

NOTICE OF PROPOSED RULEMAKING

Notice to be published on September 21, 2018

The Department of Justice (Department) proposes to adopt sections 4350 through 4353, of Title 11, Division 5, Chapter 13, of the California Code of Regulations. Chapter 13 is titled “Automated Firearms System Information Updates.” Commencing on or before July 1, 2019, this new chapter establishes the process whereby an individual may update an Automated Firearms System (AFS) record with the Department.

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 November 7th, 2018. Only comments received by that time will be considered. Written comments must be submitted to:

Jessie Romine
Bureau of Firearms
Division of Law Enforcement
Department of Justice
P.O. Box 160487
Sacramento, CA 95816-0487
Phone: 916-227-4217
Email: AFSregs@doj.ca.gov

AUTHORITY AND REFERENCE

Authority: Sections 11106, and 30370, Penal Code.

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

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

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 and properly filing and managing complete records pertaining to certain firearm related data. (See Pen. Code, § 11106.) The Department has determined that maintenance of this data will be facilitated by the creation of a process allowing

an individual to access certain 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.

The California Code of Regulations, Title 11, Division 5, Chapter 13, adds the following provisions:

Section 4350 specifies the title and scope of the new Chapter, the regulation for how an individual may update his or her AFS record with the Department.

Section 4351 specifies that a California resident can electronically update one or more AFS records through CFARS to match his or her current personal information.

Section 4352 informs the individual of the Department's Privacy Notice and requires the individual to agree to the release of the individual's personal information to representatives of the Department in order for the Department to process an AFS record update.

Section 4353 specifies the information that an individual shall enter into the California Firearms CFARS in order to update an AFS record with the Department.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

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

EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

Pursuant to Government Code 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 determined that these proposed regulations are not inconsistent or incompatible. This determination is based on the fact that there are no regulations currently existing which address the same process.

COMPARABLE FEDERAL REGULATIONS

The proposed regulations are not mandated by federal statute or regulation.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies or school districts: None.

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

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.

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 has determined that the proposed regulation will not affect the creation or elimination of businesses because the new AFS update system only pertains to individuals with firearm-related information – not to businesses.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Assessment regarding effect on jobs/businesses. Adoption of the proposed regulations will not:

- (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 Department's determination on items (1) through (3) is based on the fact that the new AFS update system only pertains to individuals with firearm-related information – not to businesses.

(4) Benefits of the Proposed Regulation: The anticipated benefits of the proposed regulations are that they will help provide a convenient, inexpensive, and secure way for an individual to keep his or her firearms-related information current with the Department. That, in turn, will facilitate the purchase of ammunition and the management of firearm ownership information.

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 or during the written comment period.

CONTACT PERSONS

Please direct inquiries concerning the proposed administrative action to:

Jessie Romine
Bureau of Firearms
Division of Law Enforcement
Department of Justice
P.O. Box 160487
Sacramento, CA 95816-0487
Phone: (916) 227-4217
Email: AFSregs@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
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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 Jessie Romine.

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 Jessie Romine.

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 Jessie Romine.

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>.