

INITIAL STATEMENT OF REASONS

PROBLEM STATEMENT

On September 26, 2018, the Legislature passed Senate Bill (SB) 746, amending Penal Code section 29180 to require new California residents to apply for a unique serial number for any self-manufactured or self-assembled firearms they own that do not have a serial number or other mark of identification (Pen. Code, § 29180, subd. (e).) Prior to the enactment of this bill, the Penal Code allowed for current residents to apply for a serial number, but there were no provisions in existing law that addressed new residents to the state bringing in firearms that do not have a serial number or other unique identifying mark. If the Legislature had not enacted this law, new residents would have had no avenue to apply for a unique serial number.

In 2018, prior to the passage of SB 746, the Department adopted Title 11, Division 5, Chapter 41 of the California Code of Regulations, which prescribes a process to apply for a unique serial number for Self-Manufactured or Self-Assembled Firearms. SB 746 requires updates to be made to these regulations in order to include a process for new residents to the state to apply for a unique serial number.

This rulemaking proposes to make permanent, with changes, the emergency regulations approved on July 1, 2019.

BENEFITS

These regulations are beneficial because they address an omission in the existing regulation. Newly enacted SB 746 requires new residents to the state to apply for a unique serial number for firearms that do not already have a serial number. Without these regulations, new residents who already own an untraceable firearm would be unable to apply for a serial number. This omission inhibits the statute's purpose of protecting public safety through reducing the number of untraceable firearms in the state and ensuring that an owner of a self-built firearm is not prohibited from owning or possessing it. The omission also creates risk for new residents who could be arrested and charged with a misdemeanor for possessing an untraceable firearm, and who might have their firearm confiscated by law enforcement. The omission also creates confusion for law enforcement officials and prosecutors who would otherwise have to sort out whether an owner of an untraceable firearm is a new or existing resident.

PURPOSE AND NECESSITY

Throughout this chapter, any article titles that previously had a period at the end have been removed. This is a nonsubstantive change because it does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

Chapter 41. Self-Manufactured or Self-Assembled Firearms.

Purpose: The title of the chapter has been amended.

Necessity: The current title is unnecessarily long and concision provides clarity.

§ 5505. Title and Scope.

Purpose: This section has been amended to include new California residents into the scope of the regulations, and to establish the start date for when new residents are required to apply for a unique serial number.

Necessity: This amendment is necessary in order to identify the individuals who are affected by these regulations, and to comply with Penal Code section 29180, subdivision (e), which mandates that all new residents to the state must apply for a unique serial number starting January 1, 2019 if their firearm does not already have a unique serial number.

§ 5507. Definition of Key Terms.

The subdivisions within this section have been renumbered to accommodate the addition of new terms. This is a nonsubstantive change because it does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

Subdivision (a)

Purpose: Subdivision (a) has been amended. The term “rim fire” has been changed to “rimfire.”

Necessity: This amendment is necessary for clarity. The term “rimfire” is generally spelled as one word within the firearms industry. This is a nonsubstantive change because it does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

Subdivision (c)

Purpose: Subdivision (c) has been amended for consistency with existing Department regulations.

Necessity: This change is necessary in order to be consistent with the other Department regulations, specifically title 11, section 5471, subdivision (d), which also defines “Barrel length.” It would be confusing for the public if the Department used separate definitions for each chapter. The language in subdivision (c) now matches section 5471, subdivision (d).

New Subdivision (d)

Purpose and Necessity: New Subdivision (d) has been added to establish the term “Bolt Action,” which is a generally acknowledged term in the firearms industry and would be familiar to people applying for a unique serial number. This change is necessary because this term will be used in proposed section 5513, subdivision (a)(2)(A), as described below.

To compose this term, the Department used the following sources, as well as expert opinion from staff within the Department: National Rifle Association, “NRA Institute for Legislative Action Glossary,” <https://www.nraila.org/for-the-press/glossary/>, December 6, 2016.

New Subdivision (f)

Purpose and Necessity: New Subdivision (f) has been added to establish the term “Break Top,” which is a generally acknowledged term in the firearms industry and would be familiar to people applying for a unique serial number. This change is necessary because the term will be used in proposed section 5513, subdivision(a)(2)(A), as described below.

To compose this term, the Department used the following source, as well as expert opinion from staff within the Department: U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, “ATF Guidebook – Importation & Verification of Firearms, Ammunition, and Implements of War, Firearms Verification,” <https://www.atf.gov/firearms/firearms-guides/importation-verification-firearms-ammunition-and-implements-war-top-break>, published April 26, 2018.

Renumbered Subdivision (m)

Purpose: Subdivision (m) has been amended to delete the citation to Penal Code section 30105 and instead cite Penal Code section 28220. The additional language “receive, own, or purchase” has been added making the provision consistent with statute.

Necessity: This amendment is necessary in order to define the type of background check a person undergoes when they submit an application for a unique serial number. The current background check conducted under these regulations (pursuant to Penal Code section 30105) is known as a Personal Firearms Eligibility Check, which only checks California databases to determine firearms eligibility. Penal Code section 29182 subdivision (a)(2) and (b)(1), which these regulations implement, was amended by SB 746 and now states that the eligibility check must be conducted pursuant to Penal Code Section 28220, which is known as a Basic Firearms Eligibility Check. A Basic Firearms Eligibility check determines firearms eligibility by checking both state and federal databases for prohibiting offenses and provides a more accurate record in order to determine if a person can legally possess a firearm. A person without any firearms prohibiting offenses in their California record may have been convicted of a such a felony in another state. If this person undergoes a Personal Firearms Eligibility Check, only their California record would be checked and the Department would have no knowledge of the out-of-state prohibiting offense and no way of preventing that person from possessing a firearm or receiving a unique serial number. Under a Basic Firearms Eligibility Check, this same person would have their out-of-state and federal criminal records checked via the National Instant Criminal Background Check (NICS) and would be firearms prohibited. Subsequently, the Department would not issue them a unique serial number because of their felony conviction.

The terms “receive, own or purchase” have been added to the definition of “Firearms Eligibility Check” for consistency with Penal Code section 28220. A firearms eligibility check does not only determine if an applicant can legally possess a firearm, but also receive, own or purchase one.

Renumbered Subdivision (n)

Purpose: Subdivision (n) has been amended for consistency with existing Department regulations.

Necessity: This change is necessary in order to be consistent with other Department regulations, specifically title 11, section 5471, subdivision (u), which also defines “Frame.” It would be

confusing for the public if the Department used separate definitions for each chapter. The language in subdivision (n) now matches section 5471, subdivision (u).

New Subdivision (r)

Purpose and Necessity: Subdivision (r) has been added to clarify that “other mark of identification” means the same thing as subdivision (z) “Unique Serial Number.” Penal Code section 29180 allows for both unique serial numbers and “other marks of identification” to be issued by the Department. The Department has determined that there is no “other mark of identification” that is not also a unique serial number. Within the firearms industry, a serial number is overwhelmingly a sequence of alphanumeric characters used to identify a specific firearm and is utilized by both firearms owners and law enforcement to identify firearms. If the Department were to assign marks of identification that were not alphanumeric, law enforcement would be unable to look up if a firearm is registered with the Department. This would hinder criminal investigations and endanger public safety.

Renumbered Subdivision (s)

Purpose: Subdivision (s) has been amended for consistency with existing Department regulations.

Necessity: This change is necessary in order to be consistent with other Department regulations, specifically title 11, section 5471, subdivision (aa), which also defines “Receiver”. The language in subdivision (s) now matches section 5471, subdivision (aa).

New Subdivision (t)

Purpose: New subdivision (t) has been added for consistency with existing Department regulations.

Necessity: This change is necessary because the term is used in renumbered subdivision (u) but is not defined. This change is consistent with other Department regulations, specifically title 11, section 5471, subdivision (bb), which also defines “Receiver, lower.” The language in subdivision (t) matches section 5471, subdivision (bb).

Renumbered Subdivision (u)

Purpose: Subdivision (u) has been amended for consistency with existing Department regulations.

Necessity: This change is necessary in order to be consistent with other Department regulations, specifically title 11, section 5471, subdivision (cc), which also defines “Receiver or frame, unfinished.” It would be confusing for the public if the Department used separate definitions for each chapter. The language in subdivision (u) now matches section 5471, subdivision (cc).

New Subdivision (v)

Purpose: Subdivision (v) has been added for consistency with existing Department regulations.

Necessity: This change is necessary to distinguish the term to be added by subdivision (t). This change is consistent with other Department regulations, specifically title 11, section 5471, subdivision (dd), which also defines “Receiver, upper.” The language in subdivision (v) matches section 5471, subdivision (dd).

New Subdivision (y)

Purpose and Necessity: Subdivision (y) has been added to establish the term “Single Shot,” which is a generally acknowledged term in the firearms industry and would be familiar to people applying for a unique serial number. This change is necessary because this term will be used in proposed section 5513, subdivision (a)(2)(A), as described below.

To compose this term, the Department used the following sources, as well as expert opinion from staff within the Department: National Rifle Association, “NRA Institute for Legislative Action Glossary,” <https://www.nraila.org/for-the-press/glossary/>, December 6, 2016.

New Subdivision (z)

Purpose: Subdivision (z) has been added to establish the term “Unique Serial Number.”

Necessity: Penal Code section 29180 uses the term “unique serial number” but does not define what it means. The Department has determined it is necessary to define the term in order to properly identify a self-manufactured or self-assembled firearm. Without defining the term, law enforcement may have trouble determining whether a self-manufactured or self-assembled firearm was used in a crime.

A unique serial number issued by the Department will consist of a sequence of alphanumeric characters. This is standard practice within the firearms industry and will make unique serial numbers issued by the Department easily identifiable by conforming to this practice. The unique serial number issued by the Department will also be easily identifiable as belonging to a self-assembled or self-manufactured firearm by having each serial number issued begin with the word “FMBUS”, followed by a sequence of numerals (ex. FMBUS12345). FMBUS stands for firearm manufactured by unlicensed subject and will be easily identifiable to law enforcement that the firearm is self-manufactured or self-assembled. Unique serial numbers issued by the Department will not be duplicated, ensuring that each one is unique to each firearm.

Reference Section

The reference section has been amended by removing the reference to Penal Code section 30105 and adopting the references to Penal Code sections 16170 and 28220. Penal Code section 16170 defines the term “antique firearm”. The background check conducted pursuant to this section is now conducted pursuant to Penal Code section 28220, making the reference to Penal Code section 30105 inaccurate. This is a nonsubstantive change because it does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

§ 5509. Persons Affected by These Regulations.

New Subdivision (c)

Purpose: Subdivision (c) of this section has been added in order to include new California residents who wish to possess, in the state, a previously self-manufactured or self-assembled firearm, or a firearm the resident owns that does not have a unique serial number or other mark of identification.

Necessity: This subdivision is necessary because this article currently does not include new residents. This change is required so this article can implement Penal Code section 29180, subdivision (e), which mandates all new residents to the state must apply for a unique serial number within 60 days of arrival if their firearm does not already have a unique serial number.

Authority Section

The authority cited for this section now includes Penal Code section 29182, in addition to section 29180. Penal Code section 29182 was added as it is the section that requires new residents to the state to have a unique serial number on firearms that they own that do not possess one. This is a nonsubstantive change because it does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

§ 5510. Effective Dates.

New Subdivision (c)

Purpose: Subdivision (c) of this section has been added to include the January 1, 2019 effective date for new California residents to begin applying for unique serial numbers.

Necessity: This new subdivision is necessary because the regulation currently does not include new residents. This adoption is required to comply with Penal Code section 29180, subdivision (e), which mandates that all new residents to the state, starting January 1, 2019, must apply for a unique serial number within 60 days of arrival in California if their previously manufactured or assembled firearm does not already have a unique serial number.

§ 5511. Online Reporting with CFARS.

Current subdivisions (b) and (c) have been renumbered to (c) and (d), respectively. This is a nonsubstantive change because it does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

New Subdivision (b)

Purpose: Subdivision (b) of this section has been added to require new California residents to use CFARS to apply for a unique serial number or other mark of identification for a self-manufactured or self-assembled firearm that does not have a unique serial number or other identifying mark within 60 days of arrival to the state.

Necessity: This new subdivision is necessary in order to provide new residents with a means to submit electronic applications.

The Department has determined the most effective method for new residents to submit applications for unique serial numbers is through CFARS. CFARS is already utilized by current residents to apply for unique serial numbers as well as completing several other self-reporting forms, including the Law Enforcement Gun Release Application and Firearms Ownership report. It would be unduly burdensome for applicants, and unnecessarily expensive for the Department, to create a separate IT system for new residents to submit an application for a unique serial number. This process will allow

new residents to comply with Penal Code section 29182 which requires new residents to apply for a unique serial number within 60 days of arrival to the state. If new residents are not able to submit applications for a unique serial number, there will be an increase in the number of untraceable firearms within the state.

Renumbered Subdivision (c)

Purpose: Subdivision (c) has been amended from “The application” to “Applications.”

Necessity: This amendment is necessary because an applicant could have multiple firearms requiring a unique serial number. Each unique serial number is a separate application in the CFARS system. This amendment provides clarity within the regulations.

§ 5513. Applicant and Firearm Identification Information Entered into CFARS by Applicant and the Department’s Privacy Notice.

Subdivision (a)(1)

Purpose : Subdivision (a)(1) has been amended to specify that a California identification card is an accepted proof of age and identity.

Necessity: This amendment is necessary in order to inform the public of the acceptable forms of identification for the unique serial number process. Penal Code section 29182, subdivision (b)(2)(A) states that an application must provide proof of age and identity pursuant to Penal Code section 16400, which includes both California driver licenses and California identification cards issued by the Department of Motor Vehicles. This information is also necessary to conduct a firearms eligibility check, which is required by Penal Code section 29182, subdivision (b)(1).

Subdivision (a)(1)(A)

Purpose: Subdivision (a)(1)(A) has been amended to require an applicant to be 21 years old in order to apply for a unique serial number, after February 1, 2019.

Necessity: This amendment is necessary in order to comply with Penal Code section 29182, subdivision (b)(2)(B), which requires applicants be 21 years old to apply for a unique serial number for a firearm that is not a handgun. This change aligns regulations with statute and provides clarity as to the age requirement for obtaining a unique serial number.

Subdivision (a)(2)

Purpose: Subdivision (a)(2) has been amended to instruct the applicant, if they are a new resident to the state, to enter date the firearm was manufactured.

Firearm city and state of origin have been removed as requirements to provide on the application.

Category, model, and unit of measurement have been added in order to identify the firearm that the unique serial number is being requested for.

The phrase “All identification marks” has been amended to “additional identification marks (if

applicable).”

Necessity: These amendments are necessary for clarity and to confirm compliance with state firearm laws.

New residents must register firearms that do not have a unique serial number and were built before they entered the state. By definition, they cannot enter the date that they will be manufacturing the firearm, as the firearm has already been manufactured. It is necessary for the Department to know the date of manufacture to substantiate that they have not built the firearm since they moved to California, which would be in violation of Penal Code section 29180, subdivision (b). A person must first apply for a unique serial number with the Department prior to manufacturing a firearm, not after the fact.

Firearm city and state of origin have been removed as requirements of this section for clarity. This requirement is verified through digital photographs of the firearm, as specified in section 5520 of this chapter. Asking an applicant for the city and state of manufacture at this point in the unique serial number application process is unnecessary and creates confusion.

The addition of *category*, *model* and *unit of measurement* are necessary additions to the unique serial number application in order to accurately identify the firearm for which a unique serial number is being requested.

Category, meaning the type of action (for example semiautomatic, lever action or revolver) of the firearm is standard firearm identifying information used in the industry and is familiar to applicants applying for a unique serial number.

Model, or name of the firearm, is standard firearm identifying information used in the industry and is familiar to applicants applying for a unique serial number.

Unit of measurement, used when measuring for barrel length or overall length, is standard firearm identifying information used in the industry and is familiar to applicants applying for a unique serial number.

The phrase “All identification marks” has been amended to “additional identification marks (if applicable)” for clarity. Applicants already must show all identification marks. This change clarifies that the information being requested show any firearms identifying information that was not present in the original firearms description.

Subdivision (a)(2)(A)

Purpose: Subdivision (a)(2)(A) has been amended to have an applicant specify whether their pistol is “Bolt Action” or “Break Top”, if the pistol category chosen is “Single Shot” and to move the language that has been stricken out to subdivision (a)(2)(B).

Necessity: This amendment is necessary in order to verify that the pistol being registered is not a unsafe handgun, as defined in Penal Code sections 32100, 32000, and 31910. Asking the applicant if their single shot pistol is either bolt action or break top will allow the Bureau to ascertain if the firearm is exempt from the unsafe handgun designation, as defined in Penal Code section 32100, subdivision (b). If a self-manufactured pistol is determined to be an unsafe handgun, the applicant

will have illegally manufactured it, which is prohibited by Penal Code section 29182, subdivision (e)(2).

Subdivision (a)(2)(B)

Subdivision (a)(2)(B) contains all of the language that was previously in subdivision (a)(2)(A). This is a nonsubstantive change because it does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

Subdivision (b)

Purpose: Subdivision (b) has been amended in order to specify the Department will ask for additional firearms identifying information and digital images to ensure compliance with state firearm laws. Subdivision (b) has also been amended to move existing language to new subdivision (d) that if any information is missing from subdivision (a), (b) and (c) of this section, the Department will not approve the applicant's request for a unique serial number.

Necessity: In order to ensure compliance with state firearm laws and to prevent an applicant from registering an illegal firearm, the Department has determined that it must be certain of the type of firearm being registered. If it cannot conclusively identify a firearm with the information provided on the application, it will be necessary to request additional information and photos. Specifically, the Department is ensuring compliance with Penal Code sections 16590, 16880, 17170, 17180, 30510, 30515, 30530, 30600, 30605, 31910, 32000, 32100 and 32625. These sections address several different kinds of prohibited firearm, including generally prohibited weapons, assault weapons, machine guns, .50 BMG rifles, and unsafe handguns.

The information requested of the applicant must be received within 30 calendar days of the applicant being notified of the request in CFARS. The Department has determined 30 calendar days is the appropriate amount of time for an applicant to gather the requested information. This gives the applicant a month to examine their firearm and take additional photographs if requested. A 30 calendar day deadline would be familiar to applicants, and consistent with other deadlines the Department utilizes, such as the timeframe given to correct an assault weapon registration application, as specified in title 11, section 5476, subdivision (c).

The provision informing applicants that if any of the information required of this section is missing, the Department will not approve the application has been moved for clarity. It is clearer for applicants to know their application will not be accepted if it is missing any of the required information at the end of the section after they know what the required information is.

Subdivision (d)

Purpose: Subdivision (d) has been adopted to notify applicants that if the application is missing any information in subdivisions (a), (b), or (c), the Department will deny the applicant's request for a unique serial number.

Necessity: The text of this subsection was previously in subdivision (b) and has been moved for clarity. It is clearer for applicants to know their application will not be accepted if it is missing any of the required information at the end of the section after they know what the required information

is. This is a nonsubstantive change because it does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

§ 5514. Recording Fee for a Self-Manufactured or Self-Assembled Firearm.

Reference Section

Penal Code section 30105 has been deleted from the reference citation for section 5514 and Penal Code section 28220 has been added. The background check conducted under this section is now pursuant to section 28220, not Penal Code section 30105. This is a nonsubstantive change because it does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

§ 5516. Firearms Eligibility Check Conducted by the Department Prior to Issuing a Unique Serial Number.

This subdivisions within this section have been renumbered. This is a nonsubstantive change because it does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

Subdivisions (b), (b)(1) and (b)(2)

Purpose: Subdivision (b), (b)(1) and (b)(2) have all been amended to clearly state that the Department will make its determination whether the applicant is eligible or ineligible to receive a unique serial number after the firearms eligibility check has been completed.

Necessity: The amendments to all of these subdivisions are necessary for clarity. It is clearer for an applicant to know that their eligibility will be determined after a firearms eligibility check is conducted at the beginning of the subdivision, rather than learning of that information in (b)(1) and (b)(2).

Deleted Subdivision (b)(2)(A)

Purpose: Subdivision (b)(2)(A) has been renumbered as subdivision (d)(1) and amended as described below. This is a nonsubstantive change because it does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

New Subdivision (c)

Purpose: Subdivision (c) has been adopted to specify the Department will assign a unique serial number if the background check determines the applicant is eligible to legally possess a firearm and will deny the unique serial number application if the applicant is ineligible to legally possess a firearm.

Necessity: This amendment is necessary to explain to the applicant what the Department will do once a determination is made. Specifically, the Department will either issue a unique serial number for an applicant whose background check determines the applicant is eligible to possess a firearm, or if an applicant is ineligible to possess a firearm, the Department will not issue a unique serial number.

Renumbered Subdivision (d)(1)

Purpose: Subdivision (d)(1) has been renumbered from subdivision (b)(2)(A) and amended to specify that if an applicant is ineligible to own a firearm or if the background check could not generate a disposition for the applicant's criminal history, a denial letter will be sent via U.S. mail. This subdivision revises the Departmental process for notifying applicants about the denial of their application for a unique serial number.

Necessity: This amendment changes the method by which the Department will inform the applicant of a denial of their application. The Department has determined that the most secure and efficient way to inform an applicant about a denial for a unique serial number is through U.S. mail. It is necessary to communicate via U.S. mail because the communication may contain sensitive personal information. Providing the reason for the denial via U.S. mail rather than, for instance, via email or through an internet portal such as CFARS, ensures the security and confidentiality of the communication, while also providing transparency to the denied individual as to the reason for the Department's determination.

Reference Section

Penal Code section 30105 has been deleted from and Penal Code section 28220 has been added to the reference citation for section 5516. The background check conducted under this section is now pursuant to Penal Code section 28220, not Penal Code section 30105. This is a nonsubstantive change because it does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

§ 5517. 15 Day Period for the Department to Approve or Deny the Applicant's Request for a Unique Serial Number

Reference Section

Penal Code section 30105 has been deleted from and Penal Code section 28220 has been added to the reference citation for section 5517. The background check conducted under this section is now pursuant to Penal Code section 28220, not Penal Code section 30105. This is a nonsubstantive change because it does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

§ 5518. Deadlines to Engrave the Unique Serial Number on the Firearm After Receiving the Electronic Approval Notice from the Department.

New Subdivision (b)(2)

Purpose: New Subdivision (b)(2) has been added to require new residents to engrave their firearms with the unique serial number they received from the Department. This subsection also establishes that the serial number must be engraved within 10 calendar days of receiving the unique serial number and the date of receipt for the unique serial number has been specified as the date of the email notifying the applicant to log in to their CFARS account to view an electronic correspondence from the Department.

Necessity: This addition is necessary because it aligns this subsection with other regulations, specifically section 5518 subdivision (b)(1). It also provides direction as to what the applicant shall do once the Department approves the applicant's request for a unique serial number, namely how and when to apply the unique serial number to the firearm. This subdivision is also necessary in order to instruct the applicant on how to apply the unique serial number on the firearm. This must be done within 10 days, as required by Penal Code section 29180, subdivision (c)(2).

The Department has determined that the most effective way to inform applicants of their unique serial number application status is through a combination of email and CFARS. Email would be the most efficient method to inform people to view their status in CFARS. The applicant's email address is already linked to their CFARS account and is an established method for communicating with them. Sending an update via U.S. mail would be a much slower method of informing applicants and would require the Department to pay for postage and staff time to send the update letter. In contrast to a denial for a unique serial number, there is no confidential or sensitive information that is being sent to the applicant in the case of an approval. Applicants are also already familiar with the CFARS system and it would be unduly expensive for the Department to create a separate IT system to inform people of their application status.

New Subdivision (b)(2)(A)

Purpose: Subdivision (b)(2)(A) has been added to require new residents to upload digital photos pursuant to section 5521 in order to verify compliance with the 10-day deadline.

Necessity: This addition is necessary because it explains that the applicant shall upload digital images of the self-manufactured or self-assembled firearm within 10 days of receiving the unique serial number. The Department can only enforce the 10 day requirement, which is set by Penal Code section 29180, subdivision (c)(2), if it receives digital images of the firearm. The digital images will prove the applicant applied the unique serial number to the firearm within the required period and in the proper manner. Additionally, the Department requires the applicant to upload digital images of the firearm because they are necessary to determine that the type of firearm that was built is legal and the unique serial number was properly engraved on the firearm.

Section 5521 of these regulations requires the use of CFARS to upload digital photos of the firearms. The Department has determined this would be the most effective method for new residents to upload photos, as CFARS is already programmed to allow photo uploads for current residents and applicants are already familiar with the CFARS system because they have used it for the application portion of the unique serial number process. It would be unduly burdensome for applicants to log in to a new system and learn a new interface, and unnecessarily expensive for the Department to develop a separate IT system for digital photo upload.

New Subdivision (b)(2)(B)

Purpose: Subdivision (b)(2)(B) has been added to require new residents to engrave the unique serial number and upload the photos to CFARS within 10 days or they will have to apply for a new unique serial number.

Necessity: This addition is necessary because it provides clarity that the unique serial number is not valid indefinitely and the applicant is responsible for completing the entire process of engraving the unique serial number onto the firearm and uploading the photos to CFARS within 10 days, pursuant to Penal Code section 29180, subdivision (c)(2). Otherwise, if the applicant does not comply with the 10 day requirement, the applicant will have to reapply for another unique serial number, and pay another fee.

The Department has determined the most effective method for new residents to reapply for a unique serial number is through CFARS. Applicants have, by definition, already used CFARS once and are already familiar with the system. It would be unduly burdensome for applicants to log in to a new system and learn a new interface, and unnecessarily expensive for the Department to develop a separate IT system for an applicant to reapply for a unique serial number.

Renumbered Subdivision (b)(3)

Former subdivision (b)(2) has been renumbered to new subdivision (b)(3). This is a nonsubstantive change because it does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

§ 5521. The Procedure to Submit Digital Images of the Self-Manufactured or Self-Assembled Firearm.

Subdivision (b)

Purpose: Subdivision (b) has been added in order to specify the Department will ask for additional firearms identifying information and digital images to ensure compliance with state firearm laws.

Necessity: The Department, in order to ensure compliance with state firearm laws and to prevent an applicant from registering an illegal firearm, has determined that it must be certain of the type of firearm being registered. If it cannot conclusively identify a firearm with the information provided on the application, it will be necessary to request additional information and photos. Specifically, the Department is ensuring compliance with Penal Code sections 16590, 16880, 17170, 17180, 30510, 30515, 30530, 30600, 30605, 31910, 32000, 32100 and 32625. These sections address several different kinds of prohibited firearms, including generally prohibited weapons, assault weapons, machine guns, .50 BMG rifles, and unsafe handguns.

The information requested of the applicant must be received within 30 calendar days of the applicant being notified of the request in CFARS. The Department has determined 30 calendar days is the appropriate amount of time for an applicant to gather the requested information. This gives the applicant a month to examine their firearm and take additional photographs if requested. A 30 calendar day deadline would be familiar to applicants, and consistent with other deadlines the Department utilizes, such as the timeframe given to correct an assault weapon registration application, as specified in title 11, section 5476, Subdivision (c). This timeframe would also be consistent with the deadline established in Section 5513.

ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Department determines that these regulations will not have an impact on the creation or elimination of jobs within California. New residents will have purchased the parts to create their firearms before they entered the state.

The Department determines that these regulations will not have an impact on the creation of new businesses or elimination of existing businesses or affect the expansion of businesses currently doing business in California. New residents will have purchased the parts to create their firearms before they entered the state.

The Department will receive a minimal increase in revenue from recording fees paid by new residents who apply for a unique serial number. The Department estimates that between 30 and 60 new residents will apply for a unique serial number each year. This estimate was reached by determining what percentage of the 600,000 people who move to California on average each year would apply for a unique serial number.

There have been 1300 applicants for unique serial number since the Department first started issuing them in July of 2018. Based on these numbers, it appears there will be roughly 1740 applicants submitted on an annual basis.

Based on a firearms ownership rate of 20%, the average for residents of the state of California, .033% of firearms owners applied for a unique serial number. According to research compiled by the Legislative Analysts Office, the average number of people who move to the state of California is 600,000 over the last 9 years. Assuming a firearms ownership rate of 30% (the average firearms ownership rate for the United States) and accounting for people under the age of 21 (~25%), the Department estimates there are 135,000 new residents each year who will bring a firearm into California. Using the rate of California firearms owners who applied for a serial number (.033%), there would be approximately 40 additional applicants a year.

The fee for submitting an application for a serial number is \$35, which covers the cost for the background check and one unique serial number application (see Cal. Code of Regs., tit. 11, § 5514). If the applicant requests multiple serial numbers in the same application, the fee is \$15 for each additional serial number. Based on the current number of serial numbers issued, on average, each applicant requests two serial numbers. This brings the average total cost for applicants to \$50. The increase in revenue to the Department as a result of this rulemaking will be approximately \$1,500 to \$3,000 (30 to 60 applicants a year times \$50). All revenue goes to the cost of maintaining the unique serial program.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

Department staff relied upon their experience and expertise when writing these proposed regulations and the following documents:

Kalesan, Bindu, Villarreal, Marcos, Keyes, Katherine and Galea, Sandro, "Gun ownership and social gun culture"

<https://injuryprevention.bmj.com/content/injuryprev/early/2015/06/09/injuryprev-2015-041586.full.pdf?keytype=ref&ijkey=doj6vx0laFZMsQ2>, published on June 29, 2015.

National Rifle Association, “NRA Institute for Legislative Action Glossary,” <https://www.nraila.org/for-the-press/glossary/>, December 6, 2016.

Uhler, Brian and Garosi, Justin, Legislative Analyst’s Office, “California Losing Residents Via Domestic Migration” <https://lao.ca.gov/LAOEconTax/Article/Detail/265>, published on February 21, 2018.

United States Census Bureau, “Quick Facts” Table, July 1, 2018 (v2018) <https://www.census.gov/quickfacts/fact/table/US/PST045218>

U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, “ATF Guidebook – Importation & Verification of Firearms, Ammunition, and Implements of War, Firearms Verification,” <https://www.atf.gov/firearms/firearms-guides-importation-verification-firearms-ammunition-and-implements-war-top-break>, published April 26, 2018.

BENEFITS OF THE REGULATIONS TO THE HEALTH AND WELFARE OF CALIFORNIA RESIDENTS, WORKER SAFETY AND THE STATE’S ENVIRONMENT

Pursuant to Government Code section 11346.3, subdivision (b)(1)(D), the benefits of the regulatory action to the health and welfare of California residents, worker safety and the state’s environment are as follows:

- 1) Enable the Department to reduce the number of untraceable firearms in the state and ensure prohibited people do not own or possess them, and; 2) Allow for new residents to the state to apply for a unique serial number, eliminating the risk they could be arrested and charged with a misdemeanor for possessing an untraceable firearm.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY’S REASONS FOR REJECTING THOSE ALTERNATIVES

Pursuant to Government Code section 11346.2, subdivision (b)(4)(B), the Department finds that no other reasonable alternatives were presented to, or considered, 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.

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

The Department finds that these regulations would not have statewide adverse economic impact on businesses because these regulations implement a statutory requirement on new residents and do not directly affect businesses.

DUPLICATION OR CONFLICT WITH FEDERAL REGULATIONS

The Department determines that these regulations are not duplicative or pose a conflict with federal regulations.