

INITIAL STATEMENT OF REASONS

PROBLEM STATEMENT

In order to assist in the investigation of crime, the prosecution of civil actions by city attorneys, the arrest and prosecution of criminals, and the recovery of lost, stolen, or found property, the Attorney General is charged with keeping, properly filing, and managing complete records pertaining to certain firearm related data. (See Pen. Code, § 11106.) Currently there is no mechanism by which an individual can access and update his or her Automated Firearms System (“AFS”) records. The Department has determined that maintenance of this data will be facilitated by the creation of a process allowing an individual to update portions of this data to keep it current. The recent passage of laws concerning the purchase of ammunition underscore the need for, and the benefits of, such a system.

ANTICIPATED BENEFITS

The anticipated benefit of the proposed regulations is that they will provide a convenient and secure way for an individual to keep his or her firearms-related information current with the Department. These regulations establish the process an individual can use to update an AFS record. That, in turn, will facilitate the purchase of ammunition and the management of firearm ownership information.

PURPOSE & NECESSITY

§ 4350. Title and Scope.

This regulation identifies the title and scope of the new chapter—Chapter 13, named “The Department of Justice Regulations for Automated Firearms System Information Updates.” This regulation is necessary to identify the title and explain the scope, which encompasses the process and information required for an individual to update an AFS record.

§ 4351. Purpose.

This regulation advises an individual how to update electronically one or more AFS records through the California Firearms Application Reporting System (CFARS) so that his or her personal information remains current. This section is necessary to advise an individual when and how they can update his or her personal information located in AFS, and what information may be updated.

§ 4352. Privacy Notice Requirements.

Subdivisions (a)(1) through (5) specify that an individual must agree to the Department’s Privacy Notice before an AFS record can be updated. The privacy notice was included in the regulations since the application is submitted electronically through CFARS. This regulation is necessary to inform an individual of the Department’s privacy policy.

§ 4353. Updating AFS Records.

Subdivision (a) establishes that before an individual can electronically update one or more AFS records, the individual must create a CFARS account. This regulation is necessary because an individual can only update an AFS record from his or her CFARS account. The CFARS account allows the individual to update their AFS record through a secure website.

Subdivision (b) clarifies that an individual shall provide his or her current personal information. This subdivision is necessary because this is the information that will be applied to each AFS record found.

Subdivisions (c) and (d) specify the individual shall provide his or her previous personal and firearm information from when the firearm(s) was purchased. This is necessary because the previous personal information along with the firearm information will be used to locate the AFS record within AFS that requires an update.

Subdivision (e) further specifies that an individual may add more firearms by providing additional firearm identifying information. This will allow an individual to find an additional AFS record that can be updated to match his or her current personal information. There is no limit to how many firearms an individual can include in an AFS record update. This subdivision is necessary because an individual may decide to update multiple AFS records.

Subdivisions (f)(1) through (3) prompts an individual to provide specific documentation to justify an AFS record update. These subdivisions are necessary because this documentation justifies the need for the AFS record to be updated.

Subdivision (g) establishes that an individual shall declare under penalty of perjury under the laws of the state of California that they have provided truthful information. This subdivision is necessary to ensure an individual provides truthful information in order to update an AFS record.

Subdivision (h) explains that once an individual has provided the necessary information for an AFS record update, the information will then be submitted. This subdivision is necessary because this information is required to update an AFS record.

Subdivision (i) explains the Department shall either approve or reject an individual's request to update one or more AFS records and notify the user of the approval or rejection via electronic email. This subdivision is necessary because an AFS record update that pertains to a change of name, date of birth, identification type and number is not automatic, and will be verified by the Department. In addition, the individual needs to understand where the Department's determination for an AFS record update will be made available.

AUTHORITY AND REFERENCE

Authority: Sections 11106, and 30370, Penal Code.

Reference: Sections 11106, and 30370, Penal Code; 1798.17, Civil Code.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

Department staff relied upon their experience and expertise when writing these proposed regulations. The Department did not rely upon technical, theoretical, or empirical studies or reports in proposing the amendments to these regulations.

ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Department determines that these regulations will not have a significant impact on the creation or elimination of jobs within California because the new AFS record update system only pertains to individuals with firearm-related information – not to businesses. The Department will be required to hire personnel to verify an individual has provided the necessary documentation for an AFS record update.

The Department determines that these regulations will not have a significant impact on the creation of new businesses or elimination of existing businesses or affect the expansion of businesses currently doing business in California because the new AFS record update system only pertains to individuals with firearm-related information – not to businesses.

Finally, these proposed regulations, and the system to which they pertain, are beneficial to both the individual user and the Department. Providing direct access to some of an individual's firearms-related information for the purpose of keeping it current makes the editing process easier, faster, more efficient, and less costly.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Department finds that these regulations would not have statewide adverse economic impact on businesses because these regulations only provide individuals the ability to update an AFS record.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES

No other reasonable alternatives were presented to, or considered by, the Department that would be either more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESSES, AND THE AGENCY'S REASONS FOR REJECTING THEM

No other reasonable alternatives were presented to, or considered by, the Department that would be either more effective in carrying out the purpose for which the action is proposed, or would be

as effective and less burdensome.

DUPLICATION OR CONFLICT WITH FEDERAL REGULATIONS

The Department determines that these regulations are not duplicative or pose a conflict with federal regulations.