

CALIFORNIA DEPARTMENT OF JUSTICE

TITLE 11. LAW

DIVISION 5. FIREARMS REGULATIONS

**CHAPTER 4. DOCUMENTATION REQUIREMENTS FOR FIREARMS AND
AMMUNITION ELIGIBILITY CHECKS, CHAPTER 8. DROS ENTRY SYSTEM (DES),
and CHAPTER 11. FIREARM PRECURSOR PARTS**

INITIAL STATEMENT OF REASONS

PROBLEM STATEMENT

In 2019, the Legislature passed Assembly Bill (AB) 879 (Ch. 730, Stats. 2019), to extend the laws governing the sale and purchase of firearms and ammunition to firearm precursor parts, unfinished firearm receivers, or handgun frames that—because they are not currently classified by state or federal law as a firearm—have been available for purchase by persons who are prohibited from possessing a firearm. After purchasing a firearm precursor part without a background check, a prohibited person may then convert the precursor part into a functional firearm. The new law prohibits the sale or transfer of a firearm precursor part to an individual who is prohibited from owning or possessing a firearm.

Beginning July 1, 2022, the sale or transfer of a firearm precursor part must be conducted through a licensed firearm precursor part vendor, with specified exemptions. A firearm precursor part vendor must verify with the Department that a potential purchaser or transferee is authorized to possess firearm precursor parts. If the person is not approved as an authorized firearm precursor part purchaser or transferee, the vendor must deny the sale or transfer. The Department must approve the purchase or transfer of firearm precursor parts through a vendor electronically, except as otherwise specified.

The proposed regulations will explain the process for purchasing or transferring firearm precursor parts; what to do if an attempted purchase or transfer is denied; and what is needed to establish that a purchaser or transferee is exempt from Department approval. The proposed regulations also revise existing regulations regarding the identification documents necessary to conduct an eligibility check, and use of the DROS Entry System (DES), so that both include firearm precursor parts alongside their existing application to firearms and ammunition.

BENEFITS ANTICIPATED FROM REGULATORY ACTION

Generally, these regulations protect public health and safety by implementing an authorization program for the transfer and sale of firearm precursor parts. Currently, people who are prohibited from possessing a firearm and are therefore not able to purchase a firearm from a licensed firearm dealer can instead purchase firearm precursor parts off the Internet and build a homemade firearm. By implementing an eligibility check process for firearm precursor parts, these regulations help keep firearms out of the hands of those who are prohibited from possessing firearms.

SPECIFIC PURPOSE AND NECESSITY OF EACH SECTION

Chapter 4. Documentation Requirements for Firearms and Ammunition Eligibility Checks

The title of Chapter 4 will be revised to include Firearm Precursor Part Eligibility Checks.

§ 4045.1. Additional Documentation Requirements for Eligibility Checks with Federal Non-Compliant California Driver License or Identification Card.

Existing section 4045.1 specifies the types of identification documents an individual must present to a firearms dealer or ammunition vendor when purchasing or accepting transfer of a firearm or ammunition. The section is being changed to include the purchase or transfer of firearm precursor parts. The purpose of the regulation is to specify the types of identification documents that, when provided to the Department, are sufficient to determine the eligibility of a purchaser or transferee to possess a firearm or ammunition, or as proposed a firearm precursor part, under state or federal law.

In particular, federal non-compliant California driver licenses and identification cards with the words “FEDERAL LIMITS APPLY” on the front are issued to both: (1) individuals who apply for a driver license under AB 60 (Stats. 2013, Ch. 524.), a program for individuals who cannot provide proof of lawful presence in the United States; and (2) individuals who can provide proof of lawful residence in the United States, but who have chosen not to apply for a “REAL ID” driver license or identification card. This type of identification, by itself, does not provide sufficient identification to initiate a background check for the purposes of purchasing a firearm or ammunition.

Existing section 4045.1 describes the type of additional documentation a purchaser or transferee must provide in addition to a federal non-compliant California driver license, so as to provide identification sufficient for the Department to determine the eligibility of a purchaser or transferee to possess a firearm or ammunition under state or federal law.

Section 4045.1 will be amended so that this additional documentation requirement for federal non-compliant licenses also applies to eligibility checks for firearm precursor part purchases and transfers.

The Reference section has been amended to include a reference to the statute that requires an eligibility check prior to the purchase or transfer of a firearm precursor part.

Chapter 8. DROS Entry System (DES)

Before a person may purchase or accept transfer of a firearm or ammunition from a firearms dealer or ammunition vendor, the person must pass a background check. The Department is responsible for conducting the background check and for developing an electronic method for the transfer of purchaser or transferee information from firearms dealers and ammunition vendors to the Department to enable the Department to perform the background check. (Pen. Code, §§ 28105, 28155, 30352 and 30370.)

The Department has developed the Dealer Record of Sale Entry System (DES) for firearms dealers and ammunition vendors to transmit purchaser and transferee information to the Department. Chapter 8 implements and provides instructions for the use of DES by firearms dealers and ammunition vendors.

Beginning July 1, 2022, firearm precursor part vendors will be prohibited from selling firearm precursor parts to anyone who is not eligible to own a firearm. Like firearms dealers and ammunition vendors, firearm precursor part vendors will be required to transmit purchaser and transferee information to the Department to enable the Department to perform a background check before completing a sale or transfer. The Department is responsible for developing a method for the transmission of firearm precursor part purchaser and transferee information. (Pen. Code, §§ 30452 and 30470.) The Department has decided to use DES for this purpose.

§ 4210. Terms of Use and Required Information.

Existing section 4210, subdivision (a) describes the terms and conditions applicable to firearms dealers and ammunition vendors for use of DES. For example, dealers and ammunition vendors must, among other things, agree to limit access to DES to authorized persons and to notify the Department of any unauthorized access to DES. An unauthorized use may lead to the unlawful transfer of firearms or ammunition. The dealers and vendors must also agree that the Department is not responsible for any equipment or software connected to DES, and certify that any information transmitted to the Department is true, accurate and complete to the best of their knowledge.

Section 4210, subdivision (a) will be amended to require firearm precursor part vendors to agree to the same terms and conditions for use of DES that apply to firearm dealers and ammunition vendors. This amendment is necessary to provide a secure mechanism for firearm precursor part vendors to submit purchaser and transferee data to the Department to enable the Department to conduct a background check.

Existing section 4210, subdivision (b) describes the information that firearms dealers and ammunition vendors must provide to open a DES account. Subdivisions (b)(1), (b)(2), and (b)(3) describe the information that must be submitted by firearms dealers and agents and employees of firearms dealers. Subdivisions (b)(4), (b)(5), and (b)(6) similar describe the information that must be submitted by ammunition vendors and agents and employees of ammunition vendors.

Section 4210, subdivision (b) will be amended to add subdivisions (b)(7), (b)(8) and (b)(9) to describe the information that firearm precursor part vendors must provide to open a DES account. New subdivisions (b)(7), (b)(8) and (b)(9) will be modeled after existing subdivisions (b)(4), (b)(5) and (b)(6). These amendments are necessary to provide a secure mechanism for firearm precursor part vendors to submit purchaser and transferee data to the Department to enable the Department to conduct a background check.

Chapter 11. Firearm Precursor Parts

§ 4300. Title and Scope

Section 4300, as proposed in the Department’s “Precursor Part Vendor Licensing” rulemaking (notice file number Z-2021-1119-01), identifies the title and scope of the proposed Chapter 11. (See <https://oag.ca.gov/firearms/regs/precursor-part>.) That rulemaking implements Penal Code sections 30485 and 30495, requiring the Department to issue licenses to firearm precursor part vendors.

This rulemaking expands the scope of the section to include directives for purchases and transfers of firearm precursor parts. This rulemaking implements Penal Code sections 30452 and 30470, requiring the Department to electronically approve purchases and transfers of firearm precursor parts through a firearm precursor part vendor before the purchaser or transferee takes possession.

Penal Code sections 30452 and 30470 are modeled after Penal Code sections 30352 and 30370, requiring the Department to electronically approve purchases and transfers of ammunition through a licensed ammunition vendor. In 2019, the Department adopted regulations implementing Penal Code section 30370, which are codified in Chapter 10, sections 4280 through 4289 (the “Ammunition purchases or transfers regulations”).

Proposed Chapter 11, sections 4320 through 4327 governing the purchase and transfer of firearm precursor parts, are modeled after the ammunition purchase and transfer regulations.

§ 4301. Definition of Key Terms

Section 4301, as proposed in the Department’s “Precursor Part Vendor Licensing” rulemaking (notice file number Z-2021-1119-01) defines terms used throughout chapter 11, articles 1 and 2. (See <https://oag.ca.gov/firearms/regs/precursor-part>.) This rulemaking adds terms that are used throughout the proposed article 3.

Proposed subdivision (a) defines “Automated Firearms System” or “AFS,” a term used in Penal Code section 30470, which these regulations implement. The definition explains the term by referencing the Penal Code section authorizing the establishment and maintenance of that system. This is necessary because this section references the Automated Firearms System in connection with Standard Firearm Precursor Part Eligibility Checks. This definition is necessary for ease of reference.

Proposed subdivision (b) establishes the name, “Basic Firearm Precursor Part Eligibility Check,” for the 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 eligibility checks and approval processes. Because the eligibility check conducted pursuant to Penal Code section 30470, subdivision (c), is largely the same as the usual firearms eligibility check, the Department has named this eligibility check the “Basic Firearm Precursor Part Eligibility Check.” Subdivision (b) is modeled after section 4281, subdivision (e) of the ammunition purchases and transfers regulations, which defines “Basic Ammunition Eligibility Check.” The two eligibility checks are analogous.

Proposed subdivision (c) defines “California Ammunition Vendor” as a vendor that is licensed pursuant to Penal Code section 30385. This is necessary to define a term used in the Department’s “Precursor Part Vendor Licensing” rulemaking (notice file number Z-2021-1119-01), which is not yet complete.

Proposed subdivision (d) defines “California Firearm Precursor Part Vendor” and its acronym “CFPPV,” as a person or entity having a valid license to sell firearm precursor parts issued pursuant to Penal Code section 30485. This is necessary to define a term used throughout the proposed regulations.

Proposed subdivision (e) defines “California Firearms Dealer” and its acronym, “CFD,” as a person having a valid license to sell firearms. This is necessary to define a term used in the Department’s “Precursor Part Vendor Licensing” rulemaking (notice file number Z-2021-1119-01), which is not yet complete.

Proposed subdivision (f) defines “Certificate of Eligibility” and its acronym. A Certificate of Eligibility or “COE” is a certificate issued pursuant to Penal Code section 26710, which states that the Department has checked its records and determined that the certificate holder is not prohibited from acquiring or possessing firearms at the time the check was performed. This is necessary to define a term used in section 4311 for the purposes of implementing Penal Code section 30485.

Proposed subdivision (g) defines and establishes an acronym for “California Firearms Application Reporting System” or “CFARS.” CFARS is a system created by the Department which allows an individual to submit firearms related applications, and review personal firearm records. CFARS is also the means through which an individual may apply for a COE. This is necessary to define a term used throughout these regulations.

Proposed subdivision (h) defines “Dealer Record of Sale Entry System” or “DES,” a generally acknowledged term in the industry explicitly defined in Chapter 8, section 4200. This definition is necessary for ease of reference, as the application for the purchase or transfer of a firearm precursor part must be submitted through DES beginning July 1, 2022.

Proposed subdivision (i) defines “Department” as the California Department of Justice. Shortening the title of the Department simplifies the regulation text, making it easier to read.

Proposed subdivision (j) defines “Federal Firearms License” as a license issued pursuant to Section 922, Title 18 of the United States Code, for the purpose of importing, manufacturing, or dealing in firearms, or importing or manufacturing of ammunition. This is necessary to define a term used in section 4310, for the purposes of implementing a requirement of Penal Code section 30495, subdivision (a), a proposed provision in the Department’s “Precursor Part Vendor Licensing” rulemaking (notice file number Z-2021-1119-01), which is not yet complete.

Proposed subdivision (k) defines and establishes the acronym FPPTN for “Firearm Precursor Part Transaction Number,” which is the name the Department has given to the unique identifying number assigned to each request to authorize a firearm precursor part purchase or transfer. This name is necessary to communicate to a potential purchaser or transferee a key component of the process implemented by proposed sections 4320, subdivision (e) and 4321, subdivision (d).

Proposed subdivision (l) defines “firearms eligibility check” by referencing the Penal Code section authorizing such eligibility checks. The term is used in section 4322. This definition is necessary for ease of reference.

Proposed subdivision (m) defines the term “head of agency.” This meaning is necessary to determine who is authorized by Penal Code section 30452, subdivision (e)(7) as having the authority described in section 4324. The Department has interpreted the term “head of agency” in the most commonly accepted manner.

Proposed subdivision (n) defines “Prohibited Armed Persons File” by referencing the statute authorizing the file’s establishment and maintenance. The term is used in Penal Code section 30470, subdivision (b) and section 4322 of these regulations. This definition is necessary for ease of reference.

Proposed subdivision (o) defines the term “purchaser,” as an individual purchasing or accepting transfer of a firearm precursor part. This is necessary to define a term used throughout these regulations. For purposes of these regulations, a “purchaser” refers to both an individual who purchases a firearm precursor part in a sale, and an individual who accepts transfer of a firearm precursor part in a transfer (i.e., transferee). This follows the convention in Penal Code section 28150, subdivision (b).

Proposed subdivision (p) establishes a name, “Standard Firearm Precursor Part Eligibility Check,” 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 different types of eligibility checks and approval processes. Because the Department expects that 98 percent of eligibility checks will be conducted pursuant to Penal Code section 30470, subdivision (a)(1), the Department has named this eligibility check the “Standard Firearm Precursor Part Eligibility Check.” This subdivision is modeled after section 4281, subdivision (o) of the ammunition purchase and transfer regulations, which defines Standard Ammunition Eligibility Check.

Proposed subdivision (q) broadly defines “sworn federal law enforcement officer’s credential,” because forms of identification may be different depending on the federal agency represented by the officer. This term is used in section 4324 and is necessary for ease of reference.

Proposed subdivision (r) defines “sworn state or local peace officer’s credential” by referencing the Penal Code section defining “peace officer.” This subdivision defines the term broadly because forms of identification may be different depending on the local or state agency represented by the officer. This term is used in section 4324 and is necessary for ease of reference.

Article 3. Firearm Precursor Part Purchases and Transfers

Proposed Chapter 11, article 3 implements Penal Code section 30470 et seq., which requires the Department to electronically approve the purchase or transfer of firearm precursor parts through a firearm precursor part vendor.

Penal Code section 30470 et seq. is modeled after Penal Code section 30370 et seq., which requires the Department to electronically approve the purchase or transfer of ammunition

through an ammunition vendor. In 2019, the Department adopted regulations implementing Penal Code section 30370, which are codified in Chapter 10, sections 4280 through 4289 (the “ammunition purchases or transfers regulations”).

Proposed Chapter 11, article 3, sections 4320 through 4327 governing the purchase or transfer of firearm precursor parts, are modeled after the ammunition vendor regulations.

§ 4320. Standard Firearm Precursor Part Eligibility Check (AFS Match).

Section 4320 establishes the Standard Firearm Precursor Part Eligibility Check as the process for an individual to purchase or transfer firearm precursor parts pursuant to Penal Code section 30470, subdivision (b), and sets the fee for this eligibility check. This section is modeled after section 4282 of the ammunition purchase and transfer regulations.

Subdivision (a) introduces the section by interpreting Penal Code section 30470, subdivision (a), (a)(1) and (b). This subdivision is necessary to distinguish this section from other eligibility check sections. Subdivision (a)(1) further interprets Penal Code section 30470, subdivision (b) by providing a name for the eligibility check authorized by this section. Because a purchase or transfer is initiated by a purchaser or transferee, the Department has clarified that it is the purchaser or transferee who initiates the Standard Firearm Precursor Part Eligibility Check. Because Penal Code section 30470, subdivision (d) prohibits a vendor from selling or transferring firearm precursor parts without the Department’s approval, and section 30452, subdivision (d) mandates that vendors must verify with the Department whether a person is authorized to purchase firearm precursor parts, the Department has clarified that the purchaser or transferee is to request the Standard Firearm Precursor Part Eligibility Check through a vendor. In conjunction with subdivisions (c), (d) and (e), subdivision (a)(1) makes clear the roles of the Department, the vendor, and the purchaser or transferee.

Subdivision (b) establishes the fee for a Standard Firearm Precursor Part Eligibility Check as \$1.00. The fees collected from the eligibility check will be used to pay for initial and ongoing system maintenance, including salaries of permanent employees. This subdivision is necessary to specify the fee assessed pursuant to Penal Code section 30470, subdivision (e), to recover the reasonable cost of regulatory and enforcement activities related to that article.

In fiscal year 2020-21, there were 1,257,687 total firearm transactions and 1,979,845 ammunition transactions. Despite their unique threat to health and safety, firearm precursor parts are a relatively unconventional method for a person to come to possess a firearm, and the Department anticipates firearm precursor part sales in the first year subsequent to implementation of these regulations will fall in a range of between 20,000 and 50,000 transactions. Firearm precursor part sales are not currently tracked; this estimate is based on the Department’s expertise in the area of firearms sales. The Department estimates that approximately 97 percent of purchases will be conducted subsequent to a Standard Firearm Precursor Part Eligibility Check, because the eligibility check options for firearm precursor parts are the same as those available for an ammunition purchase or transfer, and 97 percent of ammunition purchases or transfers are made subsequent to a Standard Ammunition Eligibility Check. Of the estimated 20,000 to 50,000 purchases or transfers of firearm precursor parts, the Department estimates that approximately 19,400 to 48,500 will be made subsequent to a

Standard Ammunition Eligibility Check. At the maximum allowable fee of \$1.00 per transaction, this equates to revenue of \$19,400 to \$48,500 each year.

Together with the \$400 to \$1,000 generated by the fee for the Basic Firearm Precursor Part Eligibility Check and the \$200 to \$500 generated by the fee for the COE Verification (see explanations for these fees below), the Department projects total revenue of approximately \$20,000 to \$50,000 each year.

The Department estimates the fiscal expense to implement the firearm precursor part authorization program will be \$223,000 for the first year (see **STD 399 Attachment**). The Department has determined that the most effective way to recover the costs of implementing the firearm precursor part authorization program is to set the fee for the Standard Firearm Precursor Part Eligibility Check at the maximum allowed by statute, \$1.00 per transaction.

Subdivision (c) specifies the personal information that must be collected from the purchaser or transferee, and outlines the submission process. This subdivision is necessary because it informs a firearm precursor part vendor about what personal information to collect and submit in order for the Department to complete an eligibility check. This subdivision specifies that the name, date of birth, current address and driver license or other government identification number of the purchaser or transferee must be collected, and specifies the manner of collecting and transmitting that information to the Department. This subdivision implements Penal Code section 30470, subdivision (b), which requires the Department to match the “name, date of birth, current address and driver license or other government information” of the purchaser or transferee with “the information in the Automated Firearms System.”

The telephone number of the purchaser or transferee is required by Penal Code section 30452, subdivision (a)(1), at the time of the delivery of the firearm precursor part. 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 personal information of the purchaser or transferee required to complete a 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 approach will streamline the delivery of a firearm precursor part as soon as its purchase or transfer is approved. The Department has also determined that collecting the telephone number at the time of the eligibility check will allow the Department greater ability to verify the identity of the purchaser or transferee, and to communicate with the purchaser or transferee, if necessary.

The Department has determined that the most effective way to conduct the firearm precursor part authorization is to require that information be communicated to the Department through the DES website. Penal Code section 30470, subdivision (d) implies that the majority of vendors will submit the information “electronically.” Pursuant to Penal Code section 16532, subdivision (b), firearms dealers licensed pursuant to Penal Code sections 26700 to 26915 and ammunition vendors licensed pursuant to Penal Code section 30385 are also authorized firearm precursor part vendors. The DES website is already the established portal through which firearms dealers and ammunition vendors communicate the personal information of firearm and ammunition purchasers or transferees for the purpose of conducting background checks. It would be unduly burdensome for firearms dealers, ammunition vendors and firearm precursor part vendors to use,

and unnecessarily expensive for the Department to develop, a separate method of communication.

Subdivision (d) specifies that after the submission of information described in subdivision (c), the Department will communicate to the vendor the Department's determination regarding whether the purchaser or transferee is authorized to purchase firearms precursor parts. This subdivision is necessary because it specifies the possible results of the Standard Firearm Precursor Part Eligibility Check, and that the Department will communicate the results directly to the vendor, thereby enabling the vendor to comply with Penal Code section 30452, subdivision (d), which requires a vendor to verify whether an individual is authorized to purchase or transfer firearm precursor parts.

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

§ 4321. Basic Firearm Precursor Part Eligibility Check (Single Transaction or Purchase)

Section 4321 establishes the process for basic firearm precursor part purchases or transfers. This regulation is necessary because an individual may have to request a Basic Firearm Precursor Part Eligibility Check from the Department for a one-time purchase or transfer. This section is modeled after section 4283 of the ammunition purchase and transfer regulations.

Subdivision (a) introduces the section by interpreting Penal Code section 30470, subdivision (a), (a)(3) and (c). Subdivision (a) is necessary to distinguish this section from other eligibility check sections. Subdivision (a)(1) further interprets Penal Code section 30470, subdivision (c) by providing a name for the eligibility check authorized by this section. Because a purchase or transfer is initiated by a purchaser or transferee, the Department has clarified that it is the purchaser or transferee who initiates the Basic Firearm Precursor Part Eligibility Check. Because Penal Code section 30470, subdivision (d) prohibits a vendor from selling or transferring firearm precursor parts without the Department's approval, and section 30452, subdivision (d) mandates that vendors must verify with the Department whether a person is authorized to purchase firearm precursor parts, the Department has clarified that the purchaser or transferee is to request the Basic Firearm Precursor Part Eligibility Check through a vendor. In conjunction with section 4321, subdivisions (c), (d) and (e), subdivision (a)(1) makes clear the roles of the Department, the vendor, and the purchaser or transferee.

Subdivision (a)(2) further clarifies that a person who is not prohibited, broadly speaking, may be authorized to purchase a firearm precursor part in alternative ways. This subdivision is necessary

to identify the alternative methods of obtaining authorization to assist a purchaser, transferee or vendor in determining the most appropriate method applicable to a particular individual.

Subdivision (b) establishes the fee for a Basic Firearm Precursor Part Eligibility Check as \$1.00. The \$1.00 fee allows the Department to recover the cost of processing the eligibility check. The Department has determined that it must set the fee for the Basic Firearm Precursor Part Eligibility Check at \$1.00 per transaction in order to recover the Department's reasonable costs.

The Department estimates there will be approximately 20,000 to 50,000 firearm precursor part purchases or transfers each year. The Department estimates that approximately 2 percent of purchases will be conducted subsequent to a Basic Firearm Precursor Part Eligibility Check, because the eligibility check options for firearm precursor parts are the same as those available for an ammunition purchase or transfer, and 2 percent of ammunition purchases or transfers are made subsequent to a Basic Ammunition Eligibility Check. Of the estimated 20,000 to 50,000 purchases or transfers of firearm precursor parts, the Department estimates that approximately 400 to 1,000 will be made subsequent to a Basic Firearm Precursor Part Eligibility Check. At the maximum allowable fee of \$1.00 per transaction, this equates to revenue of \$400 to \$1,000 each year.

Together with the \$19,700 to \$49,250 generated by the fee for the Standard Firearm Precursor Part Eligibility Check and the \$200 to \$500 generated by the fee for the COE Verification (see explanations for these fees above and below), the Department projects total revenue of approximately \$20,000 to \$50,000 each year.

The Department estimates the fiscal expense to implement the firearm precursor part authorization program will be \$223,000 for the first year (see **STD 399 Attachment**). The Department has determined that the most effective way to recover the costs of implementing the firearm precursor part authorization is to set the fee for the Basic Precursor Part Eligibility Check at the maximum allowed by statute, \$1.00 per transaction.

Subdivision (c) specifies the information a firearm precursor part vendor must collect and submit into the Dealer Record of Sale Entry System (DES) website. This subdivision is necessary because a firearm precursor part vendor needs to know what personal information to collect and submit in order for the Department to complete an eligibility check.

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 16532, subdivision (b), firearms dealers licensed pursuant to Penal Code sections 26700 to 26915 and ammunition vendors licensed pursuant to Penal Code section 30385 are also authorized firearm precursor part vendors. These firearms dealers and ammunition vendors are already required by Penal Code section 28180 to collect purchaser information in this manner for the purpose of firearm or ammunition background checks. This is also the manner prescribed by Penal Code section 30470, subdivision (b), for collecting personal information for the Standard Firearm Precursor Part Eligibility Check.

The United States citizenship status, and United States Citizenship and Immigration Services (USCIS) Number or I-94 (if applicable), of the purchaser or transferee are also required so that

the Department can conduct the Basic Firearm Precursor Part Eligibility Check. The Department has determined that it would be counter to the legislative intent of AB 879 for the Department to approve purchases of firearm precursor parts by individuals who may be prohibited from doing so under federal law. The two other methods of obtaining authorization to purchase firearm precursor parts pursuant to Penal Code section 30474, subdivision (a) both involve a check for those federally prohibited from possessing firearms. Under the Standard Firearm Precursor Part Eligibility Check, the individual must not be prohibited from owning or possessing a firearm precursor part by cross-referencing the Prohibited Armed Persons File database which, pursuant to Penal Code section 30005, explicitly includes individuals who are prohibited from possessing firearms by federal law. Similarly, a COE is issued by the Department upon a determination that the individual is not prohibited by state or federal law from possessing a firearm (see Penal Code section 26710, subdivision (b)). The Department has determined it will not affirm that an individual is authorized to purchase firearm precursor parts if the individual is prohibited under federal law, and therefore that the Basic Firearm Precursor Park Eligibility Check should likewise consider federal prohibitions on firearm precursor part possession. However, because the Department is not permitted to use the federal National Instant Criminal Background Check System (NICS) for the purpose of firearm precursor part eligibility checks, the Department has determined that the most efficient method of ensuring that a person is not prohibited from purchasing firearm precursor parts under federal law is to require the vendor to collect the United States citizenship status, and USCIS Number or I-94 (if applicable), of the purchaser or transferee and to report this information to the Department.

The telephone number of the purchaser or transferee is required by Penal Code section 30452, subdivision (a)(1), at the time of the delivery of the firearm precursor part. 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 personal information of the purchaser or transferee required to complete a 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 approach will streamline the delivery of a firearm precursor part as soon as it is approved. The Department has also determined that collecting the telephone number at the time of the eligibility check will allow the Department greater ability to verify the identity of the purchaser or transferee, and to communicate with the purchaser or transferee, if necessary.

The Department has determined that the most effective way to conduct the firearm precursor part authorization is to require all information be communicated to the Department through the DES website. Penal Code section 30470, subdivision (d) implies that the majority of vendors will submit the information “electronically.” Pursuant to Penal Code section 16532, subdivision (b), firearms dealers licensed pursuant to Penal Code sections 26700 to 26915 and ammunition vendors licensed pursuant to Penal Code section 30385 are also authorized firearm precursor part vendors. The DES website is already the established portal through which firearms dealers and ammunition vendors communicate the personal information of firearm and ammunition purchasers or transferees to the Department for the purpose of conducting background checks. It would be unduly burdensome for firearms dealers, ammunition vendors, and firearm precursor part vendors to use, and unnecessarily expensive for the Department to develop, a separate method of communication.

Subdivision (d) establishes that a firearm precursor part vendor will provide the purchaser or transferee with a Firearm Precursor Part Transaction Number (FPPTN), which may be used to check the status of the Basic Firearm Precursor Part Eligibility Check on the Department's California Firearms Application Reporting System (CFARS) website. This subdivision is necessary to inform an individual how to use the FPPTN to obtain the status of the eligibility check from the Department.

Subdivision (d)(1) specifies that an approved Basic Firearm Precursor Part Eligibility Check can only be used for one purchase. Penal Code section 30470, subdivision (c) mandates that the procedure being developed by this proposed regulation will provide an approval "for a single firearm precursor part 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 Firearm Precursor Part Eligibility Check. Subdivision (d)(1) also specifies that the approval expires 30 calendar days from when it is issued. During the Basic Firearm Precursor Part Eligibility Check, the Department conducts a review of its records to determine if an individual is eligible to own or possess firearms; 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 firearm precursor parts.

Subdivision (d)(2) specifies that if the Basic Firearm Precursor Part 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 referencing 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 (e) specifies the manner in which the Department will communicate the result of the request made by the potential purchaser or transferee. 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 16532, subdivision (b), firearms dealers licensed pursuant to Penal Code sections 26700 to 26915 and ammunition vendors licensed pursuant to Penal Code section 30385 are also authorized firearm precursor part vendors. The DES website is already the established portal through which the Department communicates determinations on firearm and ammunition eligibility checks to firearms dealers and ammunition vendors, regarding potential firearms or ammunition purchasers or transferees. It would be unnecessarily expensive for the Department to develop a separate method of communicating the Department's determination to firearm precursor part vendors for the purpose of Basic Firearm Precursor Part Eligibility Checks. By specifying that the determination will be communicated via the DES website, the result will be communicated directly to the vendor, thereby enabling the vendor to comply with Penal Code section 30452, subdivision (d).

§ 4322. Purchasing a Firearm and Firearm Precursor Parts in a Single Transaction.

Subdivision (a) clarifies that, as authorized pursuant to Penal Code section 30452, subdivision (c), an individual who has been approved to purchase or accept transfer a firearm shall also be approved to purchase or accept transfer a firearm precursor part within the same transaction. Section 4322 establishes the process for an individual to purchase or accept transfer of one or more firearms and firearm precursor parts in the same transaction. This section is modeled after section 4284 of the ammunition and purchase regulations.

Subdivision (b) explains that, except as provided in subdivision (c), an individual purchasing or accepting transfer of one or more firearms and firearm precursor parts in the same transaction shall only pay the fee prescribed by section 4001, for a firearms eligibility check. This subdivision is necessary because it informs both the firearms dealer and the individual of the fee to be collected in this type of transaction and to avoid overcharging the individual.

Subdivision (c) specifies other scenarios when a California resident may receive firearm precursor parts before the completion of the firearms eligibility check. For example, a purchaser or transferee may take possession of the firearm precursor part if the individual is exempt or pays the fee for either the Standard Firearm Precursor Part Eligibility Check, Basic Firearm Precursor Part Eligibility Check, or the COE Verification process, and the purchase or transfer is approved by the Department. This subdivision is necessary to explain to a firearms dealer that when firearm precursor parts are purchased or transferred in the same transaction as a firearm, the firearm precursor parts may be delivered prior to the firearms eligibility check if the individual has been approved following an alternate approval method.

§ 4323. COE Verification Process.

Section 4323 explains how the Department will process a COE holder's firearm precursor part purchase or transfer. Pursuant to Penal Code section 30470, subdivision (a)(2), the Department has the authority to process a COE holder's firearm precursor part purchase or transfer as an alternative to a Standard or Basic Firearm Precursor Part Eligibility Check. This section is modeled after 4285 of the ammunition purchase and transfer regulations.

Subdivision (a) introduces the section by interpreting Penal Code section 30470, subdivision (a)(2). This subdivision is necessary to distinguish this approval process from the Standard and Basic Firearm Precursor Part Eligibility Checks. Subdivision (a)(1) further interprets Penal Code section 30470, subdivision (a)(2) by providing a name for the approval process authorized by this section. Because a purchase or transfer is initiated by a purchaser or transferee, the Department has clarified that it is the purchaser or transferee who initiates the COE Verification Process. Because Penal Code section 30470, subdivision (d) prohibits a vendor from selling or transferring firearm precursor parts without the Department's approval, and section 30452, subdivision (d) mandates that vendors must verify with the Department whether a person is authorized to purchase firearm precursor parts, the Department has clarified that the purchaser or transferee is to request the COE Verification Process through a vendor. In conjunction with section 4323, subdivisions (c) and (d), subdivision (a)(1) makes clear the roles of the Department, the vendor, and the purchaser or transferee.

Subdivision (b) establishes the fee for a COE Verification as \$1.00. The fees collected from the COE Verification will contribute toward initial and ongoing system maintenance and employee salaries. This subdivision is necessary to specify the fee for a COE Verification.

Pursuant to Penal Code section 30470, subdivision (e), the per-transaction fee may not exceed \$1.00, or the Department's reasonable regulatory and enforcement costs. The Department has determined that a \$1.00 fee per COE Verification is necessary to recover the reasonable cost of regulatory and enforcement activities.

The Department estimates there will be approximately 20,000 to 50,000 firearm precursor part purchases or transfers each year. The Department estimates that approximately 1 percent of purchases will be conducted subsequent to a COE Verification, because the eligibility check options for firearm precursor parts are the same as those available for an ammunition purchase or transfer, and 1 percent of ammunition purchases or transfers are made subsequent to a COE Verification. Of the estimated 20,000 to 50,000 purchases or transfers of firearm precursor parts, the Department estimates that approximately 200 to 500 will be made subsequent to a COE Verification. At the maximum allowable fee of \$1.00 per transaction, this equates to revenue of \$200 to \$500 each year.

Together with the \$19,700 to \$49,250 generated by the fee for the Standard Firearm Precursor Part Eligibility Check and the \$400 to \$1,000 generated by the fee for the Basic Firearm Precursor Part Eligibility Check, the Department projects a revenue of approximately \$20,000 to \$50,000 each year.

The Department estimates the fiscal expense to implement the firearm precursor part authorization program will be \$223,000 for the first year (see **STD 399 Attachment**). The Department has determined that the most effective way to recover the costs of implementing the firearm precursor part authorization program is to set the fee for the COE Verification at the maximum allowed by statute, \$1.00 per transaction.

Subdivision (c) specifies what information the firearm precursor part vendor will collect from the COE holder for the Department to verify the status of the COE in order to approve a purchase or transfer of firearm precursor part. The vendor must submit the COE holder's personal information along with the COE number to the DES website. The COE number of the purchaser or transferee must be collected so that the Department can cross-reference its records to verify that the COE is "current," per Penal Code section 30470, subdivision (a)(2). This subdivision is necessary to explain to the vendor how to process a COE holder's purchase or transfer.

The name, date of birth, current address and driver license or other government identification number of the purchaser or transferee must be collected so that the Department can verify their identity. This 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 16532, subdivision (b), firearms dealers licensed pursuant to Penal Code sections 26700 to 26915 and ammunition vendors licensed pursuant to Penal Code section 30385 are also authorized firearm precursor part vendors. These firearms dealers and ammunition vendors are already required by Penal Code section 28180 to collect purchaser information in that manner, for the purpose of firearm or ammunition background checks. This is

also the manner prescribed by Penal Code section 30470, subdivision (b), for collecting personal information for the Standard Firearm Precursor Part Eligibility Check. It would be unnecessarily expensive for the Department to develop a separate method of accurately collecting and communicating the personal information of purchasers or transferees to the Department for the specific purpose of the COE Verification.

The telephone number of the purchaser or transferee is required by Penal Code section 30452, subdivision (a)(1), at the time of the delivery of the firearm precursor parts. 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 personal information of the purchaser or transferee required to complete a 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 approach will streamline the delivery of firearm precursor parts as soon as it is approved. The Department has also determined that collecting the telephone number at the time of the eligibility check will allow the Department to verify the identity of the purchaser or transferee, and to communicate with the purchaser or transferee, if necessary.

The Department has determined that the most effective way to conduct the firearm precursor part authorization is to require the information be communicated to the Department through the DES website. Penal Code section 30470, subdivision (d) implies that the majority of vendors will submit the information “electronically.” Pursuant to Penal Code section 16532, subdivision (b), firearms dealers licensed pursuant to Penal Code sections 26700 to 26915 and ammunition vendors licensed pursuant to Penal Code section 30385 are also authorized firearm precursor part vendors. The DES website is already the established portal through which firearms dealers and ammunition vendors communicate the personal information of purchasers or transferees to the Department for the purpose of firearm or ammunition eligibility checks. It would be unduly burdensome for firearms dealers, ammunition vendors, and precursor part vendors to use, and unnecessarily expensive for the Department to develop, a separate method of communicating the personal information of purchasers and transferees to the Department for the specific purpose of the COE Verification.

Subdivision (d) specifies that the Department will approve or reject a COE holder’s purchase or transfer and inform the vendor of the determination. If the Department determines the individual has a valid COE, the purchase or transfer shall be approved, but if the Department determines the individual’s COE is not valid, the Department shall reject the purchase or transfer. This subdivision is necessary because it specifies the possible results of the COE Verification, and that the Department will communicate the results directly to the vendor, thereby enabling the vendor to comply with Penal Code section 30452, subdivision (d), which requires a vendor to verify whether an individual is authorized to purchase or transfer firearm precursor parts.

§ 4324. Firearm Precursor Part Purchases or Transfers for Exempted Individuals.

Section 4324 implements the exemptions listed in Penal Code section 30452, authorizing the sale of firearm precursor parts to persons without conducting a background check or COE Verification. Section 4324 is modeled after 4286 of the ammunition purchase and transfer regulations.

Subdivision (a) specifies the types of identification documentation that will identify an individual who is exempt from Department approval to purchase or transfer firearm precursor parts. This section is necessary because a vendor will need to verify exempted individuals' identities before relying on an exemption to complete a purchase or transfer without Department approval.

Subdivision (a)(1) specifies the type of acceptable identification for firearm precursor part vendors, a class of persons exempted from certain requirements of the firearm precursor part authorization program by Penal Code section 30452, subdivision (e)(1). The Department determined that a valid Firearm Precursor Part Vendor License issued pursuant to Penal Code section 30485 is the best document to properly identify a firearm precursor part vendor for purpose of the exemption as there is no other identification document that specifically identifies a firearm precursor part vendor.

Subdivision (a)(2) specifies the type of acceptable identification for persons on the Department's Centralized List of Exempted Federal Firearms Licensees, a class of persons exempt from certain requirements of the firearm precursor part purchasing program by Penal Code section 30452, subdivision (e)(2). The Department determined that the Department-issued Listing Acknowledgement Letter indicating the individual is currently on the Department's Centralized List of Exempted Federal Firearms Licensees is the best document to properly identify such a person for purpose of the exemption as there is no other identification document available.

Subdivision (a)(3) specifies the type of acceptable identification for gunsmiths, a class of persons exempted from certain requirements of the firearm precursor part authorization program by Penal Code section 30452, subdivision (e)(3). A "gunsmith" is defined by Penal Code section 16630 as a person who is licensed as a dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, who is engaged primarily in the business of repairing firearms, or making or fitting special barrels, stocks, or trigger mechanisms to firearms, or the agent or employee of that person. The Department determined that a valid Type 01 FFL is the best document to properly identify a gunsmith for purpose of the exemption. Pursuant to federal law, gunsmiths must hold a Type 01 FFL. There is no other identification document identifying a gunsmith. A Type 01 FFL, however, does not exclusively identify gunsmiths—it may also be granted to other types of persons licensed by the federal government to deal in firearms. The Department determined that this ambiguity does not pose a problem because, pursuant to Penal Code section 30485, subdivision (d), most firearms dealers are also authorized firearm precursor part vendors. Therefore, anyone presenting a Type 01 FFL would be exempt pursuant to either Penal Code section 30452, subdivision (e)(1) or subdivision (e)(3). Because there is no other identification document identifying a gunsmith, and because allowing a Type 01 FFL to identify a gunsmith would not frustrate the purpose of the firearm precursor part authorization program, the Department determined that it is the best document to properly identify a gunsmith.

Subdivision (a)(4) specifies the type of acceptable identification for a firearms wholesaler, a class of persons exempted from certain requirements of the firearm precursor part authorization program by Penal Code section 30452, subdivision (e)(4). A "wholesaler" is defined by Penal Code section 17340 as a person who is licensed as a dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, who sells, transfers, or assigns firearms, or parts of firearms, to persons who are licensed

as manufacturers, importers, or gunsmiths pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, or persons licensed pursuant to Sections 26700 to 26915, inclusive, and includes persons who receive finished parts of firearms and assemble them into completed or partially completed firearms in furtherance of that purpose. The Department determined that a valid Type 01 FFL is the best document to properly identify a wholesaler for purpose of the exemption. Federal law requires wholesalers to hold a Type 01 (FFL). There is no other identification document identifying a wholesaler. A Type 01 FFL, however, does not exclusively identify wholesalers—it may also be granted to other types of persons licensed to deal in firearms. The Department determined that this ambiguity does not pose a problem because, pursuant to Penal Code section 30485, subdivision (d), most non-wholesaler firearms dealers are also authorized firearm precursor part vendors. Therefore, any person presenting a Type 01 FFL would be exempt pursuant to either Penal Code section 30452, subdivision (e)(1) or subdivision (e)(4). Because there is no other identification document identifying a wholesaler, and because allowing a Type 01 FFL to identify a wholesaler would not frustrate the purpose of the firearm precursor part authorization program, the Department determined that it is the best document to properly identify a wholesaler.

Subdivision (a)(5) specifies the type of acceptable identification for firearms manufacturers, a class of persons exempted from certain requirements of the firearm precursor part authorization program by Penal Code section 30452, subdivision (e)(5). The Department determined that a valid Type 07 FFL is the best document to properly identify a firearms manufacturer for purpose of the exemption. The type of manufacturer that qualifies for the exemption is described in Penal Code section 30452, subdivision (e)(5) as a manufacturer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and implementing regulations. Federal law requires a firearms manufacturer to hold a Type 07 FFL. Since Penal Code section 30452, subdivision (e)(5) specifies that the firearms manufacturer is defined by its federal licensure, the Department has determined that the federal license is the appropriate identifying document.

Subdivision (a)(6) specifies the type of acceptable identification for firearms/ammunition importers, a class of persons exempted from certain requirements of the firearm precursor part authorization program by Penal Code section 30452, subdivision (e)(5). The Department determined that a valid Type 08 FFL is the best document to properly identify an importer for purpose of the exemption. The type of importer that qualifies for the exemption is described in Penal Code section 30452, subdivision (e)(5) as an “[...] importer of firearms or ammunition licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, and the regulations issued pursuant thereto.” Federal law requires importers to hold a Type 08 FFL. Since Penal Code section 30452, subdivision (e)(5) specifies that the importer is defined by its federal licensure, the Department has determined that the federal license is the appropriate identifying document.

Subdivision (a)(7) specifies the type of acceptable identification for ammunition manufacturers, a class of persons exempted from certain requirements of the firearm precursor part authorization program by Penal Code section 30452, subdivision (e)(5). The Department determined that a valid Type 06 FFL is the best document to properly identify an ammunition manufacturer for purpose of the exemption. The type of manufacturer that qualifies for the exemption is described in Penal Code section 30452, subdivision (e)(5) as a manufacturer of ammunition licensed

pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, and implementing regulations. Federal law requires an ammunition manufacturer to hold a Type 06 FFL. Since Penal Code section 30452, subdivision (e)(5) specifies that the ammunition manufacturer is defined by its federal licensure, the Department has determined that the federal license is the appropriate identifying document.

Subdivision (a)(8) specifies the type of acceptable identification for authorized law enforcement representatives, a class of persons exempted by Penal Code section 30452, subdivision (e)(6), from certain requirements of the firearm precursor part authorization program. The Department determined that a written authorization from the head of the agency authorizing the firearm precursor part purchase or transfer, as described by Penal Code section 30452, subdivision (e)(6), is the best document to properly identify an authorized law enforcement representative for purpose of the exemption. For the exemption to apply, the law enforcement representative must present the head of agency written authorization before the sale or transfer. Since Penal Code section 30452, subdivision (e)(6) imposes a written authorization requirement, the Department has determined that the written authorization is the appropriate identifying document.

Subdivision (a)(9) specifies the type of acceptable identification for a sworn peace officer, a class of persons exempted from certain requirements of the firearm precursor part authorization program by Penal Code section 30452, subdivision (e)(7). The Department determined that the sworn officer's credential, along with a written certification from the head of the agency authorizing the purchase or transfer, as described by Penal Code section 30352, subdivision (e)(7), are the best documents to properly identify a sworn peace officer for the purpose of the exemption. For the exemption to apply, the sworn peace officer must present the head of agency written authorization before the sale or transfer. Since Penal Code section 30452, subdivision (e)(7) imposes a written authorization requirement, the Department has determined that the written authorization is appropriate as an identifying document. The Department determined that the certification should only be valid for 30 days after issuance, to ensure that the officer's head of agency is aware of and authorizes all purchases and transfers, and to ensure that the officer is still a full-time paid peace officer at the time of the purchase or transfer. Subdivision (a)(9) requires two forms of identification. Unlike subdivision (a)(8), which concerns a representative of a government agency who is purchasing or transferring firearm precursor parts for the exclusive use of the government agency, subdivision (a)(9) concerns the use of firearm precursor parts by a particular individual – the sworn peace officer. The Department therefore determined that proper identification includes head of agency written authorization as well as credentials identifying the individual officer.

Subdivision (a)(10) specifies the type of acceptable identification for a sworn federal law enforcement officer, a class of persons exempted from certain requirements of the firearm precursor part authorization program by Penal Code section 30452, subdivision (e)(7). The Department determined that the sworn federal officer's credential, along with a written certification from the head of the agency authorizing the purchase or transfer, as described by Penal Code section 30352, subdivision (e)(7), are the best documents to properly identify a sworn federal officer for the purpose of the exemption. For the exemption to apply, the sworn federal officer must present the head of agency written authorization before the sale or transfer. Since Penal Code section 30452, subdivision (e)(7) imposes a written authorization requirement, the Department has determined that the written authorization is appropriate as an identifying

document. The Department determined that the certification should only be valid for 30 days after issuance, to ensure that the officer's head of agency is aware of and authorizes all purchases and transfers, and to ensure that the officer is still a full-time paid officer at the time of the purchase or transfer. Subdivision (a)(9) requires two forms of identification. Unlike subdivision (a)(8), which concerns a government agency representative who is purchasing or transferring firearm precursor parts for the exclusive use of the government agency, subdivision (a)(9) concerns the use of firearm precursor parts by a particular individual – the sworn federal officer. The Department therefore determined that proper identification includes head of agency written authorization as well as credentials identifying the individual officer.

Subdivision (b) specifies that a vendor shall keep copies of the identification documentation that identify sworn state or local peace officers or federal law enforcement officers, including the original verifiable written certification from the head of the agency, and that these records are to be made available to the Department upon request. Pursuant to Penal Code section 30452, subdivision (e)(7)(B)(iii), a vendor must keep the certification with the record of sale for firearm precursor part transactions involving sworn state or local peace officers or federal law enforcement officers. The Department interprets the purpose of this requirement as allowing the Department to verify that the vendor has complied with Penal Code section 30452, subdivision (e)(7). However, the certification, by itself, would not verify compliance. The Department determined that it would also need to be able to inspect the related identifying documents, as specified in subdivisions (a)(9) or (a)(10), and (c), to determine whether the person who purchased or received the transfer of the firearm precursor part was a credentialed officer, and was the person identified in the written certification. This subdivision is necessary to explain to vendors how they must comply with recordkeeping requirements.

Subdivision (b)(1) offers an alternative method of recordkeeping that will allow the Department to verify compliance with Penal Code section 30452, subdivision (e)(7), in the event that the law enforcement agency does not allow photocopies to be made of the officer's credential. The Department is aware that certain statutes, regulations and policies of federal, state, or local law enforcement agencies prohibit the photocopying of official identification cards (e.g., Title 18, US Code Part I, Chapter 33, Section 701). In such a circumstance, the Department determined that the interest in being able to verify that the person who purchased or received the transfer of the firearm precursor part was the person identified in the written certification would best be accomplished by requiring the vendor to retain another document that would be commonly available to a sworn peace officer or sworn federal law enforcement officer. The Department determined that a business card meets this requirement, so long as the vendor also personally views the credential.

Subdivision (c) implements Penal Code section 30452, subdivision (c), which requires that a vendor must obtain "bona fide evidence of identity" from the purchaser or transferee to verify whether the individual receiving delivery of the firearm precursor part is exempted. "Bona fide evidence of identity" is defined by Penal Code section 16300. The Department has determined that the person who verifies the bona fide evidence of identity does not have to be the vendor, but may also be an authorized associate or salesperson, which may be an employee or independent contractor. This subdivision is necessary because the vendor may not be available at the time of delivery.

Subdivision (d) clarifies that after a vendor has verified that an individual is exempt from Department approval for a firearm precursor part purchase or transfer, the vendor may transfer possession of the firearm precursor part to the exempt individual. This subdivision is necessary because the vendor may only transfer possession of a firearm precursor part to an individual if the vendor has verified that the individual is exempt from the eligibility check or the COE Verification process.

§ 4325. Telephonic Access for Firearm Precursor Part Vendors.

Section 4325 explains the process for a firearm precursor part vendor to obtain telephonic access to the Department to process the sale or transfer of firearm precursor parts, pursuant to Penal Code section 30470, subdivision (d), which will allow the Department to manually determine the eligibility of a purchaser or transferee. If the vendor is able to demonstrate it does not have access to internet service, the vendor will be able to process eligibility checks by telephone. This section is necessary because some vendors may need a mechanism to process firearm precursor part purchases or transfers other than through the internet, as provided by Penal Code section 30470, subdivision (d). Telephonic access for a vendor will allow the Department to manually verify that an individual is eligible to possess firearm precursor parts. This section is modeled after section 4287 of the ammunition purchase and transfer regulations.

Subdivisions (a), (b) and (c) explain what document(s) a vendor can submit to prove that the service provider in their area does not offer Internet service at the vendor's place of business. This document is required to be mailed with the Firearm Precursor Part Vendor (Non-Firearms Dealer or Ammunition Vendor) Application for Telephonic Vendor Approval, Form BOF 1107 (Orig. 09/2021) to apply for telephonic access to the Department. These subdivisions are necessary to allow the Department to verify that a vendor seeking telephonic access as an exception to the general requirement in Penal Code section 30470 subdivision (a) that approvals be made "electronically," meets the qualifications to obtain telephonic access pursuant to section 30470 subdivision (d). Form BOF 1107 (Orig. 09/2021) requests the basic information required to identify a firearm precursor part vendor, and provides a section for the vendor to explain the need for telephonic access. Due to the health and safety implications of firearm precursor part sales being made outside of the usual approval system, the BOF 1107 form must be signed under the penalty of perjury, to ensure that it is completed accurately.

Subdivision (d) clarifies that the Department will either approve or deny the vendor's application for telephonic access. This subdivision is necessary because the Department must first approve telephonic access before a vendor can use the Department's telephone line to submit the personal information of a firearm precursor part purchaser or transferee to the Department.

§ 4326. Delivery of Firearm Precursor Parts Following DES Submission.

Section 4326 implements Penal Code section 30452, imposing conditions on the delivery of a firearm precursor part to a purchaser or transferee. This section is modeled after section 4288 of the ammunition purchase and transfer regulations.

Subdivision (a) specifies that when the Department approves a firearm precursor part purchase or transfer after a Standard or Basic Firearm Precursor Part Eligibility Check, or after COE

Verification, the DES transaction record will change from “Pending” to “Approved.” The DES transaction record indicates the Department’s determination for the purchase or transfer. This subdivision is necessary because the vendor can only transfer possession of a firearm precursor part to a purchaser or transferee subsequent to verification by the Department that the purchaser is authorized, pursuant to Penal Code section 30452, subdivision (d). The Department has determined that updating the DES transaction record to show that the transaction has been approved is the most effective manner of communicating the authorization.

Subdivision (b) specifies that the firearm precursor part may only be delivered if the status of the DES transaction record is approved. This subdivision is necessary to specify to vendors when firearm precursor parts can be delivered to a purchaser or transferee.

Subdivision (c) requires that when a firearm precursor part vendor delivers firearm precursor parts to a purchaser or transferee, the vendor shall submit the sale information to the Department. This subdivision is necessary because the transaction information must be submitted to the Department and retained as required by Penal Code section 30452, subdivision (b).

Subdivision (c)(1) implements Penal Code section 30452, subdivision (c), which requires that a vendor obtain bona fide evidence of identity from the purchaser or transferee to verify that the person who is receiving delivery of the firearm precursor part is authorized to do so. The Department has determined that the person who verifies the bona fide evidence of identity does not have to be the vendor, but may also be an authorized associate or salesperson, which may be an employee or independent contractor. This subdivision is necessary because the vendor may not be available at the time of delivery.

Subdivision (c)(2) implements Penal Code section 30452, subdivision (a), which requires a vendor to record certain specified information at the time of delivery. The Department has determined that the most effective way for a vendor to record the information is through the DES website. Pursuant to Penal Code section 16532, subdivision (b), firearms dealers licensed pursuant to Penal Code sections 26700 to 26915 and ammunition vendors licensed pursuant to Penal Code section 30385 are also authorized firearm precursor part vendors. The DES website is already the established portal through which firearms dealers and ammunition vendors communicate the personal information of firearm or ammunition purchasers or transferees for the purpose of conducting background checks. It would be unduly burdensome for firearm dealers, ammunition vendors, and firearm precursor part vendors to use, and unnecessarily expensive for the Department to develop, a separate method of communication.

§ 4327. Billing, Payment, and Suspension for Non-Payment.

Section 4327 establishes the process for submitting fees to the Department. This section is modeled after section 4289 of the ammunition purchase and transfer regulations.

Subdivision (a) specifies how a vendor is billed by the Department. The Department has determined that the most effective way to bill a vendor is to deliver the bill through the DES website. Pursuant to Penal Code section 16532, subdivision (b), firearms dealers licensed pursuant to Penal Code sections 26700 to 26915 and ammunition vendors licensed pursuant to Penal Code section 30385 are also authorized firearm precursor part vendors. The DES website

is already the established portal through which bills are delivered to firearms dealers and ammunition vendors, to provide payment for firearm and ammunition background checks. It would be unduly burdensome for firearms dealers, ammunition vendors, and precursor part vendors to use, and unnecessarily expensive for the Department to develop, a separate method of communicating billing statements to the vendor.

Subdivision (b) specifies that a vendor shall pay the Department using a major credit card or debit card, and that this payment is due within 30 days of the billing statement date. This subdivision is necessary to ensure efficient and timely payment of required fees.

Subdivision (c) explains that if the vendor does not pay the bill for eligibility check or COE Verification activity to the Department, the vendor's access to DES will be suspended until full payment of the past due amount is received by the Department. This subdivision is necessary because it establishes consequence for not paying. 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. If the vendor does not pay as required, the vendor will be unable to process any firearm precursor part eligibility check or COE Verification because the Department will suspend its access to DES. The Department has determined that suspending access to DES is an effective consequence for non-payment as vendors will want sustained access to DES to continue to legally sell firearm precursor parts.

Subdivision (d) clarifies that when a vendor's access to DES is suspended, the vendor will not be able to legally complete a firearm precursor part purchase or transfer for any individual that is not exempt from a background check. While a vendor's access to DES is suspended, the vendor will still maintain its status as a licensed firearm precursor part vendor. This subdivision is necessary to explain that even if a vendor loses its access to DES due to payment defaults, its firearm precursor part vendor license status will not be affected. Vendor licensure conditions are the subject of a separate rulemaking.

ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Department concludes it is unlikely that the proposal would: (1) create or eliminate jobs within the state; (2) create new businesses or eliminate existing businesses within the state; or (3) result in the expansion of businesses currently doing business within the state.

The proposed regulations would not, in themselves, significantly affect jobs or businesses within the state. Although firearm precursor part sales will be restricted beginning July 1, 2022, those restrictions on jobs or businesses are due to the various and multiple provisions of AB 879. The proposed regulations implementing the background check requirements would impose minimal burdens on jobs and businesses.

The Department has determined that any indirect costs to firearm precursor part vendors resulting from the additional time it will take to process background checks or to verify whether an individual is exempt from a background check, is minimal. The Department estimates it will take an additional two minutes to complete the sale or purchase of a firearm precursor part. Assuming the additional staff time costs a minimum of \$14 per hour, the Department estimates

that each firearm precursor part transaction will cost firearm precursor part vendors an additional \$0.47 per transaction in staff time.

Pursuant to Penal Code section 30485, licensed firearms dealers and licensed ammunition vendors are automatically deemed licensed firearm precursor part vendors, and are not required to pursue firearm precursor part vendor licensure separately. According to the Department's records, as of January 25, 2022, there were 1,675 licensed firearms dealers and 158 licensed ammunition vendors in California (these numbers change daily as new licenses are approved and old licenses expire). The Department anticipates there will be approximately 50 firearm precursor part vendor licenses in the first year subsequent to implementation (see **STD 399 Attachment** for calculation). Altogether, the Department anticipates 1,883 total firearm precursor part vendors. If firearm precursor part sales are distributed among all firearm precursor part vendors, the average firearm precursor part vendor will sell between 11 and 27 firearm precursor parts in the first year subsequent to implementation of these regulations. The additional cost of \$0.47 per transaction is estimated to result in a yearly cost to firearm precursor part vendor businesses of between \$5.17 and \$12.69 each year.

Although it will take additional staff time to complete a firearm precursor part transaction, these costs are minimal because purchasers will be shopping for other products in the store during the background check, allowing the vendor to sell more items to the public.

Approximately 0.7 percent of firearm transactions are denied due to customers failing an eligibility check, and the Department assumes that the same percentage of firearm precursor part transactions will be denied. This may result in a 0.7 percent loss in revenue throughout the firearm precursor part industry. The average firearm precursor part costs approximately \$100 (see 80% Arms 2022; 80% Lowers 2022; Polymer80 2022; Thunder Tactical 2022). Given the Department's estimate that there will be between 20,000 and 50,000 firearm precursor parts sold in the 12 months subsequent to the regulation going into effect, a 0.7 percent decline in sales would lead to an economic loss of between \$140,000 and \$350,000. If this loss is experienced equally among all 1,883 firearm precursor part vendors, this would be a yearly loss of between \$74 and \$186 for each business.

The Department also concludes that:

(1) The proposed regulations will benefit the health and welfare of California's residents because they create a process which will ensure an individual prohibited by either state or federal law from possessing a firearm will be unable to skirt the law by purchasing firearm precursor parts and building a homemade gun. Beginning July 1, 2022, a firearm precursor part purchase or transfer must be conducted by a firearm precursor part vendor unless otherwise exempted. A vendor must submit the personal information of the purchaser or transferee to the Department, so the Department can complete a background check before approving the purchase or transfer. Mandatory background checks for firearm precursor part transactions decrease the likelihood of a prohibited individual acquiring a firearm precursor part and building a homemade gun.

(2) The proposed regulations will benefit worker safety insofar as these regulations may prevent workplace firearm violence committed by individuals prohibited from possessing firearms.

(3) The proposal does not directly benefit the environment.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDIES, REPORTS OR SIMILAR DOCUMENTS RELIED UPON

The Department relied on the following:

80% Lowers, *80% Lowers*, retrieved from < <https://www.80-lower.com/80-percent-lower/>> as of February 1, 2022.

80% Arms, *80% Lowers*, retrieved from < <https://www.80percentarms.com/80-lowers/>> as of February 1, 2022.

Appl. for Search Warrant, *In the Matter of the Search of The business and Federal Firearms Licensee ("FFL") known as POLYMER80, Inc. ("POLYMER80"), which is located at 134 Lakes Blvd., Dayton, NV 89403*, Case No. 3:20-mj-123-WGC (D. Nev. Dec. 9, 2020), <https://s.wsj.net/public/resources/documents/ghostraid-121420-warrant.pdf> (last visited Jan. 27, 2022).

Polymer80, *P80 80% Pistol Frame Kits*, retrieved from < <https://www.polymer80.com/pistols/80percentpistolkits>> as of February 1, 2022.

Thunder Tactical, *9MM 80% Lowers*, retrieved from < <https://thundertactical.com/product-category/ar-9mm/9mm-80-lowers/>> as of February 1, 2022.

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

The Department has made an initial determination that the proposed action would not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

As explained above, the proposal will likely result in indirect costs to firearm precursor part vendors resulting from the additional time it will take to process background checks or to verify whether an individual is exempt from a background check. Although it will take additional staff time to complete a firearm precursor part transaction, these indirect costs are minimal because purchasers will be shopping for other products in the store during the background check, allowing the vendor to sell more items to the public.

Although firearm precursor part sales will be restricted, beginning July 1, 2022, any effect on businesses would be due to the various and multiple provisions of AB 879, not these proposed regulations regarding licensing requirements.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

The Department finds that no reasonable alternatives were presented to, or considered by, the Department that would lessen any adverse impact on small business.

REASONABLE ALTERNATIVES TO THE PROPOSED ACTION AND THE AGENCY'S REASON FOR REJECTING THOSE ALTERNATIVES

The Department finds that no alternatives were presented to, or considered by, the Department that would be more effective in carrying out the purpose of these proposed regulations or would be as effective and less burdensome to affected private persons than these proposed regulations.

Performance Standard as Alternative

The proposed regulations implement mandatory background check requirements, and therefore impose specific requirements. The Department must impose specific requirements to ensure that firearm precursor parts are not sold to prohibited persons.

These regulations also require firearm precursor part vendors to utilize the DES to transmit purchaser or transferee information to the Department for the purpose of performing eligibility checks. Pursuant to Penal Code section 30470, subdivision (a), the Department is mandated to electronically approve the purchase or transfer of firearm precursor parts through a vendor. The Department has determined that the most effective way to electronically conduct the firearm precursor part authorization program is to require all required information be communicated to the Department through the DES, with the notable exemption provided by Penal Code section 30470, subdivision (d), as implemented by section 4325 of these proposed regulations. Penal Code section 30470, subdivision (d) implies that the majority of firearm precursor part vendors will submit the information "electronically."

Pursuant to Penal Code section 30485, subdivision (d), most firearms dealers and ammunition vendors will also be authorized firearm precursor part vendors, and will make up 93 percent of all vendors. The DES website is already the established portal through which firearms dealers and ammunition vendors communicate purchasers' or transferees' personal information to the Department for the purpose of both firearm and ammunition eligibility checks. It would be unduly burdensome for firearm precursor part 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 firearm precursor part eligibility checks.