

NOTICE OF PROPOSED RULEMAKING

The Department of Justice (DOJ) proposes to adopt section 5460 of title 11, division 5, Chapter 39, of the California Code of Regulations (CCR) concerning definitions of terms related to identify assault weapons as described in Penal Code (PC) section 30515, after considering all public comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The DOJ will hold a public hearing to receive public comments on the proposed regulatory action.

The hearing will be held on January 8, 2018, 10:00 am to 12:00 pm, at the following location:

Resources Building Auditorium
1416 9th Street
Sacramento, California 95814

This auditorium is wheelchair accessible. There is no designated parking lot. Parking will need to be found nearby.

At the hearing, any person may present oral or written comments regarding the proposed regulatory action. The DOJ requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action. The written comment period closes at 5:00 p.m. on January 8, 2018. Only comments received by the DOJ by that time will be considered. Written comments must be submitted to:

Jacqueline Dosch
Bureau of Firearms
Division of Law Enforcement
Department of Justice
P.O. Box 160487
Sacramento, CA 95816-0487
Phone: 916-227-5419
Email: awdefinitions@doj.ca.gov

AUTHORITY AND REFERENCE

PC section 30520(c) gives the DOJ authority to “adopt those rules and regulations that may be necessary or proper to carry out the purposes and intent of this chapter,” which refers to Part 6,

Title 4, Division 10, Chapter 2 of the PC, entitled “Assault Weapons and .50 BMG Rifles” (hereinafter, “assault weapons law”). This chapter contains the statutory provisions restricting the possession, sale, and use of assault weapons, and PC section 30515 falls within Chapter 2.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

PC section 30515 contains specific characteristic definitions of assault weapons. The proposed regulation provides that the definitions of terms in section 5471 of CCR title 11, division 5, shall apply to the identification of assault weapons pursuant to PC section 30515. Section 5471 was previously promulgated by DOJ in support of the registration of a new class of assault weapons and states that assault weapons that do not have a fixed magazine, as defined in PC section 30515, including those weapons with an ammunition feeding device that can be readily removed from the firearm with the use of a tool, as provided in PC section 30900(b)(1). Section 5471 defines forty-four terms used in the identification of assault weapons pursuant to PC section 30515 or otherwise used in the section 5471 definitions themselves. Under the proposed regulation, these definitions would apply to the identification of assault weapons pursuant to PC section 30515, without limitation to context of the new registration process.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

This regulation will provide detailed, concrete information regarding firearms that constitute assault weapons. Because the DOJ has already promulgated one set of definitions for this purpose, the adoption of those preexisting definitions for all purposes under the assault weapons law will ensure that a single set of definitions applies across the entire assault weapons law. The proposed regulation will promote efficiency within the DOJ, as well as provide uniform guidance on characteristics-based assault weapons to the public, the judiciary, district attorney’s offices, and law enforcement agencies throughout California. Additionally, by applying the definitions across the entire statute there will be no question that the same definitions are to be used for everything. Furthermore, this regulation will benefit the health and welfare of California residents by providing uniform guidance on assault weapons to the public, the judiciary, district attorney’s offices, and law enforcement, thereby supporting the enforcement of California’s Assault Weapons Control Act.

EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

Pursuant to Government Code 11346.5(a)(3)(D), the DOJ must evaluate whether the proposed regulation is inconsistent or incompatible with existing state regulations. Pursuant to this evaluation, the DOJ has reviewed existing regulations pertaining to firearms within California Code of Regulations (CCR) title 11, division 5 and determined these proposed regulation is not inconsistent or incompatible. This determination is based on the fact that the proposed regulation adopts definitions that are already in use for the registration of a new class of assault weapons, and that were promulgated pursuant to the Department’s statutory authority to adopt regulations implementing the statutory requirement to register those weapons, as set forth in PC section 30900(b).

MANDATED BY FEDERAL LAW OR REGULATIONS

The proposed regulations are not mandated by federal law or regulation.

OTHER STATUTORY REQUIREMENTS

The proposed regulations are not required by any other statutes.

DISCLOSURES REGARDING THE PROPOSED ACTION

The DOJ has made the following initial determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.

Cost impacts that a representative person or business would incur in reasonable compliance with the proposed action: None. The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. (Gov code section 11346.5(a)(9)).

Significant effect on housing costs: None.

Small business determination: The DOJ has determined that the proposed regulation will not affect the creation nor elimination of businesses. This determination is based on the fact that the proposed regulation adopts definitions that are already in use for the registration of a new class of assault weapons, and that were promulgated pursuant to the Department's statutory authority to adopt regulations implementing the statutory requirement to register those weapons, as set forth in PC section 30900(b).

Assessment regarding effect on jobs/businesses: Adoption of the proposed regulation will not:

- (1) Create or eliminate jobs within California;
- (2) Create new businesses or eliminate existing businesses within California; or
- (3) Affect the expansion of businesses currently doing business within California.

This regulation will benefit the health and welfare of California residents by providing uniform guidance on assault weapons to the public, the judiciary, district attorney's offices, and law enforcement, thereby supporting the enforcement of California's Assault Weapons Control Act.

BUSINESS REPORT

In accordance with Government Code sections 11346.5(a)(11) and 11346.3 (d), this proposed regulation does not require a report to be made to businesses or anyone.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the DOJ must determine that no reasonable alternative was considered, or has been identified and brought to the attention of the DOJ that would be more effective in carrying out the purpose of the action proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or provision of law. Any person interested in presenting statements or arguments with respect to alternatives to the proposed regulation may do so at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Please direct inquiries concerning the proposed administrative action to:

Jacqueline Dosch
Bureau of Firearms
Division of Law Enforcement
Department of Justice
P.O. Box 160487
Sacramento, CA 95816-0487
Phone: 916-227-5419
Email: awdefinitions@doj.ca.gov

The back-up contact person for these inquiries is:

Audrey Durfor
Bureau of Firearms
Division of Law Enforcement
Department of Justice
P.O. Box 160487
Sacramento, CA 95816-0487
Phone: 916-227-7615
Email: awdefinitions@doj.ca.gov

AVAILABILITY OF RULEMAKING FILE INCLUDING THE INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The DOJ will have the entire rulemaking file available for inspection and copying throughout the rulemaking process. The text of the proposed regulation (the “express terms”), the initial statement of reasons, and the information upon which the proposed rulemaking is based are

available at the DOJ website at <http://oag.ca.gov/firearms/regs>. Copies may also be obtained by contacting Jacqueline Dosch.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the DOJ may adopt the proposed regulation substantially as described in this notice. If the DOJ makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days and accept written comments before the DOJ adopts the regulation. Copies of any modified text will be available on the DOJ website at <http://oag.ca.gov/firearms/regs>. A written copy of any modified text may be obtained by contacting Jacqueline Dosch.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon completion, the final statement of reasons will be available on the DOJ website at <http://oag.ca.gov/firearms/regs>. You may also obtain a written copy of the final statement of reasons by contacting Jacqueline Dosch.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format, as well as the Final Statement of Reasons once completed, are available on the DOJ website at <http://oag.ca.gov/firearms/regs>.