

FINAL STATEMENT OF REASONS

UPDATE OF INITIAL STATEMENT OF REASONS

§ 4350. Title and Scope.

The Department of Justice (Department) determined that the Automated Firearms System (AFS) was not clearly explained in the text, so the Department revised this section to include an explanation of what the AFS is and the type of data it contains. The Department also clarified that information can be corrected in addition to being updated. This was necessary to inform firearms owners about what information is populated in the system since matching their current information to their records in the AFS is a key component to purchasing or transferring ammunition. In addition, the name “Automated Firearms System” was removed and replaced with the acronym “AFS,” which was specified in this section. This was necessary to provide consistency throughout the regulations.

§ 4351. Purpose.

The word “card” was added to this section, indicating a “California Identification Card.” This corrects a grammatical error and is a non-substantial change because it clarifies the regulation without materially altering the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.) Additionally, the subdivision of “(a)” was deleted as there is only one subdivision in this section so it is not necessary to identify it. In addition, the statement of “Commencing on or before July 1, 2019,” was deleted. This is unnecessary and redundant due to the July 1, 2019 requested effective date. These are also non-substantial changes because they clarify the regulation without materially altering the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

§ 4352. Privacy Notice Requirements.

Subdivisions (a) and (a)(1) were revised to indicate that records in the AFS could be corrected as well as updated. This was necessary to inform firearms owners about what information is populated in the system, and to inform them that they can correct their information if it is incorrect, since matching their current information to their records in the AFS is a key component to purchasing or transferring ammunition.

In subdivision (a)(1) of this section the statement “for the purchase of ammunition” was removed. This was necessary as the AFS is used for more than just purchasing ammunition and it is important to inform the firearms owners of this so that they ensure their information is correct in the system. In addition, the name “Automated Firearms System” was removed and replaced with the acronym “AFS,” which was specified in a previous section. This was necessary to provide consistency throughout the regulations.

Subdivision (a)(2) was revised to remove "...on this application are mandatory," and replace it with "must be completed." The Department felt this change provided clarity that the sections marked with an asterisk have to be filled out. In addition, the reference to an application when referring to a computerized form or system was unclear. The changes were necessary to provide further clarity on what the individual is agreeing to in the privacy notice requirements.

Subdivision (a)(3) was revised to indicate that records an individual might review are maintained in the Automated Firearms System. It was necessary to add the title of the system to this section because the Department maintains numerous databases of information and wanted it to be clear to the public which system the regulation was noting. This change was necessary to clarify what system holds the records that an individual may be seeking. In addition, the name "Automated Firearms System" was removed and replaced with the acronym "AFS," which was specified in a previous section. This was necessary to provide consistency throughout the regulations.

Subdivision (a)(4) was revised to indicate "The Bureau of Firearms" rather than "We," or "us." The Department made these changes because the terms "we" and "us" can be ambiguous, and indicating which entity is being referred to provides greater clarity.

Subdivision (a)(4)(A) was revised to remove the "s" from "investigations." The Department determined that the sentence was meant to read as if "purposes" at the end of the sentence applied to each of the proceeding list (i.e. investigation purposes, licensing purposes, and so on.) This is a non-substantial change because it clarifies the regulation without materially altering the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

The reference section has been revised to remove section 1798.17 of the Civil Code. This Civil Code section has broad applicability to all state agencies, but this regulation only implements section 1798.17 in a limited context.

§ 4353. Updating AFS Records.

Subdivisions (a) and (f) were revised to indicate that records in the AFS could be corrected as well as updated. This was necessary to inform firearms owners about the information that is populated in the system since matching their current information to their records in the AFS is a key component to purchasing or transferring ammunition. Additionally, the word "they" was replaced with "the individual" to fix a mismatching pronoun.

Subdivision (b) was revised to remove the word "current" before residence. The Department determined this word was redundant as it was previously stated in the same sentence. In addition, the "date of birth" requirement was moved from the end of the sentence to the middle to mirror the language order in subdivision (c). These changes were necessary to provide further clarity. In addition, the department removed "his or her" and replaced it with "the following." The Department determined this was necessary to be more gender neutral. This is a non-substantial change because it clarifies the regulation without materially altering the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

Subdivision (c) was revised to add language to indicate that an individual, when updating an AFS Record, should provide the relevant information from the time when the subject firearm was purchased or transferred into his or her ownership, as it was reported to the Department. This change was necessary as it is important to have the pertinent information from the time of initial reporting so that the system can locate the original record in AFS. In addition, matching firearms owners' current information to their pre-existing records in the AFS is a key component to purchasing or transferring ammunition.

Subdivision (d) was revised to add the words "or transfer" at the end of the first sentence. This change was necessary because an individual does not always acquire a firearm by purchase. An individual might acquire a firearm through a transfer and it was necessary to inform firearms owners this was an option. In addition, the second sentence was modified to remove "will need to" and replace it with "shall." The Department determined this was necessary because "shall" is a stronger term and it was important to inform firearms owners this information is required and is important. Furthermore, at the end of the second sentence, the Department added the word "information" after "serial number." This change was necessary because there is additional information that might accompany a serial number and the Department wanted to indicate it was necessary to capture all of this information.

Subdivision (e) was revised to add the words "purchased or transferred at another time." This was necessary because the Department wanted to make sure firearms owners know that they are able to correct or update records for multiple firearms at the same time.

Subdivision (g) was corrected to capitalize the word "State" as it was referring to the "State of California." This change is solely grammatical in nature and is a non-substantial change because it clarifies the regulation without materially altering the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

Subdivision (h) was revised to remove "The" at the beginning of the sentence and add, "Once the." The Department determined this change was necessary so the sentence would read better and be clearer. In addition, the Department added "and/or supporting documentation." This was necessary to indicate that firearms owners might need additional documents to support what they are reporting to the Department. The words "or correction" were added to indicate that the AFS can also be used to correct an individual's information. In addition, the words "the individual" were added. This was necessary to convey to the reader who was performing the action that is discussed in this subdivision.

Subdivision (i) was revised to indicate that records in the AFS could be corrected as well as updated. This was necessary to inform firearms owners about what information is populated in the system since matching their current information to their records in the AFS is a key component to purchasing or transferring ammunition. In addition, the term "user" was changed to "individual." The Department determined this change was necessary to provide further clarity to the public when reading this regulation.

This proposed regulation is not expected to have any benefit on worker's safety or the state's environment.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE NOTICE PERIOD OF SEPTEMBER 21, 2018 THROUGH NOVEMBER 7, 2018.

The Department did not receive any comments during the public comment period, and therefore, does not have any responses to provide.

COMMENTS RECEIVED DURING THE PERIOD THE MODIFIED TEXT AND CORRECTION TO THE NOTICE OF PROPOSED RULEMAKING WAS AVAILABLE TO THE PUBLIC APRIL 15, 2019 THROUGH APRIL 30, 2019.

The Department did not receive any comments during the 15-day comment period, and therefore, does not have any responses to provide.

LOCAL MANDATE DETERMINATION

The proposed regulations do not impose any mandate on local agencies or school districts.

ALTERNATIVES DETERMINATIONS

The Department has determined that no alternative it considered or that was otherwise identified and brought to its attention 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. The proposed regulations are the only regulatory provisions identified by the Department that accomplish the goal of creating a process that allows an individual to keep his or her firearms-related information current with the Department.

ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

No alternatives were proposed to the Department that would lessen any adverse economic impact on small business.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Department has determined that the proposed regulations will not have a significant, statewide, adverse economic impact affecting business because only individuals rather than businesses will be using Automated Firearms System Information Updates.

NONDUPLICATION

The Department has determined that these regulations are not duplicative in whole or in part of a state or federal statute or regulation.