

CALIFORNIA DEPARTMENT OF JUSTICE

April 18, 2019

NOTICE OF MODIFICATION TO TEXT OF PROPOSED REGULATIONS, INITIAL STATEMENT OF REASONS ADDENDUM, AND REVISED ECONOMIC AND FISCAL IMPACT STATEMENT (STD. 399)

AMMUNITION PURCHASES OR TRANSFERS

[OAL File No. 2018-1204-08]

Updates to Proposed Text

Pursuant to the requirements of Government Code section 11346.8 (c), and section 44 of Title 1 of the California Code of Regulations, the California Department of Justice (Department) is providing notice of modification to text of the proposed regulation sections 4301, 4302, 4303, 4304, 4305, 4306, 4307, 4308 and 4309, which were the subject of a public comment period which closed on January 31, 2019.

Initial Statement of Reasons Addendum

The Initial Statement of Reasons (ISOR) Addendum clarifies the purpose and necessity of the text of proposed sections 4301, 4302, 4303, 4305 and 4309, as originally noticed.

Economic Fiscal Impact Statement (Std. 399)

The Economic Fiscal Impact Statement (Std. 399) has been revised to provide better information regarding the ongoing costs to run the program, and the justification for the fees set in the proposed text.

If you have any comments regarding the proposed changes, the Department will accept written comments between April 18, 2019 and May 3, 2019. Address written comments to:

Kelan Lowney
Department of Justice
P.O. Box 160487
Sacramento, CA 95816-0487
Email: ammoregulations@doj.ca.gov
Fax: (916) 227-7615

All timely comments that specifically pertain to the indicated changes will be reviewed and responded to by the Department's staff as part of the compilation of the rulemaking file.

Please limit your comments to the documents identified in this notice.

The original proposed text is in single underline and single strikeout. Changes are illustrated by double underline for proposed additions and double strikeout for proposed deletions.

California Code of Regulations Title 11, Division 5

Chapter 11. Ammunition Purchases or Transfers

Article 1. General

§ 4300. Title and Scope.

This chapter shall be known as the “Department of Justice Regulations for Ammunition Purchases or Transfers,” and may be cited as such and referred to herein as “these regulations.” The provisions of these regulations shall provide the directives for an individual to purchase or transfer ammunition into an individual’s possession on or after July 1, 2019.

Note: Authority cited: Sections 30352, and 30370, Penal Code. Reference: Sections 30305, 30312, 30314, 30352, and 30370, Penal Code.

§ 4301. Definition of Key Terms.

(a) “AFS” means the Department’s Automated Firearms System.

~~(b) “AFS record” means a firearm record on file with the Department that identifies an individual as an owner of a firearm. An AFS record has been established with the Department when an individual has purchased or transferred a rifle or shotgun from a firearms dealer on or after January 1, 2014, or an individual that has purchased or transferred a handgun from a firearms dealer at any time. An AFS record may also be established after the Department processes an individual’s assault weapon registration or an individual’s report of firearm ownership.~~

(b) “Ammunition vendor” means a person or entity having a valid license to sell ammunition, issued pursuant to Penal Code section 30385.

(c) “ATN” means Ammunition Transaction Number issued by the Department.

(d) “Automated Firearms System” is the name of a repository of firearm records maintained by the Department, as established by Penal Code section 11106.

~~(e)(d)~~ “Basic Ammunition Eligibility Check” means the Department’s ammunition eligibility check as prescribed by Penal Code section 30370, subdivision (c). The Department shall

conduct a Basic Ammunition Eligibility Check to authorize a California resident for a single ammunition transaction or purchase ~~one-time authorization to purchase or transfer ammunition.~~

~~(f)(e)~~ “Certificate of Eligibility or COE” means a certificate issued pursuant to Penal Code section 26710, which states that the Department has checked its records and determined that the applicant ~~was is~~ not prohibited from acquiring or possessing firearms pursuant to Penal Code sections 29800, 29805, 29815 through 29825, and 29900, or Welfare and Institutions Code sections 8100 and 8103, or Title 18, sections 921 and 922 of the United States Code, or Title 27, Part 478.32 of the Code of Federal Regulations at the time the check was performed and which ensures that a person who handles, sells, delivers, or has under his or her custody or control any ammunition, is eligible to do so pursuant to Penal Code section 30347.

~~(g)(f)~~ “CFARS” means the Department’s California Firearms Application Reporting System. An individual can access the CFARS website at the following web address: <https://cfars.doj.ca.gov/login.do>.

~~(h)(g)~~ “Department” means the California Department of Justice.

~~(i)(h)~~ “Dealer Record of Sale Entry System or DES” means the Department’s website that an ammunition vendor will use to submit an ammunition purchaser’s or transferee’s information to the Department before the Department can approve an ammunition purchase or transfer. An ammunition vendor can access the DES website at the following web address: (<https://des.doj.ca.gov/login.do>).

~~(j)(i)~~ “Firearms dealer” means a person having a valid license to sell firearms issued pursuant to Penal Code section 26700.

~~(k)(j)~~ “Firearms eligibility check” means a state and federal background check, pursuant to Penal Code section 28220, that is used to determine an individual’s eligibility to possess, receive, own, or purchase a firearm.

~~(l)(k)~~ “Head of the agency” means the chief of police or the director of public safety for a police department, the sheriff for a county sheriff’s office, the head of an agency or their designee for a state law enforcement agency, and the manager in charge of any local field office for a federal law enforcement agency.

~~(l) — “One-Time Ammunition Transaction” means an ammunition purchase or transfer whereby an individual has undergone a Basic Ammunition Eligibility Check.~~

~~(m)~~ “Prohibited Armed Persons File” means the database established by Penal Code section 30000.

~~(n)(m)~~ “Purchaser or transferee” means an individual purchasing or transferring ammunition.

~~(o)(n)~~ “Standard Ammunition Eligibility Check” means the Department’s ammunition eligibility check as prescribed by Penal Code section 30370, subdivisions (b).

~~(p)(e)~~ “Sworn federal law enforcement officer’s credential” means identification indicating an individual is a sworn federal law enforcement officer ~~pursuant to Part 2, Chapter 4.5, of the Penal Code (commencing with section 830).~~

~~(q)(p)~~ “Sworn state or local peace officer’s credential” means identification indicating an individual is a sworn state or local peace officer pursuant to Part 2, Chapter 4.5, of the Penal Code (commencing with section 830).

Note: Authority cited: Sections 30352, and 30370, Penal Code. Reference: Sections 11106, 16150, 16151, 26710, 30352, 30370, and 30385, Penal Code.

Article 2. Ammunition Eligibility Checks: Standard and Basic

§ 4302. Standard Ammunition Eligibility Check (AFS Match).

~~(a)~~ A purchaser or transferee is authorized to purchase ammunition if their information matches an entry in the Automated Firearm System and does not match an entry in the Prohibited Armed Persons File.

~~(1)~~ A purchaser or transferee may request, through an ammunition vendor, the Department to conduct a Standard Ammunition Eligibility Check, to determine if the ammunition purchaser or transferee qualifies for this authorization.

~~(b)(e)~~ As authorized by Penal Code section 30370, subdivision (e), the fee for a Standard Ammunition Eligibility Check is \$1.00.

~~(c)(b)~~ The ammunition vendor shall collect the purchaser’s or transferee’s name, date of birth, current address and driver license or other government identification number in the manner described in Penal Code section 28180, and telephone number, and enter this information into the DES website.

~~(d)(e)~~ Upon the Department’s completion of the Standard Ammunition Eligibility Check, the ~~The~~ Department shall then update the purchaser’s or transferee’s DES record to instruct the ammunition vendor to approve or reject the purchase or transfer.

~~(e)(d)~~ If the purchase or transfer is rejected, the ammunition vendor shall provide the purchaser or transferee with an ATN that can be used to obtain the reason for the rejection through the Department’s CFARS website.

Note: Authority cited: Sections 30352 and 30370, Penal Code. Reference: Sections 28180, 30352, and 30370, Penal Code.

§ 4303. ~~One-Time Ammunition Transactions~~ Basic Ammunition Eligibility Check (Single Transaction or Purchase).

~~One-time ammunition purchases or transfers may be completed using a Basic Ammunition Eligibility Check.~~

(a) A purchaser or transferee is authorized to purchase ammunition if they are not prohibited from purchasing or possessing ammunition, subsequent to affirmation by the Department.

(1) A purchaser or transferee may request, through an ammunition vendor, the Department to conduct a Basic Ammunition Eligibility Check, to determine if the purchaser or transferee qualifies for this authorization.

(2) A purchaser or transferee may instead seek authorization by following the procedure set forth by section 4302, 4304, 4305, or 4306, as applicable.

~~(b)(a)~~ As authorized by Penal Code section 30370, subdivision (c), the fee for a Basic Ammunition Eligibility Check is \$19.00.

~~(c)(b)~~ The ammunition vendor shall collect the ammunition purchaser's or transferee's name, date of birth, current address, gender, hair color, eye color, height, weight, and driver license or other government identification number, in the manner described in Penal Code section 28180, and telephone number, United States citizenship status, federal Alien Registration Number or I94 (if applicable), place of birth, alias name(s), race, and enter this information into the DES website.

~~(d)(c)~~ The ammunition vendor will provide the purchaser or transferee an ATN to monitor the status of the Basic Ammunition Eligibility Check through the Department's CFARS website.

(1) An approved Basic Ammunition Eligibility Check can only be used for one ammunition purchase or transfer, and the approval expires 30=calendar days from when it is issued.

(2) If the Basic Ammunition Eligibility Check is denied, the Department shall notify the purchaser or transferee of the reason for the denial via U.S. Mail.

~~(e)(d)~~ Upon the Department's completion of a Basic Ammunition Eligibility Check, the Department shall update the purchaser's or transferee's DES record. ~~The ammunition vendor shall deliver the ammunition to the purchaser or transferee only if the status of the Basic Ammunition Eligibility Check is "Approved."~~

Note: Authority cited: Sections 30352 and 30370, Penal Code,. Reference: Sections 28180, 30352, and 30370, Penal Code and section 922, title 18, United States Code.

Article 3. Purchasing of a Firearm and Ammunition in a Single Transaction

§ 4304. Firearms Eligibility Check.

(a) When an individual is purchasing or transferring a firearm and ammunition in the same transaction, the Department shall complete a firearms eligibility check before the purchaser or transferee can take possession of the firearm or ammunition.

(b)(a) Except as provided in subdivision (c)(b), a purchaser or transferee of a firearm and ammunition in the same transaction shall only pay the fee for the firearms eligibility check as prescribed in section 4001 of this title.

(c)(b) If the purchaser or transferee ~~described in Penal Code section 30370, subdivision (a)(1) or (a)(2)~~ wants to take possession of the ammunition before the Department completes the firearms eligibility check, the purchaser or transferee shall conduct a separate transaction following the procedure set forth by section 4302, 4303, 4305, or 4306, as appropriate, and pay any associated fee ~~pay the \$1.00 fee for the Standard Ammunition Eligibility Check or the Department's COE verification process, and be approved by the Department prior to taking possession of the ammunition.~~

Note: Authority cited: Section 30352, Penal Code. Reference: Sections 28220, 30352, 30370, Penal Code.

Article 4. COE Verification Process

§ 4305. COE Verification Process.

~~Pursuant to Penal Code section 30370, subdivision (a)(2), the Department shall process a COE holder's ammunition purchase or transfer.~~

(a) A purchaser or transferee is authorized to purchase ammunition if they hold a current Certificate of Eligibility, subsequent to verification by the Department.

(1) A purchaser or transferee may request, through an ammunition vendor, the Department to conduct a COE Verification, to determine if the purchaser or transferee qualifies for this authorization.

(b)(a) As authorized by Penal Code section 30370, subdivision ~~(e)~~ (e), the fee for COE verification is \$1.00.

(c)(b) The ammunition vendor shall collect the ammunition purchaser's or transferee's name, date of birth, current address, and driver license or other government identification number, in the manner described in Penal Code section 28180, telephone number, and COE number, and enter the information into the DES website.

~~(d)(e)~~ Upon the Department's completion of the COE Verification, ~~the~~ The Department shall then update the purchaser's or transferee's DES record to instruct the ammunition vendor to approve or reject the ammunition purchase or transfer.

Note: Authority cited: Sections 30352 and 30370, Penal Code. Reference: Section 26710 and 30370, Penal Code.

Article 5. Ammunition Purchases or Transfers; Exempted Individuals

§ 4306. Ammunition Purchases or Transfers for Exempted Individuals.

(a) The following types of identification will properly identify an individual who is exempt pursuant to Penal Code section 30352, subdivision (e) from Department approval to purchase or transfer ammunition.

~~(1) A valid Federal Firearms License.~~

~~(2) An authorized law enforcement representative's written authorization from the head of the agency authorizing the ammunition purchase or transfer.~~

~~(3) A centralized list of exempted federal firearms licensee's Department issued certificate indicating the individual is on the centralized list of exempted federal firearms licensees.~~

~~(4) A sworn state, or local peace officer's credential and verifiable written certification from the head of the agency.~~

~~(5) A sworn federal law enforcement officer's credential and verifiable written certification from the head of the agency.~~

(1) An ammunition vendor shall present a valid Ammunition Vendor License issued pursuant to Penal Code section 30385.

(2) A person who is on the centralized list of exempted federal firearms licensees maintained by the Department shall present a Department-issued Listing Acknowledgement Letter indicating the individual is currently on the centralized list of exempted federal firearms licensees.

(3) A gunsmith shall present a valid Type 01 Federal Firearms License.

(4) A wholesaler shall present a valid Type 01 Federal Firearms License.

(5) A manufacturer of firearms shall present a valid Type 07 Federal Firearms License.

(6) An importer of firearms or ammunition shall present a valid Type 08 Federal Firearms License.

(7) A manufacturer of ammunition shall present a valid Type 06 Federal Firearms License.

(8) An authorized law enforcement representative of a city, county, city and county, or state or federal government shall present written authorization from the head of the agency authorizing the ammunition purchase or transfer, as described by Penal Code section 30352, subdivision (e)(7).

(9) A properly identified sworn peace officer, as defined in Chapter 4.5 of Title 3 of Part 2 of the Penal Code, who is authorized to carry a firearm in the course and scope of the officer's duties, shall present both:

(A) A sworn state, or local peace officer's credential, and

(B) Verifiable written certification from the head of the agency, as described by Penal Code section 30352, subdivision (e)(8)(B)(i). The verifiable written certification from the head of the agency expires 30 days after issuance.

(10) A properly identified sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of the officer's duties, shall present both:

(A) A sworn federal law enforcement officer's credential, and

(B) Verifiable written certification from the head of the agency, as described by Penal Code section 30352, subdivision (e)(8)(B)(i). The verifiable written certification from the head of the agency expires 30 days after issuance.

~~(b) The ammunition vendor shall keep a photocopy of the front and back of the sworn state or local peace officer's credential and California Driver License, or a photocopy of the front and back of a sworn federal law enforcement officer's business card and driver license. In addition, the ammunition vendor shall keep the verifiable written certification from the head of the agency. The verifiable written certification from the head of the agency expires 30 days after issuance. The ammunition vendor shall make a copy of these records available to the Department upon request.~~

(b) For persons identified pursuant to subdivisions (a)(9) and (10) of this section, the ammunition vendor shall keep a photocopy of the front and back of the credential and the identification document provided pursuant to subdivision (c) of this section, along with the original verifiable written certification from the head of the agency. The ammunition vendor shall make a copy of these records available to the Department upon request.

(1) If the law enforcement agency does not allow photocopies to be made of the credential, the ammunition vendor shall retain a business card from the sworn law enforcement officer after personally viewing the credential.

(c) At the time of delivery, the ammunition vendor COE holder, authorized associate, or salesperson shall require the purchaser or transferee to provide an identification document that meets the requirements of Penal Code section 16300, to verify that the person who is receiving delivery of the ammunition is the person exempted pursuant to Penal Code section 30352, subdivision (e).

~~(d)(e)~~ Once the ammunition vendor has verified the individual is exempt from Department approval to purchase or transfer ammunition, the ammunition vendor may process an ammunition purchase or transfer without Department approval.

Note: Authority cited: Section 30352, Penal Code. Reference: Section 30352, Penal Code.

Article 6. Telephonic Access for Ammunition Vendors

§ 4307. Telephonic Access for Ammunition Vendors.

Ammunition vendors without accessibility to an Internet connection due to their telephone service provider, or other Internet service providers, not being able to provide access to an Internet connection at their place of business may acquire telephonic access to the Department, for the Department to manually determine if a purchaser or transferee is eligible to own or possess ammunition. Ammunition vendors seeking telephonic access to the Department shall complete an Ammunition Vendor (Non-Firearms Dealer) Application for Telephonic Approval, Form BOF 1020 (Orig. 05/2018), which is hereby incorporated by reference. Telephonic access to the Department will be available during the Department's Customer Support Center business hours.

(a) Ammunition vendors shall acquire documentation from their telephone/Internet service provider stating that the service provider does not offer Internet service at the ammunition vendor's place of business.

(b) After the ammunition vendor has completed the application for telephonic access, the ammunition vendor shall mail the Ammunition Vendor (Non-Firearms Dealer) Application for Telephonic Approval, Form BOF 1020 (Orig. 05/2018) and the documentation in paragraph (a) of this section, to the Department at the following address:

Department of Justice
Bureau of Firearms
P.O. Box 160487
Sacramento, California 95816

(c) The Department shall notify the ammunition vendor via U.S. Mail of the Department's determination to approve or deny the Ammunition Vendor (Non-Firearms Dealer) Application for Telephonic Approval, Form BOF 1020 (Orig. 05/2018).

Note: Authority cited: Section 30370, Penal Code. Reference: Section 30370, Penal Code.

Article 7. Delivery of Ammunition and Billing

§ 4308. Delivery of Ammunition Following DES Submission.

(a) If the Department approves an ammunition purchase or transfer as described by sections 4302, 4303 or 4305 through ~~4307~~ of these regulations, the DES transaction record will change from "Pending" to "Approved."

(b) Ammunition may be delivered to the purchaser or transferee only if the status of the DES transaction record is "Approved."

(c) At the time of delivery, the ammunition vendor COE holder, authorized associate, or salesperson shall do the following:

(1) Require the purchaser or transferee to provide an identification document that meets the requirements of Penal Code section 16300, to verify that the person who is receiving delivery of the ammunition is the person authorized to purchase ammunition.

(2) Access ~~access~~ the approved DES ammunition transaction by the name of the purchaser or transferee, and submit the ammunition sale information required by Penal Code section 30352, subdivision (a) ~~to record the time and date the ammunition is delivered.~~

Note: Authority cited: Sections 30352, and 30370, Penal Code. Reference: Section 30352, and 30370, Penal Code.

§ 4309. Billing, Payment, and Suspension for Non-Payment.

(a) Monthly billing statements for the previous month's ammunition eligibility check and COE verification activity will be delivered electronically via DES to the ammunition vendor's account on the first day of each month.

(b) Payment shall be made using a major credit card or debit card. The balance due as indicated on the monthly billing statement shall be paid in full within 30- days of the billing statement date ~~(first day of month).~~

(c) If payment for the previous month's ammunition eligibility check and COE verification activity is not made within 30 days, the ammunition vendor's access (all COE holders and employees) to DES will be suspended until full payment for the past due amount is received.

(d) While suspended, an ammunition vendor will be unable to process or conduct an ammunition purchase or transfer but will maintain the status as a licensed ammunition vendor.

Note: Authority cited: Section 30370, Penal Code. Reference: Sections 30370, 30385, 30390, and 30395, Penal Code.

INITIAL STATEMENT OF REASONS

ADDENDUM

[OAL File No. Z-2018-1204-08]

The following addendum clarifies the specific purpose of proposed sections 4301, 4302, 4303, 4305 and 4309, and the rationale for the determination by the Department of Justice that the regulation is necessary to carry out the purpose for which it is proposed.

PURPOSE AND NECESSITY

§ 4301. Definition of Key Terms.

Subdivision (a) establishes an initialism that is, itself, a commonly used term. The terms “AFS” and “Automated Firearms System” are used in these regulations and in Penal Code section 30370, subdivision (a)(1), which these proposed regulations implement. The definition is necessary to include, here, to guarantee the clarity of the regulations.

Subdivision (c) establishes an initialism whereby “ATN” means “Ammunition Transaction Number,” which is the name the Department has given to the unique identifying number assigned to each request to authorize an ammunition purchase. This name is necessary to communicate to a potential ammunition purchaser or transferee a key component of the process implemented by proposed sections 4302(d) and 4303(c).

Subdivision (d) establishes a name for a process that is prescribed by statute, as referenced in the definition. This process is being named for ease of reference, and to distinguish between the different types of ammunition eligibility checks. Because the eligibility check conducted pursuant to Penal Code section 30370, subdivision (c), is largely the same as the usual firearms eligibility check, the Department has named this eligibility check the “Basic Ammunition Eligibility Check.”

Subdivisions (e), (i), (o) and (p) establish a name for persons or things that are defined by statute, as referenced in each definition. The Department has exercised no discretion in defining these terms. They are necessary to include, here, for ease of reference, and because the terms are used in these regulations.

Subdivision (f) establishes an initialism that is, itself, a commonly used term. The terms “CFARS” and “California Firearm Application Reporting System” are used by Penal Code sections 33850 and 33865 to refer to the system by which members of the public contact the Department regarding their personal firearms records. The Department has exercised no discretion in defining these terms. The definitions are necessary to include, here, to guarantee the clarity of the regulations.

Subdivision (h) establishes the term “Dealer Record of Sale Entry System or DES,” which is a generally acknowledged term in the industry and is explicitly defined by title 11, chapter 8, section 4200, of the California Code of Regulations.

Subdivision (j) establishes a name for a process that is prescribed by statute, as referenced in the definition. This process is being named for ease of reference. The name chosen by the Department is self-descriptive. The statutory reference also explains the eligibility check.

Subdivision (k) establishes the meaning of the term “head of agency.” This meaning is necessary to establish in order to determine who is authorized by Penal Code section 30352, subdivision (e)(7) as having the authority relevant to sections 4306(a)(4) and (5) of these regulations. The Department has interpreted the term “head of agency” in the most commonly accepted manner.

Subdivision (n) establishes a name for a process that is prescribed by statute, as referenced in the definition. This process is being named for ease of reference, and to distinguish between types of statutory eligibility checks. Because the Department expects that 98 percent of ammunition eligibility checks will be conducted pursuant to Penal Code section 30370, subdivision (a)(1), the Department has named this eligibility check the “Standard Ammunition Eligibility Check.”

§ 4302. Standard Ammunition Eligibility Check.

Subdivision (a) establishes a fee of \$1 per Standard Ammunition Eligibility Check, to recover the reasonable cost of regulatory and enforcement activities related to Article 4 of Chapter 1 of Division 10 of Title 4 of Part 6 of the Penal Code. Pursuant to Penal Code section 30370, subdivision (e), the per-transaction fee may exceed neither \$1, nor the reasonable regulatory and enforcement costs of activities related to the article.

The Department has determined that a \$1 fee per Standard Ammunition Eligibility Check is necessary to recover the reasonable cost of regulatory and enforcement activities.

The Department estimates there will be approximately 13.2 million ammunition purchases or transfers each year (see the Economic Impact Analysis for how the Department reached this estimate). Of those 13.2 million purchases or transfers, the Department estimates that approximately 13 million will come from people who have records in the Automated Firearms System (AFS). These individuals may be authorized to purchase ammunition subsequent to the results of a Standard Ammunition Eligibility Check.

There are currently 4.5 million people with distinct entries in the Automated Firearms System. However, the Department estimates that less than 2/3 of these people are active firearms users. This is because the oldest records in AFS date back to the year 1900 and likely reflect individuals who are no longer active firearms users; some people who possess firearms do not use them regularly, and so do not purchase ammunition regularly; and people who purchase ammunition at gun ranges are exempt from these regulations per Penal Code section 30352, subdivision (e)(3). The Department estimates that each person in AFS who is actively engaged in shooting sports (roughly 3,000,000 persons) will purchase ammunition approximately 4-5 times each year, for an estimate of approximately 13,000,000 million transactions each year that

will be conducted subsequent to a Standard Ammunition Eligibility Check. At the proposed fee of \$1 per transaction, this equates to a revenue of \$13,000,000 each year.

Together with the \$950,000 generated by the fee for the Basic Ammunition Eligibility Check and the \$154,000 generated by the fee for the COE Verification (see explanations for these fees in sections 4303 and 4305, below), the Department projects a revenue of approximately \$14,104,000 each year.

The initial costs of implementing the ammunition authorization program required the Department to incur a debt of \$25 million from the state's General Fund, as authorized by Penal Code section 30371. These initial program costs include personal services, operating expenses and equipment, system enhancements, infrastructure, and other costs. This debt will need to be repaid, with interest, as stipulated by the authorizing statute.

The Department estimates the ongoing fiscal expenses to implement the entire ammunition authorization program will be approximately \$13 million for the first year, and approximately \$10 million each subsequent year (see STD 399 Attachment A). For fiscal years 2019/20, 2020/21, and 2021/22, the Department will allow for the Ammunition Safety and Enforcement Special Fund to build a reserve for economic uncertainties. This reserve will also be used to repay, with interest, the \$25 million loan from the state's General Fund. The Department projects that it will be able to repay the loan at \$3 million each year, beginning FY 2022/2023.

The Department has determined that the most effective way to recover the costs of implementing the ammunition authorization program, including the cost of repaying the loan with interest and maintaining a modest reserve, is to set the fee for the Standard Ammunition Eligibility Check at \$1 per transaction.

By fiscal year 2022/23, the Department will have a better estimate for annual revenues based on actual numbers, and at that time can adjust the fee set by proposed section 4302, subdivision (a).

Subdivision (b) specifies that the purchaser or transferee's name, date of birth, current address and driver license or other government identification number must be collected from the potential purchaser or transferee, and specifies the manner of collecting and transmitting that information to the Department.

Penal Code section 30370, subdivision (b) requires the Department to match the purchaser's or transferee's "name, date of birth, current address and driver license or other government information" with "the information in the Automated Firearms System." The Department has exercised no discretion in requiring this information from the purchaser or transferee.

The information must be collected in the manner described in Penal Code section 28180 because Penal Code section 30370, subdivision (b) requires that it be collected in that manner. The Department has exercised no discretion in requiring this. It is necessary to include, here, to guarantee the clarity of the regulations.

The purchaser or transferee's telephone number is required by Penal Code section 30352, subdivision (a)(6), at the time of the delivery of the ammunition. Rather than request personal

information from the purchaser or transferee at two separate times, the Department has determined that it would be most efficient to request all of the purchaser or transferee's personal information required to complete an ammunition purchase or transfer at this stage of the process, so that no new personal information will need to be requested at a second stage of the process. This will streamline the delivery of ammunition as soon as it is approved. The Department has also determined that gathering the purchaser or transferee's phone number at the time of the eligibility check will allow the Department greater ability to verify the purchaser's identity, if necessary, and to communicate with the purchaser or transferee, if necessary.

The Department has determined that the most effective way to conduct the ammunition authorization program is to require all required information be communicated to the Department through the DES website, with the notable exemption provided by Penal Code section 30370, subdivision (d), as implemented by section 4307 of these proposed regulations. Penal Code section 30370, subdivision (d) implies that the majority of ammunition vendors will submit the information "electronically." Pursuant to Penal Code section 30385, subdivision (d), many firearms dealers are also authorized ammunition vendors. The DES website is already the established portal through which firearms dealers communicate purchasers' or transferees' personal information to the Department for the purpose of firearm eligibility checks. It would be unduly burdensome for ammunition vendors, and unnecessarily expensive for the Department to develop and require use of a separate method of communicating purchasers' or transferees' personal information to the Department for the specific purpose of ammunition eligibility checks.

Subdivision (c) specifies that, subsequent to the submission of information described in subdivision (b), the Department will communicate to the ammunition vendor the Department's determination regarding whether the purchaser or transferee is authorized to purchase ammunition. This specifies the possible results of the Standard Ammunition Eligibility Check, and that the Department will communicate the results directly to the ammunition vendor, thereby providing the ability for the ammunition vendor to comply with Penal Code section 30352, subdivision (d).

Subdivision (d) specifies the process by which a purchaser or transferee may obtain the reason when a Standard Ammunition Eligibility Check results in a rejection. This subdivision is necessary to inform individuals who are rejected subsequent to a Standard Ammunition Eligibility Check that it is possible to obtain a reason for the rejection, and that an ATN can be used for this purpose, thereby providing transparency to the affected party and allowing for the individual to challenge the determination, as appropriate. This is only available when a purchase or transfer is rejected, since an individual who is not rejected would have no use for an ATN. The subdivision also specifies that it is incumbent upon the ammunition vendor to provide the ATN to the purchaser or transferee since, pursuant to subdivisions (b) and (c), the vendor acts as an intermediary between the Department and the purchaser or transferee.

§ 4303. One-Time Ammunition Transactions.

Subdivision (a) establishes a fee, authorized by Penal Code section 30370, subdivision (c), to recover the reasonable cost of processing and regulatory and enforcement activities related to that statute. The authorizing statute allows the Department to set the fee at an amount not to exceed the fee charged for the Department's Dealers' Record of Sale (DROS) process, and not to exceed the Department's reasonable costs.

The charge for the DROS process, as set by title 11, chapter 1, section 4001 of the California Code of Regulations, is \$19 per transaction.

The Department has determined that it must set the fee for the Basic Ammunition Eligibility Check at \$19 per transaction in order to recover the Department's reasonable costs.

The Department estimates there will be approximately 13.2 million ammunition purchases or transfers each year (see the Economic Impact Analysis for how the Department reached this estimate). Of those 13.2 million purchases or transfers, the Department estimates that approximately 154,000 will be made by people who undergo the COE verification process and 13,000,000 million made by people who have an entry in AFS. The Department therefore estimates that there will be 50,000 purchases made by people who will gain authorization to purchase ammunition by submitting to the Basic Ammunition Eligibility Check. At the maximum allowable fee of \$19 per transaction, this equates to a revenue of \$950,000 each year.

Together with the \$13,000,000 generated by the fee for the Standard Ammunition Eligibility Check and \$154,000 generated by the fee for the COE verification (see explanations for these fees in sections 4302, above, and section 4305, below), the Department projects a revenue of approximately \$14,104,000 each year.

The initial costs of implementing the ammunition authorization program required the Department to incur a debt of \$25 million from the state's General Fund, as authorized by Penal Code section 30371. These initial program costs include personal services, operating expenses and equipment, system enhancements, infrastructure, and other costs. This debt will need to be repaid, with interest, as stipulated by the authorizing statute.

The Department estimates the ongoing fiscal expenses to implement the entire ammunition authorization program will be approximately \$13 million for the first year, and approximately \$10 million each subsequent year (see STD 399 Attachment A). For fiscal years 2019/20, 2020/21, and 2021/22, the Department will allow for the Ammunition Safety and Enforcement Special Fund to build a reserve for economic uncertainties. This reserve will also be used to repay, with interest, the \$25 million loan from the state's General Fund. The Department projects that it will be able to repay the loan at \$3 million each year, beginning FY 2022/2023.

The Department has determined that the most effective way to recover the costs of implementing the ammunition authorization program, including the cost of repaying the loan with interest and maintaining a modest reserve, is to set the fee for the Basic Ammunition Eligibility Check at \$19 per transaction.

By fiscal year 2022/23, the Department will have a better estimate for annual revenues based on actual numbers, and at that time can adjust the fee set by proposed section 4303, subdivision (a).

Subdivision (b) specifies information that must be collected from the purchaser or transferee, and the manner of collecting and transmitting that information to the Department.

The purchaser or transferee's name, date of birth, current address, gender, hair color, eye color, height, weight, driver license or other government identification number, place of birth, alias names(s), and race are required so that the Department can conduct the Basic Ammunition Eligibility Check. Penal Code section 30370, subdivision (c) requires the Department to "develop a procedure in which a person who is not prohibited from purchasing or possessing ammunition may be approved" to purchase or receive possession of ammunition. Because, pursuant to Penal Code section 30305, no person prohibited from owning or possessing a firearm, as specified, shall own or possess ammunition, the Department has determined that the most effective way to implement Penal Code section 30370, subdivision (c) is to conduct an ammunition eligibility check that mirrors the processes and procedures of a firearms eligibility check, with the exception of the check of federal databases. That exception aside, a firearms eligibility check requires the aforementioned personal information in order to verify the person's identity and to check records accessible by the Department, and therefore the Department has determined that the most effective method of conducting a Basic Ammunition Eligibility Check is to require the same information from an ammunition purchaser or transferee.

The information must be collected in the manner described in Penal Code section 28180 because this is the most efficient method of accurately collecting the information required. Pursuant to Penal Code section 30385, subdivision (d), many firearms dealers are also authorized ammunition vendors. These firearms dealers are already required by Penal Code section 28180 to collect purchaser information in that manner, for the purpose of firearm eligibility checks. This is also the manner prescribed by Penal Code section 30370, subdivision (b), for collecting personal information for the Standard Ammunition Eligibility Check. It would be unduly burdensome for ammunition vendors, and unnecessarily expensive for the Department to develop and require use of a separate method to accurately collect and communicate purchasers' or transferees' personal information to the Department for the specific purpose of ammunition eligibility checks.

The purchaser or transferee's United States citizenship status, and federal Alien Registration Number or I-94 (if applicable), are also required so that the Department can conduct the Basic Ammunition Eligibility Check. Penal Code section 30370, subdivision (c), requires the Department to develop a procedure in which "a person who is not prohibited from purchasing or possessing ammunition may be approved..." It is ambiguous whether "a person who is not prohibited" refers to a person who is only "not prohibited" by state law, or also to persons not prohibited by federal law. For example, title 18, section 922(g) of the federal Gun Control Act makes it unlawful for individuals meeting specified criteria ("prohibitors") to possess a firearm or ammunition. The Department has determined that it would be counter to the legislative intent under SB 1235 for the Department to approve purchases of ammunition by individuals who may be prohibited from doing so under either state or federal law. The two other methods of obtaining authorization from the Department to purchase ammunition pursuant to Penal Code

section 30370 both involve a check of federal prohibitors. The Standard Ammunition Eligibility Check requires the individual to not be prohibited from owning or possessing ammunition by cross-referencing the Prohibited Armed Persons File database which, pursuant to Penal Code section 30005, explicitly includes individuals who are prohibited from firearms and ammunition possession by federal law. Similarly, a Certificate of Eligibility is issued upon a determination by the Department that the individual is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm or, by extension, ammunition (see Penal Code section 26710, subdivision (b)). The Department has determined it will not affirm that an individual is authorized to purchase ammunition if the individual is prohibited under federal law, and therefore that the Basic Ammunition Eligibility Check should likewise consider federal prohibitors on ammunition possession. However, because the Department is not permitted to use the federal National Instant Criminal Background Check System (NICS) for the purpose of ammunition eligibility checks, the Department has determined that the most efficient method of ensuring that a person is not prohibited to purchase ammunition under federal law is to require the ammunition vendor to collect the purchaser or transferee's United States citizenship status, and federal Alien Registration Number or I-94 (if applicable), and to report this information to the Department.

The purchaser or transferee's telephone number is required by Penal Code section 30352, subdivision (a)(6), at the time of the delivery of the ammunition. Rather than request personal information from the purchaser or transferee at two separate times, the Department has determined that it would be most efficient to request all of the purchaser or transferee's personal information required to complete an ammunition purchase or transfer at this stage of the process, so that no new personal information will need to be requested at a second stage of the process. This will streamline the delivery of ammunition as soon as it is approved. The Department has also determined that gathering the purchaser or transferee's phone number at the time of the eligibility check will allow the Department to verify the purchaser's identity, if necessary, and to communicate with the purchaser or transferee, if necessary.

The Department has determined that the most effective way to conduct the ammunition authorization program is to require all required information be communicated to the Department through the DES website, with the notable exemption provided by Penal Code section 30370, subdivision (d), as implemented by section 4307 of these proposed regulations. Penal Code section 30370, subdivision (d) implies that the majority of ammunition vendors will submit the information "electronically." Pursuant to Penal Code section 30385, subdivision (d), many firearms dealers are also authorized ammunition vendors. The DES website is already the established portal through which firearms dealers communicate purchasers' or transferees' personal information to the Department for the purpose of firearm eligibility checks. It would be unduly burdensome for ammunition vendors, and unnecessarily expensive for the Department to develop and require use of a separate method of communicating purchasers' or transferees' personal information to the Department for the specific purpose of ammunition eligibility checks.

Subdivision (c)(1) specifies that an approved Basic Ammunition Eligibility Check can only be used for one purchase. Penal Code section 30370, subdivision (c) mandates that the procedure being developed by this proposed regulation will provide an approval "for a single ammunition transaction or purchase." The Department has determined that it is necessary to duplicate the

statutory provision in the regulation so as to provide clarity regarding the practical usefulness of a Basic Ammunition Eligibility Check.

This subdivision also specifies that the approval expires 30 calendar days from when it is issued. During the Basic Ammunition Eligibility Check, the Department conducts a review of its records to determine if an individual is eligible to own or possess ammunition; the review is based on information retrieved at that point in time. To ensure the Department bases its determinations on the most current information, eligibility checks are only valid for 30 days. After 30 days, a new eligibility check must be conducted to ensure that nothing has transpired that would prohibit an individual from owning or possessing ammunition.

Subdivision (c)(2) specifies that if the Basic Ammunition Eligibility Check is denied, the Department will notify the purchaser or transferee of the reason for the denial via U.S. mail. It is necessary to communicate the reason for the denial via U.S. mail because this reason will have been determined through a review of the records available to the Department, and by referring to those records 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.

Subdivision (d) specifies the manner in which the Department will communicate the result of the potential purchaser or transferee's request. The Department has determined that the most effective way to communicate its determination to the vendor and to the potential purchaser or transferee is through the DES website. Pursuant to Penal Code section 30385, subdivision (d), many firearms dealers are also authorized ammunition vendors. The DES website is already the established portal through which the Department communicates determinations on firearm eligibility checks to firearms dealers, regarding potential firearms purchasers or transferees. It would be unduly burdensome for ammunition vendors, and unnecessarily expensive for the Department to develop a separate method of communicating the Department's determination to ammunition vendors for the purpose of ammunition eligibility checks. By specifying that the determination will be communicated via the DES website, the result will be communicated directly to the ammunition vendor, thereby providing the ability for the ammunition vendor to comply with Penal Code section 30352, subdivision (d).

§ 4305. COE Verification Process.

Subdivision (a) establishes a fee of \$1 per request for a Certificate of Eligibility (COE) verification for the purpose of gaining authorization to purchase or transfer ammunition, to recover the reasonable cost of regulatory and enforcement activities related to Article 4 of Chapter 1 of Division 10 of Title 4 of Part 6 of the Penal Code. Pursuant to Penal Code section 30370, subdivision (e), the per-transaction fee may exceed neither \$1, nor the reasonable regulatory and enforcement costs.

The Department has determined that a \$1 fee per COE verification is necessary to recover the reasonable cost of regulatory and enforcement activities.

The Department estimates there will be approximately 13.2 million ammunition purchases or transfers each year (see the Economic Impact Analysis for how the Department reached this estimate). Of those 13.2 million purchases or transfers, the Department estimates that approximately 154,000 will be made by people who undergo the COE verification process.

There are currently 22,000 people who hold a COE. Persons who hold a COE are likely to be actively engaged in shooting sports, and so the Department estimates that all COE holders will purchase ammunition in any given year (i.e., all 22,000 COE holders), and at a rate higher than most casual firearms enthusiasts. The Department estimates that COE holders will purchase ammunition approximately seven (7) times each year, for an estimate of 154,000 transactions each year. At the maximum allowable fee of \$1 per transaction, this equates to a revenue of \$154,000 each year.

Together with the \$13,000,000 generated by the fee for the Standard Ammunition Eligibility Check and the \$950,000 generated by the fee for the Basic Ammunition Eligibility Check, the Department projects a revenue of approximately \$14,104,000 each year.

The initial costs of implementing the ammunition authorization program required the Department to incur a debt of \$25 million from the state's General Fund, as authorized by Penal Code section 30371. These initial program costs include personal services, operating expenses and equipment, system enhancements, infrastructure, and other costs. This debt will need to be repaid, with interest, as stipulated by the authorizing statute.

The Department estimates the ongoing fiscal expenses to implement the entire ammunition authorization program will be approximately \$13 million for the first year, and approximately \$10 million each subsequent year (see STD 399 Attachment A). For fiscal years 2019/20, 2020/21, and 2021/22, the Department will allow for the Ammunition Safety and Enforcement Special Fund to build a reserve for economic uncertainties. This reserve will also be used to repay, with interest, the \$25 million loan from the state's General Fund. The Department projects that it will be able to repay the loan at \$3 million each year, beginning FY 2022/2023.

The Department has determined that the most effective way to recover the costs of implementing the ammunition authorization program, including the cost of repaying the loan with interest and maintaining a modest reserve, is to set the fee for the COE Verification at \$1 per transaction.

By fiscal year 2022/23, the Department will have a better estimate for annual revenues based on actual numbers, and at that time can adjust the fee set by proposed section 4305, subdivision (a).

Subdivision (b) specifies the information that must be collected to verify that the purchaser or transferee holds a current COE, and the manner of collecting and transmitting that information to the Department so that the Department can verify that the COE is "current" and therefore approve the purchase or transfer pursuant to Penal Code section 30370, subdivision (a)(2).

The purchaser or transferee's name, date of birth, current address and driver license or other government identification number must be collected so that the Department can verify the purchaser or transferee's identity.

The information must be collected in the manner described in Penal Code section 28180 because this is the most efficient method of accurately collecting the information required. Pursuant to Penal Code section 30385, subdivision (d), many firearms dealers are also authorized ammunition vendors. These firearms dealers are already required by that Penal Code section to collect purchaser information in that manner, for the purpose of firearm eligibility checks. This is also the manner prescribed by Penal Code section 30370, subdivision (b), for collecting personal information for the Standard Ammunition Eligibility Check. It would be unduly burdensome for ammunition vendors, and unnecessarily expensive for the Department to develop and require the use of a separate method of accurately collecting and communicating purchasers' or transferees' personal information to the Department for the specific purpose of the COE Verification.

The purchaser or transferee's COE number must be collected so that the Department can cross-reference its records to verify that the COE is "current."

The purchaser or transferee's telephone number is required by Penal Code section 30352, subdivision (a)(6), at the time of the delivery of the ammunition. Rather than request personal information from the purchaser or transferee at two separate times, the Department has determined that it would be most efficient to request all of the purchaser or transferee's personal information required to complete an ammunition purchase or transfer at this stage of the process, so that no new personal information will need to be requested at a second stage of the process. This will streamline the delivery of ammunition as soon as it is approved. The Department has also determined that gathering the purchaser or transferee's phone number at the time of the eligibility check will allow the Department to verify the purchaser's identity, if necessary, and to communicate with the purchaser or transferee, if necessary.

The Department has determined that the most effective way to conduct the ammunition authorization program is to require all required information be communicated to the Department through the DES website, with the notable exemption provided by Penal Code section 30370, subdivision (d), as implemented by section 4307 of these proposed regulations. Penal Code section 30370, subdivision (d) implies that the majority of ammunition vendors will submit the information "electronically." Pursuant to Penal Code section 30385, subdivision (d), many firearms dealers are also authorized ammunition vendors. The DES website is already the established portal through which firearms dealers communicate purchasers' or transferees' personal information to the Department for the purpose of firearm eligibility checks. It would be unduly burdensome for ammunition vendors, and unnecessarily expensive for the Department to develop and require use of a separate method of communicating purchasers' or transferees' personal information to the Department for the specific purpose of the COE Verification.

Subdivision (c) specifies that, subsequent to the submission of information described in subdivision (b), the Department will communicate to the ammunition vendor the Department's determination regarding whether the purchaser or transferee is authorized to purchase

ammunition. This specifies the possible results of the COE Verification, and that the Department will communicate the results directly to the ammunition vendor, thereby providing the ability for the ammunition vendor to comply with Penal Code section 30352, subdivision (d).

§ 4309. Billing, Payment, and Suspension for Non-Payment.

Subdivision (a) specifies how an ammunition vendor is billed by the Department. The Department has determined that the most effective way to bill an ammunition vendor is to deliver the bill through the DES website. Pursuant to Penal Code section 30385, subdivision (d), many firearms dealers are also authorized ammunition vendors. The DES website is already the established portal through which bills are delivered to firearms dealers, to provide payment for firearm eligibility checks. It would be unduly burdensome for ammunition vendors, and unnecessarily expensive for the Department to develop and require the use of a separate method of communicating billing statements to the ammunition vendor.

Subdivision (c) specifies consequences for non-payment within 30 days. The Department has determined that there must be a consequence for non-payment, in order to incentivize timely payment. Thirty days is a standard length of time to allow for payments to be made. The Department has determined that suspending access to DES is the most effective way to incentivize payment, as ammunition vendors would want sustained access to DES in order to continue to legally sell ammunition.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME Justice	CONTACT PERSON Kelan Lowney	EMAIL ADDRESS BOFregulations@doj.ca.gov	TELEPHONE NUMBER 916-227-7615
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Ammunition Purchases or Transfers			NOTICE FILE NUMBER Z 2018-1204-08

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|--|---|
| <input checked="" type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input checked="" type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input checked="" type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input type="checkbox"/> h. None of the above (Explain below): |

*If any box in Items 1 a through g is checked, complete this Economic Impact Statement.
If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.*

2. The Department of Justice estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- ☐ Below \$10 million
- ☐ Between \$10 and \$25 million
- ☒ Between \$25 and \$50 million
- ☐ Over \$50 million *(If the economic impact is over \$50 million, agencies are required to submit a [Standardized Regulatory Impact Assessment](#) as specified in Government Code Section 11346.3(c))*

3. Enter the total number of businesses impacted: Approx. 2600

Describe the types of businesses (include nonprofits): Firearms dealers and businesses that sell ammunition to the public.

Enter the number or percentage of total businesses impacted that are small businesses: Approx. 60 %

4. Enter the number of businesses that will be created: Unknown eliminated: Unknown

Explain: These regulations only apply to the sale or transfer of ammunition.

5. Indicate the geographic extent of impacts: ☒ Statewide

☐ Local or regional (List areas): _____

6. Enter the number of jobs created: Unknown and eliminated: Unknown

Describe the types of jobs or occupations impacted: Individuals that own or operate an ammunition vendor business within the state of California.

7. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here?

☐ YES ☒ NO

If YES, explain briefly: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ Undetermineda. Initial costs for a small business: \$ See Attachment A Annual ongoing costs: \$ See Attachment A Years: N/Ab. Initial costs for a typical business: \$ See Attachment A Annual ongoing costs: \$ See Attachment A Years: N/Ac. Initial costs for an individual: \$ See Attachment A Annual ongoing costs: \$ See Attachment A Years: N/Ad. Describe other economic costs that may occur: See Attachment A.2. If multiple industries are impacted, enter the share of total costs for each industry: N/A3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements.
Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted. \$ N/A4. Will this regulation directly impact housing costs? ☐ YES ☒ NO

If YES, enter the annual dollar cost per housing unit: \$ _____

Number of units: _____

5. Are there comparable Federal regulations? ☐ YES ☒ NOExplain the need for State regulation given the existence or absence of Federal regulations: The proposed regulations are necessary to allow the Department to authorize an individual to purchase or transfer ammunition as authorized by Penal Code section 30370.Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ N/A**C. ESTIMATED BENEFITS** *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: These regulations will increase public safety throughout the state of California by preventing convicted felons, the dangerously mentally ill, and other prohibited persons from acquiring ammunition.2. Are the benefits the result of: ☒ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?Explain: Pursuant to Penal Code sections 30352 and 30370, the DOJ is authorized to establish regulations.3. What are the total statewide benefits from this regulation over its lifetime? \$ Undetermined4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: Unknown**D. ALTERNATIVES TO THE REGULATION** *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: No alternatives were considered because pursuant to Penal Code section 30370, subdivision (c) and (e), the Department is statutorily mandated to collect a reasonable fee to cover the cost of regulatory and enforcement activities.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ Unquantifiable Cost: \$ UndeterminedAlternative 1: Benefit: \$ N/A Cost: \$ N/AAlternative 2: Benefit: \$ N/A Cost: \$ N/A

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives:

N/A

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs?

☒ YES☐ NOExplain: Other methods of providing information to DOJ were considered but it was determined that requiring the use of the Dealer Record of Sale (DROS) Entry System was the best option since the majority of dealers and vendors already use it.**E. MAJOR REGULATIONS** Include calculations and assumptions in the rulemaking record.*California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.*1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million? ☐ YES ☒ NO*If YES, complete E2. and E3**If NO, skip to E4*

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES☒ NO*If YES, agencies are required to submit a Standardized Regulatory Impact Assessment (SRIA) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: _____

None expected

The incentive for innovation in products, materials or processes: _____

Unknown

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

Increased public safety as specified in the response to question C1 on the previous page.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT**A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- ☐ a. Funding provided in _____
Budget Act of _____ or Chapter _____, Statutes of _____

- ☐ b. Funding will be requested in the Governor's Budget Act of _____
Fiscal Year: _____

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- ☐ a. Implements the Federal mandate contained in _____
- ☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- ☐ e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

- ☐ 3. Annual Savings. (approximate)

\$ _____

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☐ 6. Other. Explain _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT (CONTINUED)**B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☒ 1. Additional expenditures in the current State Fiscal Year. (Approximate)\$ \$12,844,697*It is anticipated that State agencies will:*☐ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the _____ Fiscal Year☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☐ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☒ 4. Other. Explain See Attachment A**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain _____

FISCAL OFFICER SIGNATURE

DATE

*The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.*

AGENCY SECRETARY

DATE

*Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.*

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER

DATE



ATTACHMENT A
Ammunition Purchases or Transfers
Economic and Fiscal Impact Statement (Regulations and Orders)
STD. 399

Economic Impact Statement, Section B. Question 1.

These regulations will have an economic impact on both businesses and individuals.

Business Costs

The implied economic costs for businesses that sell ammunition come from the processing time of the Standard Ammunition Eligibility Check. The Department estimates that it will take approximately two minutes to process a Standard Ammunition Eligibility Check or Certificate of Eligibility (COE) verification, so the direct costs for an ammunition vendor can be derived from taking the approximate two-minute processing time and multiplying it by the 13 million transactions while valuing ammunition vendor staff time at \$11 per hour. In total, the annual direct cost for ammunition vendors to process these transactions is \$4,766,667. The initial and ongoing costs to small businesses is 60 percent of \$4,766,667, or \$2,860,000. The total number of firearms dealers and ammunition vendors is 2,600, and the Department estimates 60 percent of those vendors are small businesses. The initial and ongoing costs to a typical business is 40 percent of \$4,766,667, or \$1,906,667.

Individual Costs

The projected cost for an individual depends on how many ammunition purchases the person makes and whether the person undergoes a Standard Ammunition Eligibility Check, Basic Ammunition Eligibility Check, or COE verification. The per-transaction cost for the Standard Ammunition Eligibility Check or COE verification is \$1.00. The cost for a Basic Ammunition Eligibility Check is \$19.00.

In addition, ammunition purchasers will have implied costs from the processing time of the Standard Ammunition Eligibility Check. Ammunition purchaser time is valued in the same manner as ammunition vendors, so the annual direct cost for ammunition purchasers is an estimated total of \$4,766,667.

Ultimately, the cost to an individual depends on the number of ammunition transactions the person makes in a year. If an individual elects to purchase all their ammunition for the entire year at once, his or her cost will only be \$1 or \$19, depending on the type of check the person has to undergo.

Total Economic Impact Projections

Type of Direct Cost	Frequency	Unit Cost	Direct Cost
Standard Ammunition Eligibility Check	13 million	\$1	\$ 13,000,000
COE Verification	154,000	\$1	\$ 154,000
Basic Ammunition Eligibility Check	50,000	\$19	\$ 950,000
Vendor Staff Time	13,154,000 x 2 minutes	\$11 per hour	\$ 4,819,833
Purchaser Time	13,154,000 x 2 minutes	\$11 per hour	\$ 4,819,833
		Total Direct Cost:	\$ 23,743,666

Fiscal Impact Statement, Section B. Question 1.

Fiscal Effect on State Government

The initial costs of implementing the ammunition authorization program required the Department to incur a debt of \$25,000,000 from the state's General Fund, as authorized by Penal Code section 30371. These initial program costs include personal services, operating expenses and equipment, system enhancements, infrastructure, and other costs. This debt will need to be repaid, with interest, as stipulated by the authorizing statute.

The Department estimates the annual fiscal expenses will be higher the first year, but will level out to \$9,886,506 per year thereafter, as seen in the chart below.

Additionally, the Department estimates the annual fee revenues will be \$14,104,000 per year. This calculation is based on an estimated 13 million Standard Ammunition Eligibility Checks, 154,000 COE verifications, and 50,000 estimated Basic Ammunition Eligibility Checks.

Fiscal Impacts on State Government

Type of Cost	FY 19/20	FY 20/21	FY 21/22	FY 22/23	FY 23/24
Loan balance	(\$25,000,000)	(\$25,000,000)	(\$25,000,000)	(\$22,000,000)	(\$19,000,000)
Annual fiscal expenses	\$12,844,697	\$9,886,506	\$9,886,506	\$9,886,506	\$9,886,506
Repayment of Loan	\$ 0	\$ 0	\$ 0	\$3,000,000	\$3,000,000
Annual fee revenues	\$14,104,000	\$14,104,000	\$14,104,000	\$14,104,000	\$14,104,000
Net Balance	- \$23,740,697	- \$19,523,203	- \$15,305,709	- \$14,088,215	- \$12,870,721

For fiscal years 19/20, 20/21, and 21/22, the Department will allow for the fund to build a reserve for economic uncertainties. This reserve will also be used to repay the General Fund loan that was authorized to the Department for implementation of the ammunition authorization program. By fiscal year 22/23, the Department will have a better estimate for annual revenues based on actual numbers, and at that time can adjust the fee accordingly. Additionally, depending on the stability of the fund and revenue trends, the Department may begin paying back the loan in fiscal year 22/23. Please note: although the chart above indicates payments will be made in increments of \$3 million, the payment amount will depend on the stability of the fund and revenue trends.

Furthermore, these fiscal and economic estimates do not account for potential reductions in ammunition purchases due to individuals being prohibited because, in the Department's experience, often times individuals do not know they are prohibited until they attempt to purchase a firearm (and now ammunition.) The individual will pay the fee up front because all of the work will still be performed with the result being a denial upon finding an individual is prohibited.

Salaries are based on costs for both the Department's Bureau of Firearms (BOF) and California Justice Information Services division (CJIS). Resulting from the ammunition legislation, BOF has 59 new positions that are responsible for promulgating regulations, reviewing mental health and Automated Firearms System records, processing applications for Certificates of Eligibility, performing checks for the Basic Ammunition Eligibility Check, providing training to firearms dealers and ammunition vendors, inspecting firearm dealers and ammunition vendors, and enforcing ammunition laws.

The 14 new positions for CJIS are responsible for project planning, systems enhancements for multiple firearms systems, testing of the system enhancements, and ongoing maintenance of systems.

The annual fiscal expenses are broken down in the following chart.

<i>Year-to-Year Costs of Implementing the Ammunition Program</i>					
<i>Annual Fiscal Expenses</i>					
PROJECTED FISCAL DETAIL EXPENDITURES	FY 19-20	FY 20-21	FY 21-22	FY 22-23	FY 22-23
PERSONAL SERVICES					
Salaries	\$5,839,347	\$4,515,371	\$4,515,371	\$4,515,371	\$4,515,371
Staff Benefits	\$2,167,604	\$2,146,682	\$2,146,682	\$2,146,682	\$2,146,682
Total Personal Services	\$8,006,951	\$6,662,053	\$6,662,053	\$6,662,053	\$6,662,053
OPERATING EXPENSES & EQUIPMENT					
Standard Complement	\$1,081,720	\$1,028,570	\$1,028,570	\$1,028,570	\$1,028,570
Departmental Services	\$154,079	\$154,079	\$154,079	\$154,079	\$154,079
Total Operating Expenses & Equipment	\$1,235,799	\$1,182,649	\$1,182,649	\$1,182,649	\$1,182,649
OTHER COSTS					
Credit Card Processing Fees - First Data and American Express Contracts	\$1,679,500	\$1,679,500	\$1,679,500	\$1,679,500	\$1,679,500
System Maintenance/Record Keeping and Storage	\$442,485	\$362,304	\$362,304	\$362,304	\$362,304
Total Other Costs	\$2,121,985	\$2,041,804	\$2,041,804	\$2,041,804	\$2,041,804
System Enhancements					
AFS Database & Develop APRF Database	\$0	\$0	\$0	\$0	\$0
APPS Enhancements	\$873,448	\$0	\$0	\$0	\$0
BOF Systems Enhancements	\$0	\$0	\$0	\$0	\$0
Total System Enhancements	\$873,448	\$0	\$0	\$0	\$0
Infrastructure					
Hardware	\$474,000	\$0	\$0	\$0	\$0
Software	\$132,514	\$0	\$0	\$0	\$0
Total Infrastructure	\$606,514	\$0	\$0	\$0	\$0
Grand Total Expenditures	\$12,844,697	\$9,886,506	\$9,886,506	\$9,886,506	\$9,886,506
PROJECTED FISCAL DETAIL REVENUE (1)					
\$25 million GF Loan Repayment (2)	\$0	\$0	\$0	(\$3,000,000)	(\$3,000,000)
Total Revenue	\$14,104,000	\$14,104,000	\$14,104,000	\$11,104,000	\$11,104,000
(1) Revenue based on: 13 million Standard Ammunition Eligibility Checks @ \$1 154,000 COE verifications @ \$1 50,000 Basic Ammunition Eligibility Checks @ \$19					
(2) The Department Projects that it may be able to start paying off the GF loan in 22/23					