

INITIAL STATEMENT OF REASONS

Pursuant to Penal Code sections 28105, 28155, 28205, and 28225, the Department of Justice (DOJ) is authorized to establish the process by which licensed firearms dealers submit electronic DROS (Dealer's Record of Sale) information to DOJ. Beginning January 1, 2014, following the adoption and approval of the proposed regulations, DOJ will implement the DROS Entry System (DES) for the electronic submission/collection of DROS information.

Problem Addressed by the Proposed Regulations

Currently, DOJ has contracted with Verizon to facilitate the electronic transfer of DROS information to DOJ. The current contract with Verizon ends on December 31, 2013 and will not be renewed. Beginning January 1, 2014, DOJ will assume the duties previously performed by Verizon as part of DES. Because DES is not yet operational, currently there are no regulations that specify firearms dealerships' operational and billing/payment requirements relative to DES.

Purpose and Necessity

As stated above, DOJ's contract with Verizon Business Services to facilitate the electronic transfer of DROS information ends on December 31, 2013, at which time DOJ will assume those duties through the implementation of the new DES for the submission/collection of DROS information submitted by firearms dealers. Penal Code sections 28105, 28155, 28205, and 28225 authorize DOJ to establish the process by which licensed firearms dealers electronically submit DROS information to DOJ. Accordingly, 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.

Proposed Section 4200 "Title and Scope"

This section denotes the title and specifies the scope of the chapter. The purpose is simply to provide clarity for persons affected by the regulations.

Proposed Section 4210 "Terms of Use and Required Information"

This section establishes the following "Terms of Use" that must be adhered to by DES users:

NON-LIABILITY - Standard non-liability statement to protect DOJ against unreasonable liability claims as DES is incapable of causing damage to user equipment or software.

AUTHORIZATION – Confirmation of users' authority to use DES on behalf of the firearms dealership as the licensed firearms dealer or as an employee of the firearms dealership.

CONFIDENTIALITY AND UNAUTHORIZED USE – Establishes that the dealership is responsible for protecting the confidentiality of the individual password selected by each of its

users to access DES, and that the dealership will be responsible for paying transaction charges fraudulently incurred on the account of the dealership.

TRANSACTIONS INVOLVING MULTIPLE FIREARMS – Informs DES users that he or she must indicate when a transaction consists of more than one firearm while entering a DROS into DES. If the user does not indicate the transaction consists of more than one firearm prior to submission, another DROS submission fee (\$25) will be required for the additional firearms.

TRUE AND ACCURATE INFORMATION – Statement that information submitted to DOJ through DOJ will be true and accurate. This is necessary to ensure the integrity of information entered into DES regarding the purchase of firearms.

This section also specifies the information that must be provided to establish a DES user account. The information required is necessary to confirm the identity of the DES user as a legitimate dealership COE holder or employee authorized to use DES on behalf of the firearms dealership.

Proposed Section 4220 “System Access”

This section establishes that DROS submission requires use of a web browser that is compatible with the DES application (e.g, Google Chrome, Internet Explorer, Mozilla Firefox, Safari) and that the acquisition and maintenance of equipment and software required to access and interface with DES is the responsibility of each firearms dealership. Pursuant to Penal Code section 28105, DOJ must “develop the standards for all appropriate electronic equipment” needed to effect the transfer of DROS information to the department. This regulation will provide firearms dealers with the information they need to electronically submit DROS.

Proposed Section 4230 “Delivery of Firearms following DROS Submission”

This section informs firearms dealerships that firearms may be delivered to the purchaser or transferee identified on the DROS only after the status of the DES transaction record indicates “Approved.” Upon delivery of the firearm, the firearms dealer or his/her authorized employee must access the DROS record in DES to confirm the date and time the firearm is delivered. This process will dramatically reduce the possibility of a dealer releasing a firearm to a prohibited person by mistake.

Proposed Section 4240 “Billing, Payment, and Suspension for Non-Payment”

Pursuant to Penal Code section 28225, subdivision (d), DOJ must “establish a system to be used for the submission of the fees described in this section to the department.”

This section establishes the DROS billing and payment process for firearms dealerships. Billing statements will be delivered electronically via DES on the first day of each month. Full payment must be made within 30 days using a major credit card or debit card. If payment is not received within 30 days, the firearms dealership’s access to DES will be suspended until full payment for the past due amount is received. While suspended, a dealership will not be able to submit DROS or deliver firearms for which a DROS was previously submitted. All other firearms dealer activities are unaffected by a suspension for non-payment.

Anticipated Benefits from the Regulatory Action

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 DES and decide which DES functions those employees are able to access. This will help ensure both the accuracy and confidentiality of DROS information. DES also provides enhanced procedural safeguards that will dramatically reduce the possibility of a firearms dealership improperly releasing a firearm, thus improving public safety.

The proposed regulations will result in 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.

The estimated \$5.2 million in savings will be re-directed to DOJ law enforcement activities in support of the Armed Prohibited Persons System (APPS) as statutorily authorized.

Economic Impact Assessment

The \$5.2 million in savings described above notwithstanding, DOJ has determined the proposed regulatory action will not have an economic impact on California. This determination is based on the fact that the proposed regulations do not change the current DROS fee nor do they impose any additional costs on firearm dealers or firearm purchasers. Thus, the proposed regulations will not affect:

- The creation or elimination of jobs within California.

- The creation of new businesses or the elimination of existing businesses within California.
- The expansion of businesses currently doing business within California.

Benefits to the Health and Welfare of California Residents, Worker Safety, and the Environment

The proposed regulations establish DES, which provides enhanced procedural safeguards for firearms dealers to prevent the improper delivery of firearms. These procedures benefit the health and welfare of California residents by reducing the possibility of a firearm being released to a person who is prohibited from owning or possessing firearms.

Evidence Supporting Finding of No Significant Statewide Adverse Economic Impact Directly Affecting Business

DOJ has determined that the proposed regulations will not have a significant, statewide, adverse economic impact affecting business because the proposed regulations do not change the current DROS fee and do not impose any additional costs on firearm dealers.

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 regulations in this rulemaking.

Specific Technologies and Equipment

The proposed regulatory action does not mandate the use of specific technologies or equipment beyond that which is currently used by firearms dealerships to submit DROS. In fact, firearms dealerships are currently limited to using the Internet Explorer web browser to submit DROS. Under the proposed regulations, firearms dealers would be able to submit DROS through DES using any of the most common web browsers (e.g, Google Chrome, Internet Explorer, Mozilla Firefox, Safari) that are available to the general public for free.

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

The proposed regulations would not have an adverse impact on small businesses. Therefore, there were no reasonable alternatives that would lessen any adverse impact on small businesses were proposed or considered by DOJ.