

# **NOTICE OF PROPOSED RULEMAKING**

Notice to be published on October 4, 2019

The Department of Justice (Department) proposes to amend sections 5505, 5507, 5509, 5510, 5511, 5513, 5514, 5516, 5517, 5518 and 5521 of Title 11, Division 5, Chapter 41, of the California Code of Regulations. Chapter 41 has been retitled as “Self-Manufactured or Self-Assembled Firearms.” These amendments would allow new residents to the state to apply for a unique serial number for a self-manufactured or self-assembled firearm after paying an application fee and meeting other requirements. This rulemaking proposes to make permanent, with changes, the emergency regulations approved on July 1, 2019.

## **PUBLIC HEARING**

The Department has not scheduled a public hearing on this proposed regulatory action. However, the Department will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

## **WRITTEN COMMENT PERIOD**

Any interested person or their authorized representative may submit written comments relevant to the proposed regulatory action. The written comment period closes at 5:00 p.m. on Monday, November 19, 2019. Only comments received by that time will be considered. Written comments must be submitted to:

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

## **AUTHORITY AND REFERENCE**

Authority: Sections 29180 and 29182, Penal Code.

Reference: Sections 11106, 16170, 16400, 16520, 16535, 16670, 23910, 27510, 28160, 28220, 29180, 29181, 29182, 29183 and 29184, Penal Code, Section 8104, Welfare and Institutions Code and Section 1798.17, Civil Code.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

This rulemaking action implements the requirements of Penal Code section 29180, which requires new residents of the state to apply for a unique serial number within 60 days for any

firearms that they bring into California that do not already have a unique serial number or other mark of identification. The proposed regulations also implement the requirements of Penal Code section 29182 and require an applicant for a unique serial number to be at least 21 years of age. Currently, new residents to the state are unable to apply for a unique serial number under Title 11, Division 5, Chapter 41, of the California Code of Regulations. This rulemaking action would update the reference sections of existing regulations, and make the following revisions:

The title of Chapter 41 has been amended for the sake of concision.

Section 5505 has been amended to include new California residents in the title and scope of the regulations.

Section 5507 has been amended to add additional firearms related definitions as well as terminology specifically used for these regulations. An amendment has also been made to delete a penal code section that has been superseded by a changed statute. The correct penal code was added to conform to mandated statutory language by redefining firearms eligibility check as the state and federal background check pursuant to Penal Code section 28220 that is used to determine an individual's eligibility to possess a firearm.

Section 5509 has been amended to include new California residents who wish to possess in the state a previously self-manufactured or self-assembled firearm that does not have a unique serial number or other mark of identification.

Section 5510 has been amended to include the January 1, 2019 effective date for new California residents.

Section 5511 has been amended to allow new California residents to use the California Firearms Applications Reporting System (CFARS) to apply for a unique serial number or other mark of identification for a self-manufactured or self-assembled firearm.

Section 5513 has been amended to delete language that has been superseded by a changed statute and to add language to conform to mandated statutory language by including the new age restriction of 21 to obtain a unique serial number for a firearm that is not a handgun. Additionally, amendments have also been made to specify the Department will ask for additional firearm(s) identifying information and digital image(s) to ensure compliance with state firearm laws. Additional changes have also been made for clarity and consistency.

Section 5516 has been amended to have the denial letter, if an applicant is deemed ineligible, be sent by U.S. mail. Additional changes have been made for clarity and consistency.

Section 5518 has been amended to require new residents to the state to engrave their unique serial number on their firearm and upload digital photos to CFARS within 10 days of receiving their unique serial number. It also provides for applicants to reapply if they fail to engrave and upload photos of their unique serial number.

Section 5521 has been amended in order to specify the Department will ask for additional firearms identifying information and digital images to ensure compliance with state firearm laws.

#### ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

This rulemaking protects public safety, public health and worker safety by reducing the number of untraceable firearms coming into the state of California. A new resident will have to undergo a background check in order to receive a unique serial number, which will allow the Department to determine if the person is prohibited from possessing a firearm. These regulations will also allow law enforcement to effectively trace the ownership of a firearm if it is used in a crime.

This rulemaking neither benefits nor hinders the environment, the prevention of discrimination. The promotion of fairness or social equity, or the increase in openness and transparency in business or government.

#### EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

Pursuant to Government Code section 11346.5, subdivision (a)(3)(D), the Department shall evaluate whether the proposed regulation is inconsistent or incompatible with existing state regulations. Pursuant to this evaluation, the Department has reviewed existing regulations pertaining to firearms within California Code of Regulations (“CCR”) Title 11, Division 5, and determined that these proposed regulations are not inconsistent or incompatible. This determination is based on the fact that there are no regulations currently existing which address the process of new residents applying for and receiving unique serial numbers.

#### COMPARABLE FEDERAL REGULATIONS

There are no existing federal regulations or statutes comparable to the proposed regulation.

#### OTHER STATUTORY REQUIREMENTS

None.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies or school districts: None

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

Cost or savings to any state agency: 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 on a Private Person or Business: 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.

Business report requirement: None.

Significant effect on housing costs: None.

Small business determination: The Department has determined that the proposed regulation will not affect the creation or elimination of small businesses because the regulations pertain to new residents to the state and does not directly affect small business.

#### RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Assessment regarding effect on jobs/businesses: Adoption of the proposed regulations 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; or
- (4) Affect the state's environment.

The Department's determination on items (1) through (4) are based on the fact that the regulations pertain to new residents to the state and do not directly affect any businesses.

For additional benefits, please see "Anticipated Benefits of the Proposed Regulations" found under the Informative Digest/Policy Statement Overview.

#### COSTS IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

This regulation imposes a fee on new residents who wish to apply for a unique serial number. The fee for submitting an application for a unique serial number is \$35, which covers the cost for a background check and one unique serial number application. If the applicant requests multiple serial numbers in the same application, the fee is \$15 for each additional serial number.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and

equally effective in implementing the statutory policy or other provision of law. Any person interested in presenting statements or arguments with respect to alternatives to the proposed regulations may do so at the scheduled hearing or during the written comment period.

#### CONTACT PERSONS

Please direct inquiries concerning the proposed administrative action to:

Kamran Ali  
Bureau of Firearms  
Division of Law Enforcement  
Department of Justice  
P.O. Box 160487  
Sacramento, CA 95816-0487  
Phone: (916) 227-5419  
Email: FirearmsIDregs@doj.ca.gov

The back-up contact person for these inquiries is:

Jacqueline Dosch  
Bureau of Firearms  
Division of Law Enforcement  
Department of Justice  
P.O. Box 160487  
Sacramento, CA 95816-0487  
Phone: (916) 227-7614  
Email: FirearmsIDregs@doj.ca.gov

#### AVAILABILITY OF RULEMAKING FILE INCLUDING THE INITIAL STATEMENT OF REASONS

The Department 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 Department’s website at <https://oag.ca.gov/firearms/regs>. Copies may also be obtained by contacting Kamran Ali at the address or phone number listed above.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department 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 Department adopts the regulations. Copies of any modified text will be available on the Department’s website at <https://oag.ca.gov/firearms/regs>. A written copy of any modified text may be obtained by contacting Kamran Ali at the address or phone number listed above.

#### AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon completion, the Final Statement of Reasons will be available on the Department's website at <https://oag.ca.gov/firearms/regs>. You may also obtain a written copy of the final statement of reasons by contacting Kamran Ali at the address or phone number listed above.

#### 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 Department's website at <https://oag.ca.gov/firearms/regs>.