

INITIAL STATEMENT OF REASONS
ADDENDUM
[OAL File No. 2019-0110-05S]

The following addendum clarifies necessity for the listed sections proposed for adoption in these regulations.

The proposed regulations for Chapter 3. Certificates of Eligibility explain the current application process and requirements for obtaining a Certificate of Eligibility (COE) with the Department.

NECESSITY

§ 4035. Applicant Information

New subdivision (b)(3)(A) was added to inform the applicant that they are certifying under penalty of perjury that the information they are submitting is true and accurate. The Department requires this be certified under penalty of perjury because a person who has a COE is able to sell firearms and ammunition. A person is required to certify their information is true and accurate under penalty of perjury when purchasing a firearm and, on the opposite end, a person obtaining a COE to sell firearms or ammunition needs to have the same burden since they have an inventory of firearms and ammunition at their disposal. The Department also requires certifying under penalty of perjury so that the applicant knows that if they perjure themselves there will be consequences.

Furthermore, the end of this subdivision states that furnishing incorrect information that is required on the application can result in a misdemeanor violation. Therefore, the applicant is certifying that if they provide false information they may be guilty of a misdemeanor. The Department has realized that a person certifying that they could be guilty of a misdemeanor could be an admission of guilt without due process. The Department has revised this language to inform the applicant that they may suffer legal consequences if they are not truthful.

§ 4036. Modifications to Applicant Information

New subdivision (b)(1)(B)(i) was added to demonstrate that a COE holder must agree the information they are providing is certified under penalty of perjury when they are terminating employment from a California Firearms Dealer (CFD) or California Ammunition Vendor (CAV). The Department requires the “Report of Termination of Employment” be certified under penalty of perjury because a person who has a COE is able to sell and handle firearms and ammunition. While an individual still possesses a valid COE, when they make a Report of Termination to the Department that they no longer work for a particular CFD or CAV, they become disassociated with the employer’s COE. This means that their employer will no longer receive notifications if the employee’s COE is expired, renewed, or revoked. Additionally, an employee may be arrested, or have a prohibiting factor that could result in the revocation of their COE and, in turn, the termination of their employment. Since their employer receives notifications regarding status of their employees’ COEs, an employee could report to the

Department that they no longer work for a particular CFD or CAV, thereby maintaining their employment unlawfully.

New subdivision (b)(2)(B)(i) was added to demonstrate that a CFD or CAV must agree the information they are providing is certified under penalty of perjury when they are terminating the employment of an employee. The Department requires the "Report of Termination of Employment" be certified under penalty of perjury because a person who has a COE is able to sell and handle firearms and ammunition. While an individual has their own COE, they are also associated to the COE of their employer. The employer will receive notifications regarding the renewal, expiration, and revocation of the COE's belonging to their employees. The "Report of Termination of Employment" will separate the association of an employee to the employer's COE and the employer will no longer receive these notifications. Additionally, with this statement, the employee is also certifying that they are the authorized licensee with which to perform the action of the "Report of Termination of Employment."

§ 4037. Renewal of Certificate

New subdivision (e) specifies that applicants attempting to renew a COE 90 days after the certificate expiration shall resubmit fingerprints to the Department and subsequently submit a new COE application. This Department receives subsequent arrest notifications for all COE holders (to ensure they have not become prohibited). Most COE holders renew their certificate prior to its expiration. The Department decided that if a COE holder let their certificate expire and did not renew within 90 days it was likely they did not plan to renew at all. Therefore, the Department would be able to move forward with submitting a "No Longer Interested" to the Department's Bureau of Criminal Information and Analysis (BCIA) so that the Bureau of Firearms (Bureau) would no longer receive subsequent arrest notifications for those individuals.

The Department incorporated this into their process. After 91 days, a No Longer Interested email is sent to BCIA listing everyone who has an expired COE of 91 days or more. Once BCIA processes the No Longer Interested request, the Bureau no longer receives the subsequent arrest notifications. A timeframe is also set because if an individual does not renew their COE the Department no longer has authority to receive the subsequent arrest notifications.

In order for the Bureau to start the process of receiving subsequent arrest notifications again, the former COE holders must resubmit a new application and new live scan. It is imperative the Department receives subsequent arrest notifications on COE holders so we aware if they become prohibited during the year.