrating for the individual making the report.

The section “sex” on the form was revised to say “gender.” The Department determined this term more accurately describes the information being sought.

The Firearm(s) Information section was revised to provide more options when reporting firearms and explains what the additional options are. This is necessary so an applicant can better describe the firearm, and so the Department will have a better understanding of the type of firearm the applicant is reporting.

In the Firearm(s)/Long Gun(s) Information section, boxes were added asking if the firearm is self-built and if the owner obtained a serial number from the Department. This is necessary so that the Department can clearly identify the origin of the firearm. Additionally, by law new residents have to report to the Department and request a serial number for any self-built firearms brought into the state within 60 days of arrival. A box asking if the firearm is a frame or receiver only was added. This is necessary so the Department enters the correct information in CFARS. Once “frame only” or “receiver only” is selected in CFARS, applicants will select either “yes” or “no.” If the applicant selects “yes”, no additional information is required. If the applicant selects “no”, additional boxes will open up, requiring applicants to enter the caliber of the firearm as well as barrel length.

For the BOF 4010A, a box asking if the firearm is in law enforcement custody was added. This is necessary because if an individual indicates that a firearm is in law enforcement custody, the individual must complete the Bureau’s Law Enforcement Gun Release Application Form BOF 119 to redeem the firearm. The Department will need to coordinate the sequence of the two applications. If the BOF 119 application is processed before the BOF 4010A, there will be no record to indicate that the individual owns the firearm in question.

Page two is a new page added to each form to describe the document(s) that should be included if the applicant has a “FEDERAL LIMITS APPLY” driver license or identification card. This is necessary so an individual will know what document(s) copies to include when submitting the form, to prevent the form from being returned without processing. If a form is incomplete and has to be returned it is time-consuming and costly for the Department and frustrating for the individual making the report.

On page three of BOF 4100A and 4010A, under “Part A. Owner Information,” the Department added a sentence informing military personnel that if they are not actively stationed in California, by law they are required to have a California driver license or identification card to record a

firearm in their name. This is necessary to inform military personnel when they may need a California driver license or identification card since it takes some time to obtain either of these identification types. On page three of each form, under “Part B. Firearm Information,” some additional identifying information has been added that corresponds to the questions on page one. The additions are firearm/long gun type, category, and date acquired. These additions were necessary to explain what information is requested of the individual reporting. It is important to receive correct information as it allows Department staff to process the forms quicker and not have to return one because it is incomplete thereby saving time and money.

#### Subdivision (d)(2)(B)

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 revised this form to change the name from “Firearm Ownership Record” to “Firearm Ownership Report.” The new name for this report is better suited as the applicant is reporting ownership of a firearm not creating a “record” of that ownership.

On page one of the Firearm Ownership Report, the word “total” in the heading was added to state, “The total processing fee of \$19.00 must accompany this report.” This addition was necessary as the public did not understand the amount of the fee to send, and they were sending varying amounts. The checks would have to be returned and the correct amount of payment resubmitted. This caused a delay in the process.

The Department revised the first line of the owner information section to match the sequence of information listed in the California Firearms Application Reporting System (CFARS). This is necessary for staff entering information from a paper form into CFARS, so they can follow the same order of information and will have fewer errors.

This form was revised to indicate with an asterisk (\*) what fields are mandatory. This is necessary so the applicant will complete the form and it will not be returned without processing which is time-consuming, costly for the Department, and frustrating for the individual making the report.

The section “sex” on the form was revised to say “gender.” The Department determined this term more accurately describes the information being sought.

The Firearm(s) Information section was revised to provide more options when reporting firearms and explains what the additional options are. This was necessary so the applicant can better describe the firearm, and so the Department will have a better understanding of the type of firearm the applicant is reporting. In the Firearm(s) Information section, boxes were added asking if the firearm is self-built and if they obtained a serial number from the Department. This is necessary so that the Department can clearly identify the origin of the firearm. Additionally, by law a person must contact the Department prior to building a firearm, so if someone did not, they may have to surrender their firearm. Once “frame only” or “receiver only” is selected in CFARS, applicants will select either “yes” or “no.” If the applicant selects “yes”, no additional information is required. If the applicant selects “no”, additional boxes will open up, requiring applicants to enter the caliber of the firearm as well as barrel length.

A box asking if the firearm is in law enforcement custody was added. This is necessary because if an individual indicates that a firearm is in law enforcement custody, the individual must complete the Bureau's Law Enforcement Gun Release Application Form BOF 119 to redeem the firearm. The Department will need to coordinate the sequence the two applications. If the BOF 119 application is done before the BOF 4542A, there will be no record to indicate that the individual owns the firearm in question.

Page two is a new page added to this form to describe 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 is necessary so an individual will know what document(s) copies to include when submitting the form, to prevent the form from being returned without processing. If a form is incomplete and has to be returned it is time-consuming, costly for the Department, and frustrating for the individual making the report.

On page three, under "Part A. Owner Information," the Department added a sentence letting military personnel know if they are not actively stationed in California, by law they are required to have a California driver license or identification card to record a firearm in their name. This is necessary to inform military personnel when they may need a California driver license or identification card since it takes some time to obtain either of these identification types. On this page, under "Part B. Firearm Information," some additional identifying information has been added that corresponds to the questions on page one. The additions are firearm type, category, and date acquired. These were all necessary to explain what information is being requested of the individual reporting. It is important to receive correct information as it allows Department staff to process the forms quicker and not have to return one because it is incomplete thereby saving time and money.

On each form, the privacy notice was updated to conform to California Civil Code section 1798.17 and to make it consistent with the privacy notices on our other forms.

#### Subdivision (d)(2)E)

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).

On page one of this form, in the heading, the word "total" was added to state, "The total processing fee of \$19.00 must accompany this report." This addition was necessary as the public did not understand the amount of the fee to send, and they were sending varying amounts. The checks would have to be returned and the correct amount of payment resubmitted. This caused a delay in the process.

The Department revised the first line of the owner information section to match the sequence of information listed in the California Firearms Application Reporting System (CFARS). This is necessary for staff entering information from a paper form into CFARS, so they can follow the same order of information and will have fewer errors.

This form was revised to indicate with an asterisk (\*) what fields are mandatory. This is necessary so the applicant will complete the form and it will not be returned without processing which is time-consuming, costly for the Department, and frustrating for the individual making the report.

The section “sex” on the form was revised to say “gender.” The Department determined this term more accurately describes the information being sought.

In the Firearm(s) Information section, boxes were added asking if the firearm is self-built and if they obtained a serial number from the Department. This is necessary so that the Department can clearly identify the origin of the firearm. Additionally, by law an individual must contact the Department prior to building a firearm, so if someone did not, they may have to surrender their firearm.

A box asking if the firearm is a frame or receiver only was added. This is necessary so the Department enters the correct information in CFARS. If “frame only” is selected in CFARS, more options open, requiring additional information, where as if “receiver only” is selected, there are not more options. A box asking if the firearm is in law enforcement custody was added. This is necessary because if an individual indicates that a firearm is in law enforcement custody, the individual must complete the Bureau’s Law Enforcement Gun Release Application Form BOF 119 to redeem the firearm. The Department will need to coordinate the sequence of the two applications. If the BOF 119 application is processed before the BOF 4544A, there will be no record to indicate that the individual owns the firearm in question

Page two is a new page added to this form to describe 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 is necessary so an individual will know what document(s) copies to include when submitting the form, to prevent the form from being returned without processing. If a form is incomplete and has to be returned it is time-consuming, costly for the Department, and frustrating for the individual making the report.

On page three, the first paragraph has been changed to say that if a person is reporting more than two firearms they need to use additional copies of the form. This is necessary as when boxes were added on page one, the section became larger and we were only able to fit report information for two firearms and not three.

Under “Part A. Owner Information,” the Department added a sentence letting military personnel know if they are not actively stationed in California, by law they are required to have a California driver license or identification card to record a firearm in their name. This is necessary to inform military personnel when they may need a California driver license or identification card since it takes some time to obtain either of these identification types. On this page, under “Part B. Firearm Information,” some additional identifying information has been added that corresponds to the questions on page one. The additions are firearm type, category, date acquired, and a breakdown of the options for acquired from. These were all necessary to explain what information is being requested of the individual reporting. It is important to receive correct information as it allows Department staff to process the forms quicker and not have to return one because it is incomplete, thereby saving time and money. The privacy notice was updated to conform to California Civil Code section 1798.17 and to make it consistent with the privacy notices on our other forms.



Subdivision (d)(3)(A) through (d)(3)(E)

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 revised these forms to add space for an email address in several sections. This is necessary because email is the preferred method of communication.

On page one of both forms, the “M/F” was changed to “Gender.” The Department determined this term more accurately describes the information that is sought. Language was added identifying the document(s) required if the applicant has a “FEDERAL LIMITS APPLY” driver license or identification card. This was necessary to inform applicants what document(s) to include with their application so as to prevent the form from being returned without processing.

The privacy notice was updated to conform to California Civil Code section 1798.17 and to make it consistent with the privacy notices on our other forms.

Subdivision (d)(4)

Under Penal Code section 29505, the “Entertainment Firearms Permit Application,” form BOF 051, is used by individuals who wish to apply for an Entertainment Firearms Permit. An Entertainment Firearms Permit authorizes the permit holder to possess firearms loaned to the permit holder for use solely as a prop in a motion picture, television, video, theatrical, or other entertainment production or event. This form is used for both new permits and renewals of permits. Additionally, this form is being incorporated by reference.

The Entertainment Firearms Permit fee is set in Penal Code section 29510 at \$104 for an initial application, and \$29 for a renewal application. The Penal Code also notes that of the initial application fee of \$104, \$56 shall be deposited into the Fingerprint Fee Account, and only \$48 shall be deposited into the Dealers’ Record of Sale (DROS) account.

The processing costs for the initial application was determined by analyzing the average time it takes to review an application. It takes a Staff Services Analyst roughly 80 minutes to process an initial application, which includes reviewing the application for accuracy and completeness as well as potentially contacting the applicant if any of the required fields are missing any information. At an average hourly rate of \$39, it costs the Department about \$50.67 to process the application.

The processing costs for the renewal application was determined by analyzing the average time it takes to review an application. It takes a Staff Services Analyst slightly less time to process a renewal application (about 70 minutes) due to renewal applicants being more familiar with the process and potentially having less information missing from the form. At an average hourly rate of \$39, it costs the Department about \$43.67 to process the application.

As is indicated by the chart below, the revenue generated by the fee and designated to the Bureau of Firearms does not exceed the approximate costs to process the forms.

**Entertainment Firearms Permit (BOF 051)**

<b>Form</b>	<b>Average Number Received Per Year</b>	<b>BOF Portion of Fee*</b>	<b>Total Revenue Received</b>	<b>Processing Cost Per Form</b>	<b>Total Cost to Process</b>
Initial Application	94	\$48	\$ 4,512	\$50.67	\$4,763
Renewal Application	404	\$29	\$11,716	\$43.52	\$17,582
		<b>Total</b>	<b>\$16,228</b>		<b>\$22,345</b>

On page one of this form, the Department asks for general identification information. Penal Code section 29505, subdivisions (a)(1) through (a)(9) indicate the following information is the minimum that should be contained on the form: complete name, residential and mailing addresses, telephone number, date of birth, place of birth, country of citizenship or Alien Registration or I-94 number, California driver license or identification card number, Social Security Number, and signature. Additionally the Department asks for an alias name, email address, and gender. All of this information is necessary to accurately identify an individual. Additionally, the Department added email address as much of today’s communication and business is performed electronically through email, and it is a faster method of communication and the preferred method of communication.

The form must also be signed under penalty of perjury. This is necessary to help ensure the information provided is true and correct, and to deter misrepresentations and submission of false information.

Page two is a new page added to this form to describe 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 is necessary so an individual will know what document(s) copies to include when submitting the form, to prevent the form from being returned without processing. If a form is incomplete and has to be returned it is time-consuming, costly for the Department, and frustrating for the individual making the report.

Page three contains additional instructions for the application. These include how to submit fingerprints and fees to the Department through the Live Scan Service, and where to send the completed form, and renewal fees. This is necessary so an applicant will know the amount to be paid to the Live Scan operator, where to submit the application, and the fee for renewing an application.

Page four of this form includes the Department’s privacy notice as required by Civil Code section 1798.17. This is necessary to inform applicants what may be done with their personal information.

Subdivision (d)(5)

The “Personal Firearm Eligibility Check Application,” form BOF 116, is used by individuals who would like the Department to perform an eligibility check on them prior to purchasing a firearm. Additionally, this form is being incorporated by reference.

The Personal Firearms Eligibility Check (PFEC) form fee is set at \$20 in Penal Code section 30105, subdivision (b). The Department receives about 3,000 forms per year total. Eighty-five percent of the forms are routine to process and take roughly 15 minutes to complete. The Criminal Identification Specialist III assigned to conduct the PFEC and determine if the applicant is not prohibited from purchasing a firearm has an average hourly rate of \$41.75. At this rate, the total costs for processing a regular form is \$10.50.

The remaining fifteen percent of applications are more difficult to process. The Department determined this fifteen percent rate by examining the historical data on the number of forms received over the last three years. Along with this data, the Department utilized staff knowledge and expertise and determined that roughly fifteen percent of forms require additional work hours to determine firearm ownership eligibility. This includes spending several hours trying to obtain outside information from courts, law enforcement agencies, and/or district attorney’s offices to determine the disposition of an arrest. The amount of time to process the more difficult forms can vary depending on the circumstances. It can take anywhere from 5 hours to more than 40 hours in some cases. As a whole, the revenue generated by the fee does not exceed the approximate costs to process the forms. The remaining costs to process the PFEC form are paid for through the Dealer Record of Sale fee under Penal Code section 28225, subdivision (a)(11). (Penal Code section 28233 effective January 1, 2020.)

**Personal Firearms Eligibility Check (PFEC) (BOF 116)**

<b>Form</b>	<b>Average Number Received Per Year</b>	<b>Current Fee</b>	<b>Total Revenue Received</b>	<b>Processing Cost Per Form</b>	<b>Total Cost to Process</b>
PFEC regular (85%)	2,550	\$20	\$ 51,000	\$10.50	\$ 26,775
PFEC difficult (15%)	450	\$20	\$ 9,000	\$209 - \$1,670	\$94,050 - \$751,500
		<b>Total :</b>	<b>\$ 60,000</b>		<b>\$120,825 to \$775,275</b>

On page one of this form, the Department asks for general identification information consisting of name, alias name, date of birth, gender, California driver license or identification card number, U.S. Citizenship or Alien Registration or I-94 number, height, weight, eye color, hair color, race, telephone number, residence address and mailing address (if different). All of this information is necessary to accurately identify an individual. At the bottom of page one is a section to be completed by a licensed California Notary Public as required by Penal Code section 30105, subdivision (c).

The form must also be signed under penalty of perjury. This is necessary to help ensure the information provided is true and correct, and to deter misrepresentations and submission of false information.

Page two and page three contain application instructions. These instructions include submission requirements and also explain what additional documentation is necessary if the applicant has a "FEDERAL LIMITS APPLY" driver license or identification card. This information is necessary so an applicant can fill out the form completely and avoid delay in processing the form, or potential return of the form for lack of information.

Page three also alerts the applicant that a \$20 fee (set by Penal Code section 30105, subdivision (b)) must accompany the form. This is necessary to inform an applicant what the fee is for this eligibility check.

Page four of this form include the Department's privacy notice as required by Civil Code section 1798.17. This is necessary to inform applicants what may be done with their personal information.

#### Subdivision (e)

Subdivision (e) describes the applications and reports submitted electronically through the Department's CFARS that require an eligibility check. 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)

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.

This subdivision also requires firearm dealers and ammunition vendors that submit applications and reports pursuant to this subdivision to keep copies of any "FEDERAL LIMITS APPLY" driver license or identification cards and any supporting documents proving lawful presence. This is necessary in order for the Department to confirm compliance with the law when conducting routine inspections and further ensures that firearms and ammunition are not being sold or transferred to unauthorized individuals

### Subdivision (g)

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.

## **Chapter 7. Dangerous Weapons**

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

§ 4142. Application Forms.

Subdivisions (a) and (b) of this section were revised to update the form revision date. The forms were revised to include instructions regarding the additional documentation necessary to establish lawful presence in the United States for an individual who possesses a California driver license or identification card with the words “FEDERAL LIMITS APPLY.” This is necessary to ensure that the form revision date is consistent throughout Division 5 of the California Code of Regulations so that an individual seeking one of the forms listed will use the correct version of the form.

## **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.

Subdivision (b) of this section was revised to include the most recent revision date of the Firearm Ownership Form, BOF 4542A. This form was revised to include instructions regarding the additional documentation necessary if the individual possess a California driver license or identification card with the words “FEDERAL LIMITS APPLY” at the top, as well as other items previously mentioned. This is necessary to ensure that the form revision date is consistent throughout Division 5 of the California Code of Regulations so that an individual seeking this form will use the correct version.

### **Economic Impact Assessment**

#### **Impacts on Jobs/New Businesses:**

The Department has determined it is unlikely the proposed regulations will affect: (1) the creation or elimination of permanent jobs within California; (2) the creation of new businesses or the elimination of existing businesses within California; or (3) the expansion of businesses currently doing business within California. This determination is based on the fact that because California already requires background checks to purchase a firearm, the number of firearm purchases statewide will not likely be affected by a minor change to the background check process. Also, it is likely that the number of California residents who opt to obtain a REAL ID will continue to increase in the future, negating the requirement for additional documentation.

**Health and Welfare of California Residents:**

The Department determined that the proposed actions will protect the health, safety, and general welfare of California residents by providing an additional safeguard to ensure firearms and ammunition do not fall into the hands of prohibited persons.

**Worker Safety:**

The Department determined that the proposed action will not affect worker safety because it has nothing to do with working conditions or worker safety issues.

**State's Environment:**

The Department determined that the proposed action may result in more use of paper when applicants provide paper forms of proof of lawful U.S. presence.

**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, 2018.

**Evidence Supporting Determination of No Significant Statewide Adverse Economic Impact Directly Affecting Business**

The Department has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This determination is based on the fact that because California already requires background checks to purchase a firearm, the number of firearm purchases statewide will not likely be affected by a minor change to the background check process. Also, it is likely that the number of California residents who opt to obtain a REAL ID will continue to increase in the future, negating the requirement for additional documentation.

**Reasonable Alternatives**

No reasonable alternative has been identified and brought to the attention of the Department or otherwise considered by the Department, that would be more effective in carrying out the purpose for which this action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective implementing the statutory policy or other provisions of law.

No other reasonable alternatives were presented to, or considered by, the Department that would lessen any adverse impact on small businesses.

**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 not duplicative and do not pose a conflict with federal regulations.

**Mandates or Prescriptive Standards**

The proposed regulations do not impose the use of specific technologies or equipment. The proposed regulations do prescribe a specific procedure by requiring additional documentation to prove lawful U.S. presence if an applicant presents a California driver license or identification card with the words “FEDERAL LIMITS APPLY” in a transaction regulated by the Bureau of Firearms. This prescriptive standard is necessary to ensure that firearms and ammunition do not fall into the hands of prohibited persons. But the Department provides several different options to the applicant regarding the type of documentation that can be used to prove lawful U.S. presence.

**Mandate on Local Agencies or School Districts**

The Department determined the proposed 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 regulations.

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

None.

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

STD. 399 (REV. 12/2013)

**ECONOMIC IMPACT STATEMENT**

DEPARTMENT NAME Justice	CONTACT PERSON Kamran Ali	EMAIL ADDRESS kamran.ali@doj.ca.gov	TELEPHONE NUMBER 916-210-2353
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 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.*

2. The Department of Justice 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: 0

Describe the types of businesses (Include nonprofits): N/A

Enter the number or percentage of total businesses impacted that are small businesses: N/A

4. Enter the number of businesses that will be created: 0 eliminated: 0

Explain: N/A

5. Indicate the geographic extent of impacts:  Statewide  
 Local or regional (List areas): \_\_\_\_\_

6. Enter the number of jobs created: 0 and eliminated: 0

Describe the types of jobs or occupations impacted: N/A

7. 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/Aa. Initial costs for a small business: \$ N/A Annual ongoing costs: \$ N/A Years: N/Ab. Initial costs for a typical business: \$ N/A Annual ongoing costs: \$ N/A Years: N/Ac. Initial costs for an individual: \$ See Attachment A Annual ongoing costs: \$ See Attachment A Years: N/Ad. Describe other economic costs that may occur: N/A2. If multiple industries are impacted, enter the share of total costs for each industry: N/A3. 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/A4. 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  NOExplain 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? \$ Unknown4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: N/A**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. Additionally, there is no alternative to increasing fees, and the Department is authorized by statute to increase them.

**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: \$ Unknown

Alternative 1: Benefit: \$ Unknown Cost: \$ Unknown

Alternative 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 The forms BOF 051 and BOF 116 are funded through fees authorized pursuant to Penal Code sections 29510, and 30105. See Attachment A.

**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)

\$ \_\_\_\_\_

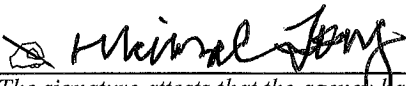
2. Savings in the current State Fiscal Year. (Approximate)

\$ \_\_\_\_\_

3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.

4. Other. Explain \_\_\_\_\_

FISCAL OFFICER SIGNATURE



DATE

12/6/19

*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

12/6/19

*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

**ATTACHMENT A**  
**Ammunition Purchases or Transfers**  
**Economic and Fiscal Impact Statement (Regulations and Orders)**  
**STD. 399**

**Economic Impact Statement, Section B. Question 1.**

The initial and annual ongoing costs for an individual will depend on what type of form or report they are using, and how many times they submit it for the specified action.

The Entertainment Firearms Permit fee is set in Penal Code section 29510 at \$104 for an initial application, and \$29 for a renewal application.

The Personal Firearms Eligibility Check form fee is set at \$20 in Penal Code section 30105, subdivision (b).

**Economic Impact Statement, Section B. Question 5.**

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 as a result of unlawful 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."

**Fiscal Impact Statement, Section B. Question 4.**

The regulations incorporate two new forms that require the payment of fees to offset Department costs to process the forms.

The Entertainment Firearms Permit fee is set in Penal Code section 29510 at \$104 for an initial application, and \$29 for a renewal application. The Penal Code also notes that of the initial application fee of \$104, \$56 shall be deposited into the Fingerprint Fee Account, and only \$48 shall be deposited into the Dealers' Record of Sale (DROS) account.

The processing costs for the initial application was determined by analyzing the average time it takes to review an application. It takes a Staff Services Analyst roughly 80 minutes to process an initial application, which includes reviewing the application for accuracy and completeness as well as potentially contacting the applicant if any of the required fields are missing any information. At an average hourly rate of \$39, it costs the Department about \$50.67 to process the application.

The processing costs for the renewal application was determined by analyzing the average time it takes to review an application. It takes a Staff Services Analyst slightly less time to process a renewal application (about 70 minutes) due to renewal applicants being more familiar with the process and potentially having less information missing from the form. At an average hourly rate of \$39, it costs the Department about \$43.67 to process the application. As is indicated by the chart below, the revenue generated by the fee and designated to the Bureau of Firearms does not exceed the approximate costs to process the forms.

**Entertainment Firearms Permit (BOF 051)**

Form	Average Number Received Per Year	BOF Portion of Fee	Total Revenue Received	Processing Cost Per Form	Total Cost to Process
Initial Application	94	\$48	\$ 4,512	\$50.67	\$4,763
Renewal Application	404	\$29	\$11,716	\$43.52	\$17,582
		<b>Total:</b>	<b>\$16,228</b>		<b>\$22,345</b>

The Personal Firearms Eligibility Check (PFEC) form fee is set at \$20 in Penal Code section 30105, subdivision (b). The Department receives about 3,000 forms per year total. Eighty-five percent of the forms are routine to process and take roughly 15 minutes to complete. The Criminal Identification Specialist III assigned to conduct the PFEC and determine if the applicant is not prohibited from purchasing a firearm has an average hourly rate of \$41.75. At this rate, the total costs for processing a regular form is \$10.50.

The remaining fifteen percent of applications are more difficult to process. The Department determined this fifteen percent rate by examining the historical data on the number of forms received over the last three years. Along with this data, the Department utilized staff knowledge and expertise and determined that roughly fifteen percent of forms require additional work hours to determine firearm ownership eligibility. This includes spending several hours trying to obtain outside information from courts, law enforcement agencies, and/or district attorney’s offices to determine the disposition of an arrest. The amount of time to process the more difficult forms can vary depending on the circumstances. This can take anywhere from five hours to more than 40 hours in some cases. As a whole, the revenue generated by the fee does not exceed the approximate costs to process the forms. The remaining costs to process the PFEC form are paid for through the Dealer Record of Sale fee under Penal Code section 28225, subdivision (a)(11). (Penal Code section 28233 effective January 1, 2020.)

**Personal Firearms Eligibility Check (PFEC) (BOF 116)**

Form	Average Number Received Per Year	Current Fee	Total Revenue Received	Processing Cost Per Form	Total Cost to Process
PFEC regular (85%)	2,550	\$20	\$ 51,000	\$10.50	\$ 26,775
PFEC difficult (15%)	450	\$20	\$ 9,000	\$209 - \$1,670	\$94,050 - \$751,500
		<b>Total :</b>	<b>\$ 60,000</b>		<b>\$120,825 - \$775,275</b>

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

<b>OAL FILE NUMBERS</b>	NOTICE FILE NUMBER <b>Z-2019-12-10-06</b>	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
RECEIVED DATE <b>DEC 10 '19</b>		PUBLICATION DATE <b>DEC 20 '19</b>	
Office of Administrative Law			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY DEPARTMENT OF JUSTICE			AGENCY FILE NUMBER (If any)

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

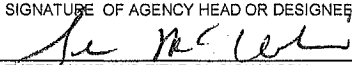
1. SUBJECT OF NOTICE <b>FIREARMS &amp; AMMO ELIGIBILITY CHECK</b>		TITLE(S) <b>11</b>	FIRST SECTION AFFECTED <b>4002</b>	2. REQUESTED PUBLICATION DATE <b>DECEMBER 20, 2019</b>	
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON <b>Julia Zuffelato</b>		TELEPHONE NUMBER <b>(916) 210-6040</b>	FAX NUMBER (Optional)
<b>OAL USE ONLY</b>		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)		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		
	AMEND		
	REPEAL		
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<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"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Other (Specify) _____		
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)			
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 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	TELEPHONE NUMBER	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional)

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.

For use by Office of Administrative Law (OAL) only

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE <b>12/10/2019</b>
TYPED NAME AND TITLE OF SIGNATORY <b>SEAN McCLUSKIE, Chief Deputy to the Attorney General</b>	