

## INITIAL STATEMENT OF REASONS

### Section 978.10 Title and Scope

Public problem, administrative requirement, or other condition or circumstance that the regulation is intended to address.

In 1989, the California Legislature declared that the proliferation and use of assault weapons poses a threat to the health, safety, and security of the citizens of this state. As a result of this threat, the Legislature placed restrictions on the sale and use of firearms specified as assault weapons and established a registration requirement for the lawful possession of such firearms. In 1999, the legislature passed Senate Bill 23 (Perata) which expands the definition of assault weapons and requires the Department of Justice (DOJ) to establish a registration process for the possession of firearms that meet the new definition. Senate Bill 23 also restricts the sale or transfer of large capacity magazines and requires the Department to issue permits for the import and export of large capacity magazines.

Specific purpose of the regulation.

The proposed regulation will denote the title and specify the scope of the regulatory action.

Necessity.

Establishing a title for the regulatory action and specifying the scope of the regulations increase the general clarity of the regulatory action for persons affected by the regulations.

Technical, theoretical, and/or empirical study, reports, or documents

The Department did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the title and scope of these regulations.

Alternatives to the regulation considered by the agency and the agency's reasons for rejecting those alternatives.

No other alternatives were presented to or considered by the Department.

Alternatives to the proposed regulatory action that would be as effective and less burdensome to private persons.

The Department finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons than the proposed regulation.

Alternatives to the proposed regulatory action that would lessen any adverse impact on small businesses.

The Department finds that the proposed regulation would not have any adverse impact on small businesses, thus no alternatives were identified.

## **Section 978.20 “Definitions of Terms Used to Identify Assault Weapons”**

Public problem, administrative requirement, or other condition or circumstance that the regulation is intended to address.

Penal Code section 12276.1 specifies characteristics that identify a firearm as an assault weapon. The proposed regulation will further define terms used in Penal Code section 12276.1 to describe those characteristics.

Specific purpose of the regulation.

The proposed regulation will define the following six terms used in the identification of assault weapons pursuant to Penal Code section 12276.1: “detachable magazine”; “flash suppressor”; “forward pistol grip”; “permanently altered”; “pistol grip that protrudes conspicuously beneath the action of the weapon”; and “thumbhole stock.”

Necessity.

Defining the six terms is necessary to promote a clear understanding of Penal Code section 12276.1. This understanding is crucial for private citizens who own firearms that could be subject to registration and also for firearms dealers who must be able to identify firearms that will be subject to the statutory restrictions on the sale and transfer of assault weapons.

Technical, theoretical, and/or empirical study, reports, or documents.

The Department relied on information from the following sources when formulating the six definitions in the proposed regulation:

- Small Arms Lexicon and concise Encyclopedia, Chester Mueller and John Olson
- Dictionary of Weapons and Military Terms, John Quick, Ph.D.

The Department also considered the opinions of several firearms industry experts who were on a Senate Bill 23 Implementation Advisory Committee created by the Department. The minutes from the advisory committee meetings are included in the rulemaking file.

Alternatives to the regulation considered by the agency and the agency’s reasons for rejecting those alternatives.

Although no specific alternatives were formally presented to the Department, several definitions were considered from the research material referenced above. The Department determined the definitions proposed most accurately reflect the legislative intent of Penal Code section 12276.1.

Alternatives to the proposed regulatory action that would be as effective and less burdensome to private persons.

The Department finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons than the proposed regulation.

Alternatives to the proposed regulatory action that would lessen any adverse impact on small businesses.

The Department finds that the proposed regulation would not have any adverse impact on small businesses, thus no alternatives were identified. The proposed regulation merely defines certain terms used in Penal Code section 12276.1 to promote a more clear understanding of the statute. Any potential adverse impact that may result from restrictions placed on assault weapons are a result of the statute and not the regulation.

**Section 978.30 “Requirements for Assault Weapon Registrations Pursuant to Penal Code Section 12285”**

Public problem, administrative requirement, or other condition or circumstance that the regulation is intended to address.

Penal Code section 12285 requires persons who lawfully possessed an assault weapon prior to the date it was defined as an assault weapon, to register the firearm with the Department of Justice. The statute requires the Department to establish procedures relative to assault weapon registrations.

Specific purpose of the regulation.

The proposed regulation will specify the information required on assault weapon registration applications. The regulation also provides the option of joint registration for assault weapons owned by family members residing in the same household as required pursuant to Penal Code section 12285(e).

Necessity.

The registrant information required (name, date of birth, height, weight, etc.) is necessary for the Department to confirm an applicant is not prohibited from possessing firearms. The thumb print requirement is expressly mandated pursuant to Penal Code section 12285(a).

The assault weapon information required (make, model, serial number, date of acquisition, etc.) is necessary for the firearm to be uniquely identified and establish that the firearm qualifies for registration based on the date and manner of acquisition.

Technical, theoretical, and/or empirical study, reports, or documents.

The primary empirical source relied upon was the knowledge and experience the Department gained from having implemented a similar registration program pursuant to the original Roberti-Roos Assault Weapons Control Act of 1989 (Penal Code chapter 2.3 commencing with section 12275.)

Alternatives to the regulation considered by the agency and the agency's reasons for rejecting those alternatives.

No other alternatives were presented to or considered by the Department as the regulation requires applicants to provide the minimum information needed to confirm that the applicant and their assault weapon meet the statutory qualifications for registration.

Alternatives to the proposed regulatory action that would be as effective and less burdensome to private persons.

The Department finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons than the proposed regulation.

Alternatives to the proposed regulatory action that would lessen any adverse impact on small businesses.

The Department finds that the proposed regulation would not have any adverse impact on small businesses, thus no alternatives were identified.

### **Section 978.31 "Fees"**

Public problem, administrative requirement, or other condition or circumstance that the regulation is intended to address.

Penal Code section 12285(a) authorizes the Department to assess assault weapon registration fees up to \$20 but the statute does not specify the exact fee amounts.

Specific purpose of the regulation.

The proposed regulation will establish the assault weapon registration fee as \$20 per registrant.

Necessity.

Pursuant to Penal Code section 12285, the costs incurred by the Department for processing assault weapon registrations shall be reimbursed by registration fees which may not exceed \$20.

These regulations will establish the fee as \$20 for assault weapon registration. Revenues in the amount of \$2,000,000 are projected (based upon approximately 100,000 assault weapon registrants). The \$20 fee is necessary to help offset the Department's actual projected expenditures of \$2,246,000, for the registration program development and administration. The costs include personnel (salaries, benefits, etc.), data base development, and a mandated public notification program. Detailed expenditure information is provided with the Fiscal Impact Statement (Std.399) that is included in the rulemaking file of this regulatory action.

Technical, theoretical, and/or empirical study, reports, or documents.

The primary empirical source relied upon was the knowledge and experience the Department gained from having implemented a similar registration program pursuant to the original Roberti-Roos Assault Weapons Control Act of 1989 (Penal Code chapter 2.3 commencing with section 12275.)

Alternatives to the regulation considered by the agency and the agency's reasons for rejecting those alternatives.

Alternative fee amounts considered by the Department were rejected because even the maximum fee of \$20 authorized pursuant to Penal Code section 12285 will not generate revenue sufficient to cover all of the Department's costs relative to assault weapon registration.

Alternatives to the proposed regulatory action that would be as effective and less burdensome to private persons.

The Department finds that no alternatives it has considered would be as effective and less burdensome to affected private persons than the proposed regulation. Because the statute mandates that the Department's costs be offset through registration fees, the fiscal impact is unavoidable.

Alternatives to the proposed regulatory action that would lessen any adverse impact on small businesses.

The Department finds that the proposed regulation would not have any adverse impact on small businesses, thus no alternatives were identified.

**Section 978.32 "Processing Times"**

Public problem, administrative requirement, or other condition or circumstance that the regulation is intended to address.

Pursuant to Government Code section 15376 the Department must specify time standards for processing assault weapon registration applications.

Specific purpose of the regulations.

The proposed regulation will specify the time period in which the Department must inform an applicant that their application is either complete or deficient. This proposed regulation will also specify the time period in which the Department must complete processing of the application and establish an applicant's recourse if the Department fails to do so.

Necessity.

This regulation is required pursuant to Government Code sections 15376 and 15378.

Technical, theoretical, and/or empirical study, reports, or documents

The primary empirical source relied upon was the knowledge and experience the Department gained from having implemented a similar registration program pursuant to the original Roberti-Roos Assault Weapons Control Act of 1989 (Penal Code chapter 2.3 commencing with section 12275.)

Alternatives to the regulation considered by the agency and the agency's reasons for rejecting those alternatives.

No other alternatives were presented to or considered by the Department.

Alternatives to the proposed regulatory action that would be as effective and less burdensome to private persons.

The Department finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons than the proposed regulation.

Alternatives to the proposed regulatory action that would lessen any adverse impact on small businesses.

The Department finds no alternatives that would lessen any adverse impact on small businesses.

**Section 978.40 "Requirements for Large Capacity Magazine Permits Pursuant to Penal Code Section 12079"**

Public problem, administrative requirement, or other condition or circumstance that the regulation is intended to address.

Pursuant to Penal Code section 12020(b)(26), a permit issued by the Department of Justice is required for the importation and exportation of large capacity magazines. Penal Code section 12079 authorizes the Department to establish procedures relative to large capacity magazine permits.

Specific purpose of the regulation.

The proposed regulation will specify the criteria for establishing "good cause" for issuance of a permit and also specify the information required on large capacity permit applications.

Necessity.

The proposed regulation will require a statement from permit applicants that a large capacity magazine marketplace exists for their dealership as evidence of "good cause" for issuance of a permit. Additionally, compliance with all firearms laws and regulations related to large capacity

magazines is necessary to help ensure that issuance of the permit will not endanger the public safety. The information required on permit applications (including the firearms dealership name, dealership number (CFD), and a statement that a marketplace exists for their dealership) is necessary to confirm applicants qualify for issuance of a large capacity magazine permit.

Technical, theoretical, and/or empirical study, reports, or documents.

The primary empirical source relied upon was the knowledge and experience the Department gained from having previously implemented programs for various permits and licenses related to firearms.

Alternatives to the regulation considered by the agency and the agency's reasons for rejecting those alternatives.

No other alternatives were presented to or considered by the Department as the regulation requires applicants to provide the minimum information needed to confirm that the applicant meets the statutory qualifications for a large capacity magazine permit.

Alternatives to the proposed regulatory action that would be as effective and less burdensome to private persons.

The Department finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons than the proposed regulation.

Alternatives to the proposed regulatory action that would lessen any adverse impact on small businesses.

The Department finds that the proposed regulation would not have any adverse impact on small businesses, thus no alternatives were identified.

## **Section 978.41 "Processing Times"**

Public problem, administrative requirement, or other condition or circumstance that the regulation is intended to address.

Pursuant to Government Code section 15376 the Department must specify time standards for processing large capacity magazine permit applications.

Specific purpose of the regulations.

The proposed regulation will specify the time period in which the Department must inform an applicant that their application is either complete or deficient. This proposed regulation will also specify the time period in which the Department must complete processing of the application and establish an applicant's recourse if the Department fails to do so.

Necessity.

This regulation is required pursuant to Government Code sections 15376 and 15378.

Technical, theoretical, and/or empirical study, reports, or documents

The primary empirical source relied upon was the knowledge and experience the Department gained from having previously implemented programs for various permits and licenses related to firearms.

Alternatives to the regulation considered by the agency and the agency's reasons for rejecting those alternatives.

No other alternatives were presented to or considered by the Department.

Alternatives to the proposed regulatory action that would be as effective and less burdensome to private persons.

The Department finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons than the proposed regulation.

Alternatives to the proposed regulatory action that would lessen any adverse impact on small businesses.

The Department finds that the proposed regulation would not have any adverse impact on small businesses, thus no alternatives were identified.

**Section 978.42 "Term Length of Large Capacity Magazine Permits"**

Public problem, administrative requirement, or other condition or circumstance that the regulation is intended to address.

Penal Code section 12079 authorizes the Department to issue large capacity magazine permits but does not define the term length for the permits.

Specific purpose of the regulation.

The proposed regulation will define the term length for large capacity magazine permits and also state that a permit will be revoked if the permittee fails to maintain active status on the DOJ Centralized List of Firearms Dealers.

Necessity.

Establishing a one year term (renewable January 1<sup>st</sup> of each year) for large capacity magazine permits is consistent with the one year term (also renewable January 1<sup>st</sup> of each year) for placement on the Centralized List of Firearms dealers. Thus, permittees will be able to renew their large capacity magazine permit and Centralized List placement at the same time.

Technical, theoretical, and/or empirical study, reports, or documents

The primary empirical source relied upon was the knowledge and experience the Department gained from having previously implemented programs for various permits and licenses related to firearms.

Alternatives to the regulation considered by the agency and the agency's reasons for rejecting those alternatives.

The Department considered an indefinite term length or a length of two or three years. The primary reason for rejecting these alternatives pertains to the statutory requirement that large capacity magazine permittees to be on the Centralized List of Firearms Dealers. Because the term length for placement on the Centralized List is one year, a large capacity magazine permit term length of more than one year would create situations where a person could be in possession of a current permit despite being ineligible because he or she is no longer on the Centralized List of Firearms Dealers.

Alternatives to the proposed regulatory action that would be as effective and less burdensome to private persons.

The Department finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons than the proposed regulation.

Alternatives to the proposed regulatory action that would lessen any adverse impact on small businesses.

The Department finds that the proposed regulation would not have any adverse impact on small businesses, thus no alternatives were identified.

### **Section 978.43 “Large Capacity Magazine Permit Record Keeping”**

Public problem, administrative requirement, or other condition or circumstance that the regulation is intended to address.

Penal Code section 12079 authorizes the Department to issue large capacity magazine permits if the Department determines good cause exists for such issuance.

Specific purpose of the regulation.

The proposed regulation will specify the record keeping requirements for large capacity magazine permittees.

Necessity.

The minimal record keeping requirements established in the proposed regulation are necessary to confirm that the permittee complies with statutory restrictions regarding large capacity magazine transactions. Compliance with record keeping requirements is one of the elements that establishes “good cause” for the permit.

Technical, theoretical, and/or empirical study, reports, or documents.

The primary empirical source relied upon was the knowledge and experience the Department gained from having previously implemented programs for various permits and licenses related to firearms.

Alternatives to the regulation considered by the agency and the agency’s reasons for rejecting those alternatives.

No other alternatives were presented to or considered by the Department.

Alternatives to the proposed regulatory action that would be as effective and less burdensome to private persons.

The Department finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons than the proposed regulation.

Alternatives to the proposed regulatory action that would lessen any adverse impact on small businesses.

The Department finds that the proposed regulation would not have any adverse impact on small businesses, thus no alternatives were identified. The regulation requires only minimal record keeping.

**Section 978.44 “Large Capacity Magazine Permit Revocations”**

Public problem, administrative requirement, or other condition or circumstance that the regulation is intended to address.

Penal Code section 12079 authorizes the Department to issue large capacity magazine permits if the Department determines good cause exists for such issuance.

Specific purpose of the regulation.

The proposed regulation will specify that a large capacity magazine permit will be subject to revocation for failure to comply with record keeping requirements or for failure to comply with

firearms laws relative to large capacity magazines. This regulation will also establish that all procedures and hearings related to the revocation of a large capacity magazine permit shall be conducted in accordance with Chapter 5 (commencing with section 11500) of Part 1 of Division 3, of Title 2, of the Government Code.

Necessity.

Compliance with record keeping requirements and with firearms laws are the criteria necessary to establish that “good cause” for the permit. This is also necessary to help ensure that issuance of the permit will not endanger the public safety. Use of the administrative hearing procedures set forth in the Government Code will ensure that the process is fair and equitable.

Technical, theoretical, and/or empirical study, reports, or documents.

The primary empirical source relied upon was the knowledge and experience the Department gained from having previously implemented programs for various permits and licenses related to firearms.

Alternatives to the regulation considered by the agency and the agency’s reasons for rejecting those alternatives.

No other alternatives were presented to or considered by the Department.

Alternatives to the proposed regulatory action that would be as effective and less burdensome to private persons.

The Department finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons than the proposed regulation.

Alternatives to the proposed regulatory action that would lessen any adverse impact on small businesses.

The Department finds that the proposed regulation would not have any adverse impact on small businesses, thus no alternatives were identified. Only non-compliant permittees will be subject to possible permit revocation.