

NOTICE OF PROPOSED RULEMAKING

The Department of Justice (DOJ) proposes to add sections 4200, 4210, 4220, 4230, and 4240 to Title 11, Division 5, Chapter 1, of the California Code of Regulations (CCR) concerning the DROS (Dealer's Record of Sale) Entry System (DES) after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

DOJ will hold a public hearing to receive public comments on the proposed regulatory action at 1:00 p.m. on September 24, 2013, at the Department of Water Resources Auditorium located at 1416 9th Street, in Sacramento, California. The auditorium is wheelchair accessible. At the hearing, any person may present oral or written comments regarding the proposed regulatory action. DOJ requests, but does not require, that persons making oral comments at the hearing also submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action. The written comment period closes at 5:00 p.m. on September 24, 2013. Only comments received by that time will be considered. Submit comments to:

Jeff Amador
Department of Justice
P.O. Box 160487
Sacramento, CA 95816-0487
Email: jeff.amador@doj.ca.gov

AUTHORITY AND REFERENCE

Authority: Penal Code sections 28105, 28155, 28205, and 28225; *Mineral Associations Coalition v. State Mining and Geology Bd.* (2006) 138 Cal.App.4th 574, 589
Reference: Penal Code sections 26815, 27540, 28105, 28155, 28160, 28205, 28220, and 28225; *Mineral Associations Coalition v. State Mining and Geology Bd.* (2006) 138 Cal.App.4th 574, 589

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing Laws and Regulations

Penal Code sections 28105, 28155, and 28225 authorize DOJ to establish the process by which licensed firearms dealers electronically submit DROS information to DOJ.

Effect of the Proposed Rulemaking

Currently, DOJ has contracted with Verizon Business Services to facilitate the electronic transfer of DROS information to DOJ and to collect DROS fees from licensed firearms dealers. The

current contract with Verizon ends on December 31, 2013 and will not be renewed. Following adoption of the proposed regulations, commencing January 1, 2014, DOJ will implement the DES for the submission/collection of DROS information submitted to DOJ by firearms dealers.

The proposed regulations (1) identify the title and scope of the chapter (2) specify the Terms of Use and the information that must be provided by DES users, (3) establish the responsibility of the firearms dealership to acquire and maintain the device(s) and software needed to access the internet and interface with DES, (4) specify the process of delivering a firearm following submission of a DROS, and (5) describe the billing and payment process and establish that a firearms dealership's access to DES will be suspended for non-payment.

Comparable Federal Regulations

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

Anticipated Benefits of the Proposed Regulations

By assuming the responsibilities previously contracted out to Verizon Business Services, DOJ will save approximately \$5.2 million dollars over 30 months. The savings will be re-directed to DOJ law enforcement activities in support of the Armed Prohibited Persons System (APPS) as statutorily authorized.

The proposed regulations establish a more efficient system for firearms dealerships to submit DROS information to DOJ. DES will allow firearms dealers to determine which employees are authorized to use the DES and decide which DES functions those employees are able to access. DES also provides enhanced procedural safeguards for firearms dealers to prevent improper delivery of firearms. Reducing the possibility of firearms being released to persons who are prohibited from owning or possessing will benefit the health and welfare of all California residents.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

DOJ has evaluated the proposed regulations and determined they are consistent and compatible with existing regulations. This determination is based on the fact that there are no existing regulations that address the subject matter of the proposed regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

DOJ has made the following initial determinations:

Significant, Statewide Adverse Economic Impact Directly Affecting Business, including the Ability of California Businesses to Compete with Businesses in Other States: None.

Business Report: None.

Small Business Determination: DOJ has determined the proposed regulations will not affect small business because the proposed regulations do not change the DROS fee.

Cost Impacts on a Representative Person or Business: DOJ is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulations.

Significant Effect on Housing Costs: None.

Mandate on Local Agencies or School Districts: None.

Cost to Any Local Agency or School District which must 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: Estimated DOJ savings of approximately \$5.2 million from January 1, 2014 through June 30, 2016 as follows:

	<u>FY 2013/2014*</u>	<u>FY 2014/2015</u>	<u>FY 2015/2016</u>	<u>TOTAL</u>
DROS Volume Projections	706,520	1,225,061	1,225,061	3,156,642
Current Transmission Cost (Verizon) per DROS Transaction	\$3.53	\$3.53	\$3.53	
DOJ Transmission Cost per DROS Transaction - In House**	\$2.18	\$1.78	\$1.78	
DOJ Savings per DROS Transaction - In House**	\$1.35	\$1.75	\$1.75	
DOJ Savings	\$953,802	\$2,143,857	\$2,143,857	\$5,241,516

*Fiscal Year 2013/2014 consists of the 6-month period from 01/01/2014 through 06/30/2014.

**Effective 01/01/14, DOJ will assume the duties currently contracted through Verizon Business Services.

***The DOJ transmission cost per transaction is higher in FY 2013/2014 due to the need for staff to be hired and trained prior to the actual 01/01/14 implementation date.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Proposed Regulations will not Affect:

1. The creation or elimination of jobs within California.
2. The creation of new businesses or the elimination of existing businesses within California.
3. The expansion of businesses currently doing business within California.

Benefits of the Proposed Regulations

By assuming the responsibilities previously contracted out to Verizon Business Services, DOJ will save approximately \$5.2 million dollars over 30 months. The savings will be re-directed to DOJ law enforcement activities in support of the Armed Prohibited Persons System (APPS) as statutorily authorized.

The proposed regulations establish a more efficient system for firearms dealerships to submit DROS information to DOJ. DES will allow firearms dealers to determine which employees are authorized to use the DES and decide which DES functions those employees are able to access. DES also provides enhanced procedural safeguards for firearms dealers to prevent improper delivery of firearms. Reducing the possibility of firearms being released to persons who are prohibited from owning or possessing will benefit the health and welfare of all California residents.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), DOJ must determine that no reasonable alternative was considered, or has been identified and brought to the attention of DOJ would be more effective in carrying out the purpose for which the 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 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

Inquiries concerning the proposed administrative action may be directed to:

Jeff Amador
Department of Justice
Bureau of Firearms
P.O. Box 160487
Sacramento, CA 95816-0487
Email: jeff.amador@doj.ca.gov
Telephone: (916) 227-4217

The back up contact person for these inquiries is:

Kathy Chipman
Department of Justice
Bureau of Firearms
P.O. Box 160487
Sacramento, CA 95816-0487
Email: kathy.chipman@doj.ca.gov
Telephone: (916) 227-4013

Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Kathy Chipman at the above address.

AVAILABILITY OF RULEMAKING FILE INCLUDING THE INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

DOJ will have the entire rulemaking file available for inspection and copying throughout the rulemaking process. The text of the proposed regulations, the initial statement of reasons and the information upon which the proposed rulemaking is based are available on the DOJ website at <http://oag.ca.gov/firearms>. Copies may also be obtained by contacting Jeff Amador.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

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

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon completion, the Final Statement of Reasons will be available on the DOJ website at <http://oag.ca.gov/firearms>. You may also obtain a written copy of the Final Statement of Reasons by contacting Jeff Amador.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in *strikeout and italics* format, as well as the Final Statement of Reasons once completed, are available on the DOJ website at <http://oag.ca.gov/firearms>.