INITIAL STATEMENT OF REASONS

Specific purpose of the regulations

The purpose of these regulations is to adjust the Department of Justice (DOJ) fee for processing firearms purchase/transfer applications commonly referred to in statute as Dealer's Record of Sale (DROS). The proposed regulations lower the current $19 DROS fee to $14, commensurate with the actual cost of processing a DROS. The proposed regulations would also establish a process for DOJ to administratively adjust the DROS fee.

Factual basis

DOJ is statutorily authorized to charge a fee to cover its costs for processing Dealer's Records of Sale (DROS). The fees are collected by firearms dealers, from firearm purchasers/transferees and are subsequently submitted to DOJ.

The current DROS fee was set back in November 2004 at $19, which at the time was believed to be sufficient to cover the cost of the program and maintained an acceptable level of reserve in the DROS account. The estimate of $19 was based on reviewing the totals from previous year's firearm sales and calculations of anticipated sales within the state. DOJ recently completed a review of the revenues into and expenditures out of the DROS account, and the total number of firearm sales between 2007 and present date. The analysis revealed that the projected gun sale amounts relied upon back in 2004 to set the DROS fee at $19, were much lower than the actual total of gun sales realized.

Over the past three fiscal years there has been a 30 percent increase in DROS volume. In fiscal year (FY) 06/07 DOJ processed 367,494 DROS compared to 479,772 DROS processed in FY 08/09. The "economy of scale" dictates that the processing cost per DROS decreases as the volume increases. Going back even further, a comparison between FY 03/04 and FY 08/09 reveals a 60 percent increase in DROS volume which demonstrates the extreme volatility in the firearms market and DROS processing costs. DROS volume is extremely difficult to predict and is driven by a variety of factors including civil unrest, natural disasters, crime rates, proposed legislation, and the economy. For example, the Los Angeles riots contributed to an increase in DROS volume to 559,608 in 1992 and a record level of 642,197 the following year. In comparison, in calendar year 2003 the DROS volume dipped to an all-time low of 290,376.

In processing a DROS, DOJ must conduct a Basic Firearms Eligibility Check (BFEC) to ensure that subjects are not prohibited from owning/possessing firearms pursuant to Penal Code sections 12021 and 12021.1, Welfare and Institutions Code sections 8100 and 8103, and Title 18 of the United States Code, section 922, subdivision (t). Depending on various factors, a BFEC may be processed programmatically by the Consolidated Firearms Information System (CFIS) or it may require a more time consuming manual review which is conducted by BOF staff. The percentage of DROS that require a manual review has decreased slightly in recent years due to minor system/program enhancements. Consequently, within the past three fiscal years, although the volume of DROS transactions has increased, the average time spent on each DROS, and thus the processing cost, has decreased. Based on the increased level of gun sales, achieved savings in conducting firearms eligibility background checks, and the increases in the revenue reserves

within the DROS account, DOJ is proposing to reduce the DROS fee from $19 to $14. The proposed fee reduction will begin reducing the revenue level in the DROS account and more closely align the program's cost with its revenue source in the future.

Because of the aforementioned volatility in firearm sales and DROS volume from year to year, the process proposed by DOJ for the administrative adjustment of the DROS fee, would require the department to review its DROS revenues and DROS-related expenses at the end of each fiscal year to determine whether it is necessary to adjust the DROS fee. By November 1, 2010 and by November 1st each year thereafter, the department shall publish its determination on the DOJ public website. If the department determines it is necessary to administratively adjust the DROS fee, the department shall provide notice of the amount and date of the adjustment at least 30 days before the adjustment takes effect to all interested parties.

Technical, theoretical, and/or empirical study, report or documents

DOJ did not rely upon any technical, theoretical, or empirical studies, reports, or documents in proposing the adoption of the amended regulations.

Specific technologies and new equipment

These regulations do not mandate the use of specific technologies or new equipment.

Reasonable Alternatives to the Regulations and the Agency's Reasons for Rejecting Them

No other reasonable alternatives were presented to or considered by DOJ 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

DOJ finds that the proposed regulations would not have an adverse impact on small businesses.

Evidence Supporting Finding of No Significant Adverse Economic Impact on Any Business

DOJ determined the proposed regulations will not have a significant adverse economic impact. On the contrary, the proposed regulations may have a positive economic impact on firearms dealers in the form of increased firearm sales due to the $5 decrease in the DROS fee.