

## **FINAL STATEMENT OF REASONS**

### UPDATE OF INITIAL STATEMENT OF REASONS

#### **§ 5507. Definition of Key Terms.**

The Department amended section 5507(m) to reference Penal Code section 16535, rather than Penal Code section 16540 to define “FSC.” Previously, the Department mistakenly referenced Penal Code section 16540, which defines “firearm safety device,” to define “FSC,” not “Firearm Safety Certificate,” as the Department had intended. This is a non-substantial change because it does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

The Department non-substantively amended the definition of “frame” in section 5507(l) by removing the short-hand reference to “receiver” and the reference to “pistol.” The word “receiver” was replaced with the expanded definition already used in the definition of “receiver.” The word “pistol” was replaced with “handgun” for internal consistency throughout the regulations. This is a non-substantial change because it does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

The Department non-substantively amended the definition of “receiver” in section 5507(p) to further clarify that it generally applies to a firearm that is a long gun. Because a “firearm” is defined by the Penal Code to include a “receiver,” the reference to long gun avoids an awkward reading of the definition. This is a non-substantial change because it does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

The Department non-substantially amended the term “receiver, unfinished” to “receiver or frame, unfinished” in section 5507(q) so that it is consistent with the term “unfinished receiver or frame” as it is used throughout the text of the proposed regulations. This is a non-substantial change because it does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

The Department non-substantially amended section 5507(s) by adding language to specify that a self-manufactured or self-assembled firearm includes a firearm that is constructed by a person using a 3D printer or any other technology. This language is not novel; it was added to subdivision (s) to tie the term “self-manufactured or self-assembled” in the definitions section back to section 5505 of these regulations. This amendment does not it does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text; thus, this is a non-substantial change. (Cal. Code of Regs., tit. 1, § 40.)

#### **§ 5508. Firearms Not Affected by This Chapter Pursuant to Penal Code Section 29181.**

Section 5508(b) is a restatement of Penal Code section 29181. The Department non-substantively amended section 5508(b) by changing the term “self-manufactured or self-

assembled” to “manufactured or assembled.” A commenter pointed out that the language used by the Department to reiterate the exemption in Penal Code section 29181(b) could be interpreted to narrow the scope of the exemption. To prevent confusion, the Department amended the language to be identical to the statute. This is a non-substantial change because it does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

The Department non-substantively amended the text of section 5508(c) by removing subdivision (c)(2). A commenter indicated that section 5508(c)(2) can be interpreted as requiring those who already have a serial number assigned by the Department to meet additional conditions for the exemption to apply. Section 5508 (c)(2) reflects existing registration requirements and would not impose a new condition that would limit the exemption. Nevertheless, to avoid duplication and confusing individuals who own firearms containing a Department approved serial number, the Department removed section 5508(c)(2). This is a non-substantial change because it does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

#### **§ 5509. Persons Affected by These Regulations.**

The Department has added language to subdivisions (a) and (b) of this section. Some commenters noted that the regulations did not specify whether a “firearm” includes a frame or receiver. Penal Code section 16520 already defines “firearm” to include a frame or receiver. The Department defined “receiver, unfinished” in Section 5507 to contrast it with the term “receiver.” The definition of “receiver, unfinished” aids in distinguishing between a receiver that is a firearm and a partially-built receiver that is not a firearm. For internal consistency, the Department added language to this section to reiterate that a self-manufactured or self-assembled firearm is made from an unfinished receiver or frame. This is a non-substantial change because it does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

#### **§ 5510. Effective Dates.**

The Department has added new language to subdivisions (a) and (b) of this section to clarify them. Some commenters noted that the regulations did not specify whether a “firearm” includes a frame or receiver. Penal Code section 16520 defines “firearm” to include a frame or receiver. The Department defined “receiver, unfinished” in Section 5507 to contrast it with the term “receiver.” The definition of “receiver, unfinished” aids in distinguishing between a receiver that is a firearm and a partially-built receiver that is not a firearm. For internal consistency, the Department added language to this section to reiterate that a self-manufactured or self-assembled firearm is made from an unfinished receiver or frame. This is a non-substantial change because it does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

### **§ 5513. Applicant and Firearm Identification Information Entered into CFARS by Applicant and the Department’s Privacy Notice**

The Department has removed the term “make” from subsection (a)(2). The make of a firearm is not applicable to self-manufactured or self-assembled firearms. This is a non-substantial change because it does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

Additionally, the Department non-substantially corrected a typo in subdivision (c)(1) of this section. The final sentence of the subdivision provides a link for the Department of Justice’s privacy policy, but in the original text, the Department misstated the term “privacy policy” as “private policy.” Hence, the Department struck out “private” and replaced it with “privacy.” This is a non-substantial change because it does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

### **§ 5518. Deadlines to Engrave the Unique Serial Number on the Firearm After Receiving the Electronic Approval Notice from the Department.**

The Department non-substantively amended subdivision (b)(2)(D) of this section to make it more understandable to the reader. The purpose of this subdivision was to inform the applicant that if the applicant submits the unique serial number application early (i.e. on day 28, 29, or earlier), prior to expiration of the background check on the thirtieth day, the applicant will have until the very end of the thirtieth day to correct any mistakes that were made. This subdivision was vague as it was written. The Department amended this subdivision to clarify what types of mistakes an applicant may make after the unique serial number has been issued. The Department anticipates specifically that an applicant submitting an application may make the following mistakes: (1) upload improper digital images of the firearm, or (2) improperly apply the unique serial number to the firearm. Such mistakes can be corrected by the applicant if the applicant completes the unique serial number application process before the applicant’s background check expires. This is a non-substantial change because it does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text, rather it makes it easier for the reader to comprehend what the Department means by this subdivision. (Cal. Code of Regs., tit. 1, § 40.)

### **§ 5519. Special Requirements for Engraving, Casting, Stamping (Impressing), or Placing the Unique Serial Number on a Self-Manufactured or Self-Assembled Firearm Made from Polymer Plastic.**

Section 5519 is a restatement of Penal Code section 28180. A commenter pointed out that the language used by the Department to reiterate the special requirement in Penal Code section 29180 (b)(2)(b) could be interpreted to be broader than the statute. The Department added new text to this section to clarify that a firearm made from polymer plastic that is manufactured or assembled on July 1, 2018 or thereafter, must contain its unique serial number on 3.7 ounces of material type 17-4 PH stainless steel. The Department added the text to be identical to the statute. This is a non-substantial change because it does not materially alter the requirements, rights,

responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

**§ 5520. Procedures to Engrave, Cast, Stamp (Impress), or Place the Unique Serial Number on the Self-Manufactured or Self-Assembled Firearm.**

The Department non-substantively revised subdivision (a)(1) by removing a citation to Penal Code section 27545 because the reference was unclear and it is not necessary. This is a non-substantial change because it does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

**§ 5521. The Procedure to Submit Digital Images of the Self-Manufactured or Self-Assembled Firearm.**

The Department has non-substantively revised subdivision (a)(2)(B) by replacing the word “pistol” with “handgun” for internal consistency throughout the regulations. This is a non-substantial change because it does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

The Department has non-substantively revised subdivision (a)(3) by removing the last sentence of the text because it was unclear and could be interpreted in multiple ways. The Department originally included the deleted text to notify the individual that the Department may request additional clarifying images if identifying marks are not on either the left side and/or right side of the receiver or frame. Since that text has been deleted, the Department will rely on subdivision (a)(2)(D) of section 5518 to request additional digital images of a firearm if the applicant’s firearm contains identification markings on locations other than the left side and/or right side of the receiver or frame. This is a non-substantial change because it does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text. (Cal. Code of Regs., tit. 1, § 40.)

**LOCAL MANDATE DETERMINATION**

The proposed regulations do not impose any mandate on local agencies or school districts.

**SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE NOTICE PERIOD OF FEBRUARY 2, 2018 THROUGH MARCH 19, 2018.**

The Department received 47 different comments from 60 persons. Attachment A (44 pages) is a summary of the comments submitted during the 45-day comment period and the Department’s responses. Attachment B is an alphabetical list (4 pages) of the commenters and identifies (by number) the comment(s) made by each person.

**ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES**

No alternatives were proposed to the Department that would lessen any adverse economic impact on small business.

#### ALTERNATIVES DETERMINATIONS

The Department has determined that no alternative it considered or that it otherwise identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, 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.

#### NONDUPLICATION

Some of the regulations may repeat or rephrase in whole or in part a state or federal statute or regulation. This was necessary to satisfy the clarity standard set forth in Government Code section 11349.1(a)(3).

# **ATTACHMENT A**

**PUBLIC COMMENTS AND DEPARTMENT OF JUSTICE RESPONSES**

#	Summarized Comment	DOJ Response
1.	General opposition to the proposed regulations titled “Firearms: Identifying Information and the Unique Serial Number Application Process.”	We received a number of non-specific, generalized comments in opposition to the regulations. The Department is adopting the regulations for the reasons stated in the initial statement of reasons.
2.	<p>a. These proposed regulations infringe upon the Second Amendment and/or other Constitutional rights.</p> <p>b. These changes will erase even more liberty and freedom.</p> <p>c. Support our right to bear arms and the 2<sup>nd</sup> Amendment.</p> <p>d. This offers no safety or security to the people. Yet it compromises the liberty of private citizens to construct their own firearms.</p> <p>e. Please consider our needs before you produce any more laws that harm and or strip law abiding citizens of their natural civil rights and to protect themselves and their families.</p> <p>f. We have the right to defend ourselves.</p> <p>g. Not only is it an imposition to “decree” that citizens have to spend time and money to register these firearms... more importantly, it is an invasion of the citizen’s right to privacy for you to check identification of said firearms.</p>	No change has been made in response to this comment because these are generalized comments in opposition to the regulation. The Department is adopting the regulations for the reasons stated in the initial statement of reasons.

#	Summarized Comment	DOJ Response
	<p>h. It has been a longstanding tradition of Americans building firearms for personal use without the government butting in.</p>	
3.	<p>a. All the laws passed to regulate guns only effect law abiding owners, not criminals.</p> <p>b. Criminals will not request a serial number from the DOJ for his/her home built gun, and then not use it because it has a serial number on it.</p> <p>c. “Production or home-built guns don’t kill people until a human makes it go. A production or home-built gun sitting on a table, a shelf, or in a display case is not going to kill people unless a human intentionally makes it go; even with live rounds in it.”</p> <p>d. Criminals don’t sit down and read the endless gun regulations before they acquire or buy a gun.</p> <p>e. Criminals will continue to disobey the law by either attaining firearms through a black market system, or even by theft.</p> <p>f. Politicians are only making criminals out of the law abiding citizens.</p>	<p>No change has been made in response to this comment because these are generalized comments in opposition to the regulation. The Department is adopting the regulations for the reasons stated in the initial statement of reasons.</p>



#	Summarized Comment	DOJ Response
	<p>g. California needs to get tough on criminals and not law abiding citizens.</p> <p>h. Just enforce the laws already on the books.</p> <p>i. Honorable, Moral, law abiding tax paying American citizens should not have to fight to defend right!</p> <p>j. You make owning firearms by citizens of good repute as difficult as possible.</p>	
4.	<p>a. How can putting a number or mark on something make any difference in safety, use, or sale of that item?</p> <p>b. These regulations will not have any effect on improving safety, only forcing citizens to spend more money and give up rights.</p> <p>c. This law has no safety overtures to protect anyone.</p>	<p>No change has been made in response to this comment because the Department determines that these comments object to the underlying statute rather than to the way the agency proposes to implement it.</p>

#	Summarized Comment	DOJ Response
5.	This law/regulations make gun ownership more difficult, which makes it more difficult to protect ourselves.	No change has been made in response to this comment because the Department determines that this comment objects to the underlying statute rather than to the way the agency proposes to implement it.
6.	Federal law exclusively forbids anyone who builds a firearm at home to put a serial number on said firearm. To do so makes you a manufacturer of firearms. The law clearly states that a person can build a firearm for his own personal use.	No change has been made in response to this comment because the Department determines that this comment objects to the underlying statute rather than to the way the agency proposes to implement it.
7.	“The DOJ in CA is already overworked and much like your last ammo regulations, are not prepared to handle this task.”	No change has been made in response to this comment because this is a generalized comment in opposition to the regulation. The Department is adopting the regulations for the reasons stated in the initial statement of reasons.
8.	“Well what can I say other than this is really getting ridiculous. I’m totally against this Proposal and think that that whoever thought this up needs to be removed from their position. Stop making decisions for the public let us Decide what laws are adopted. And stop infringing on my Second Amendment rights, I think enough treason has already taken place. The department of justice should be doing exactly what their name stands for “justice” by fighting to bring back our rights instead of taking away more. I have a proposal replace all the people that are working the DOJ with real Americans.”	No change has been made in response to this comment because this is a generalized comment in opposition to the regulation. The Department is adopting the regulations for the reasons stated in the initial statement of reasons.
9.	“Please protect our freedom.”	No change has been made in response to this comment because this is a generalized comment in opposition to the regulation. The Department is adopting the regulations for the reasons stated in the initial statement of reasons.

#	Summarized Comment	DOJ Response
10.	A better solution would be to more effectively monitor private sales of firearms or illegally obtained firearms instead.	No change has been made in response to this comment because the Department determines that this comment objects to the underlying statute rather than to the way the agency proposes to implement it.
11.	Adding more legislation and regulation will not fix any problems but just slow down the legal system and create backups of paperwork.	No change has been made in response to this comment because this is a generalized comment in opposition to the regulation. The Department is adopting the regulations for the reasons stated in the initial statement of reasons.
12.	The language in this bill can potentially affect many collectible firearms which when manufactured many decades and hundred years prior that have no serial number require the owner to deface their prize collectible in the name of new legislation.	This comment is rejected. No change has been made in response to this comment because these regulations do not apply to or affect an antique firearm or a collectible firearm that is a curio or relic. (Penal Code § 29182.)
13.	General support of the regulations. I am totally in favor of these laws except those loosening regulations regarding weapons. Restrict weapons! I am thankful every day that I live in a state-California – that takes steps to treat gun ownership with the sober seriousness it requires and to regulate and monitor it accordingly. Guns should be at least as well-regulated as automobiles, given their potential impact on the safety of us all.	No change has been made in response to this comment, which is interpreted to be an observation rather than recommendation of any change to the regulations themselves.
14.	As written, these rules will essentially require all firearms to be registered with the state and goes far outside the intended scope of the bill. Its language is vague in some parts which can be subjectively enforced.	No change has been made in response to this comment because the Department determines that this comment objects to the underlying statute rather than to the way the agency proposes to implement it.
15.	You have no authority to regulate privately built firearms. There is no interstate commerce relating to privately built firearms therefore you cannot regulate them.	No change has been made in response to this comment because the Department determines that this comment objects to the underlying statute rather than to the way the agency proposes to implement it.

#	Summarized Comment	DOJ Response
16.	<p>a. “Proposed Section 5506 states that the Department of Justice will not provide serial numbers for self-manufactured or self-assembled prohibited weapons pursuant to Penal Code section 16590, an assault weapon, a machine gun pursuant to Penal Code section 16880, a .50 BMG rifle pursuant to Penal Code section 30530, a destructive device pursuant to Penal Code section 16460, a short barreled rifle pursuant to Penal Code section 17170, or a short barreled shotgun pursuant to Penal Code section 17180.”</p> <p>However, the statutes clearly mandate that the DOJ “shall accept applications from, and shall grant applications in the form of serial numbers pursuant to Section 23910 to, persons who wish to manufacture or assemble firearms pursuant to subdivision (b) of Section 29180.” (Penal Code § 29182(a)(1), italics added.) The statutes similarly mandate that the DOJ “shall accept applications from and shall grant applications in the form of serial numbers pursuant to Section 23910 to, persons who wish to own a firearm described in subdivision (c) of Section 29180.”(Penal Code § 29182(a)(2), italics added.)” “When the California Legislature uses the term “shall,” there is no discretion by the agency to whom the statutory mandate applies. To hold otherwise via regulation, as this provision does, is in direct conflict with the statutory provision to which this proposed regulation seeks to provide guidance.</p> <p>b. Moreover, many of the lawfully possessed firearms that were deemed “assault weapons” beginning January 1, 2017 and which must be registered before July 1, 2018, are self-manufactured / self-assembled firearms, for which the DOJ</p>	<p>The Department rejects this comment. No change has been made in response to this comment because proposed regulation section 5506 implements Penal Code section 29182(e) by stating that the Department will not provide serial numbers for certain kinds of firearms that an individual may manufacture or assemble if possession of such firearms are illegal under existing laws.</p> <p>b. The Department rejects this comment. No change has been made in response to this comment because Penal Code sections 29180 through 29184, which these proposed regulations clarify, come into effect on July 1, 2018, after the deadline to register assault weapons expires. (Cal. Code Regs., tit. 11 § 5469.) Firearms that are assault weapons shall be</p>

#	Summarized Comment	DOJ Response
	<p>requires serial numbers be requested, issued, and applied prior to accepting or processing registration.”</p> <p>c. “The provision is not necessary due to the fact it is unsupported by any law: There is no California statute prohibiting issuance or application of serial numbers to any of the firearms described in this proposed regulation.</p> <p>And, being both unnecessary and in direct conflict with the statutory language of Penal Code section 29182, the DOJ lacks the authority to promulgate the proposed regulation.”</p>	<p>registered with the Department by July 1, 2018, and they shall follow the requirements set out in Chapter 39 of Division 5 within Title 11 of the California Code of Regulations. Thus, these regulations do not apply to assault weapons.</p> <p>c. The Department rejects this comment. No change has been made in response to this comment because section 5506 implements Penal Code section 29182(e) by stating that the Department will not provide serial numbers for certain kinds of firearms that an individual may manufacture or assemble if possession of such firearms are illegal under existing laws.</p>
17.	<p>“Chapter 3 uses the term “antique firearm” one time, and that occurs in Section 29181, which provides an exemption to serialization requirements listed in Section 29180. Penal Code section 29181 expressly exempts “antique firearms,” as that term “is defined in Section 479.11 of Title 27 of the Code of Federal Regulations.”</p> <p>Section 478.11 of Title 27 of the Code of Federal Regulations defines “antique firearm” as including:</p> <ul style="list-style-type: none"> <li>• Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898;</li> <li>• Any replica of any firearm described in paragraph (a) of this definition if such replica:</li> </ul>	<p>The Department rejects this comment. No change has been made in response to this comment because the Department’s definition of “antique firearm” is directly taken from section 479.11 in title 27 of the Code of Federal Regulations, as proscribed by Penal Code section 29181(e).</p>

#	Summarized Comment	DOJ Response
	<ul style="list-style-type: none"> <li>○ is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or</li> <li>○ uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.</li> </ul> <p>Proposed regulation section 5507(a) defines “antique firearm” as:</p> <ul style="list-style-type: none"> <li>● Any firearm not designed or redesigned for using rim fire or conventional centerfire ignition with fixed ammunition and manufactured in or before 1898 (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1989)</li> <li>● Any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.</li> </ul> <p>While these definitions use similar terminology, they are not the same and do not include all of the same firearms. For example, the federal definition of “antique firearm” includes any firearm manufactured in or before 1898. The proposed regulation includes only those firearms with specific ignition systems, even if manufactured in or before 1898. Also, the federal definition exempts replicas that meet certain requirements, while the proposed regulation does not.</p>	

#	Summarized Comment	DOJ Response
	<p>Proposed section 5507(a) is a muddle of terms used in the federal definition employed by an agency that either does not understand the meaning of 27 CFR § 478.11, or intentionally seeks to narrow the meaning of the term “antique firearm” in such a manner that conflicts with the express statutory definition provided by the Legislature. Either way, this definition is inconsistent with the legislatively mandated definition, is unnecessary as the term “antique firearm” is expressly defined in § 478.11 (where the California Legislature expressly advises us to look), and the DOJ lacks the authority to redefine the term as they have proposed.”</p>	
18.	<p>a. “Chapter 3 uses the term “curio or relic” one time, and that occurs in Penal Code section 29181, which provides an exemption to serialization requirements listed in Section 29180. Section 29181 expressly exempts “curio or relic,” as that term “is defined in Section 479.11 of Title 27 of the Code of Federal Regulations.” ”</p> <p>b. “Section 478.11 of Title 27 of the Code of Federal Regulations defines “curios or relics” in the exact same manner as Proposed section 5507(i), except the proposed definition fails to include the last sentence of the definition found in Section</p>	<p>a. The Department rejects this comment. No change has been made in response to this comment because section 479.11 of Title 27 of the Code of Federal Regulations does not define the term “curio” or “relic,” but section 478.11 of Title 27 of the Code of Federal Regulations provides clear definitions for both terms. By citing a section of the Code of Federal Regulations in Penal Code section 29181(e), the Legislature intended that the Department use federal law to define “curio” or “relic.” In an effort to align with the Legislature’s intent to use federal law to define “curio” or “relic,” the Department used the definitions provided in a similar federal regulation, section 478.11 of Title 27 of the Code of Federal Regulations.</p> <p>b. The Department rejects this comment. No change has been made in response to this comment because the legislatively mandated definition is ambiguous because it cites a federal regulation that does not define curio or relic. To clarify the ambiguity, Section 5507(i) defines the term</p>

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	<p>478.11, which states: “Proof of qualification of a particular firearm under this category may be established by evidence of present value and evidence that like firearms are not available except as collector's items, or that the value of like firearms available in ordinary commercial channels is substantially less.” As such, Proposed Regulation Section 5507(i) is an edited down version of the term used in the federal definition, eliminating clause that can provide clarity to the public. This definition is inconsistent with the legislatively mandated definition in that it is incomplete; it is unnecessary as the term “curio or relic” is expressly defined in 478.11 of Title 27 of the Code of Federal Regulations – where the Legislature expressly advises us to look, and the DOJ lacks the authority to redefine the term as they have proposed.”</p>	<p>”curio” or “relic” by importing provisions from section 478.11 of Title 27 of the Code of Federal Regulations. Section 478.11 not only defines “curio” or “relic” but gives an example how a firearm can meet one of the three categories within the definition. The Department did not include the example in Section 5507(i) because it views the language as superfluous.</p>
19.	<p>“Proposed Regulation section 5507(m), defining “FSC” incorrectly defines the term as meaning “Firearm Safety Certificate as defined in Penal Code section 16540,” which is a Penal Code section that does not define “Firearm Safety Certificate;” rather, Penal Code section 16540 defines “Firearm Safety Device.” Thus, the definition is inconsistent with legislative intent and statutory law. Moreover, the DOJ lacks the authority to redefine term as such. To the extent that the DOJ needs assistance in locating the legislatively-correct statutory definition referenced by the Legislature, it is recommended that they examine Penal Code section 16535, which defines the term “firearm safety certificate.” ”</p>	<p>The Department accepts this comment. In response to this comment, the Department will amend section 5507(m) to reference Penal Code section 16535, rather than Penal Code section 16540 to define “FSC” to mean “Firearm Safety Certificate.”</p>



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20.	<p>“In no place within Chapter 3, does the Legislature use the term “unfinished receiver” or “receiver, unfinished.”</p> <p>Moreover, nowhere in the proposed regulations does the DOJ use the term “unfinished receiver” or “receiver, unfinished” except for the sole purpose of defining the term. In other words, this proposed regulation defines a term that is never used in the applicable statutes or regulations. Thus, by definition, it is unnecessary.</p> <p>The Proposed regulation defines “Receiver, unfinished” as:</p> <p style="padding-left: 40px;">a precursor part to a firearm that is not yet legally a firearm. Unfinished receivers may be found in various levels of completion. As more finishing work is completed the precursor part gradually becomes a firearm. For example, some just have the shape of an AR-15 lower receiver, but are solid metal. Some have been worked on and the magazine well has been machined open.</p> <p>The significance of the DOJ’s attempt to define this term must not go un-addressed. The proposed regulation defines a term that has been around for decades, which was designed and intended to address the processes used by licensed firearm manufacturers. Penal Code section 16520(g), expressly states that “[a]s used in Sections 29010 to 29150 [addressing the licensed manufacture of firearms], inclusive, ‘firearm’ includes the unfinished frame or receiver of a weapon that can be readily converted to the functional condition of a finished frame or receiver.” Specifically, licensed firearm manufacturers often</p>	<p>The Department accepts this comment in part. In response to this comment, the Department has revised sections 5509 and 5510 to reiterate that a self-manufactured or self-assembled firearm is made from an unfinished receiver or frame.</p> <p>The Department rejects this comment in part. Penal Code section 16520 defines “firearm” to include the frame or receiver of the weapon. An individual who intends to build a firearm, commencing on July 1, 2018, and applies to the Department for a unique serial number owns or will own one or more unfinished frames or receivers that the individual intends to build into a firearm. For this reason, in response to this comment, the Department included “Receiver, unfinished” as a definition in section 5507(q).</p>

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	<p>use third parties, including casting companies, to manufacture or cast their raw or unfinished frames or receivers. The castings that were produced were “unfinished receivers,” meaning that they were actually were “receivers” due to the fact that they contained the start of characteristics that federally made them receivers (i.e. the housing for the hammer, bolt, or breechblock, and other components of the firing mechanism)<sup>1</sup> but that were unfinished to the extent that these castings could not fit the parts necessary to turn the receiver into a functional receiver. Finishing work needed to be performed on these receivers. For example, the unfinished receivers often needed the trigger pins drilled and casting flash needed to be removed. Casting flash, also known as flashing, is excess material attached to a molded, forged, or cast product. This is typically caused by leakage of the material between the two surfaces of a mold (beginning along the parting line) or between the base material and the mold (in the case of overmolding). And, Penal Code section 16520(g) was designed and intended to mandate that these third-party companies, as well as first party manufactures, were required to comply with all of the manufacturing requirements of Penal Code section 29010 et seq., even when the receiver was unfinished.</p> <p>The proposed definition attempts to use the guise of regulating self-manufactured / self-assembled firearms to expand the meaning of “unfinished receivers” (a term that is only used in the licensed manufacturing statutes) to include parts of firearms that are not receivers and are not firearms and have never been within the gambit of the term “unfinished receiver” in the decades that this term has been used. The DOJ lacks the authority to define this term, which is not used in Chapter 3,</p>	

#	Summarized Comment	DOJ Response
	<p>and the definition is inconsistent with the decades-long application of the term in its statutory context – which heretofore never needed defining.”</p>	
21.	<p>“Penal Code section 29181 provides an exemption from the serialization process for any “firearm which was entered into the centralized registry set forth in Section 11106 prior to July 1, 2018, as being owned by a specific individual or entity if the firearm has assigned to it a distinguishing number or mark of identification to that firearm by virtue of the department accepting entry of that firearm into the centralized registry.”</p> <p>Proposed Regulation section 5508(c) limits this statutory exemption, by applying to only those firearms that qualify under Penal Code section 29181 and that satisfy other requirements not existing in the statutes. For example, Subsection 5508(c)(2) mandates that the “serial number or other mark of identification shall be engraved, cast, stamped (impressed) or permanently placed on the firearm in a conspicuous location.” The requirement that the serial numbers for this exemption be in a “conspicuous location” is neither statutory nor permitted. The exemption applies both going forward and retroactively, meaning that firearms have already been serialized and accepted into the centralized registry as set forth in 11106. This proposed regulation would mandate those that who have already satisfied the exemption reserialize their firearms in a location that would satisfy newly proposed regulations. The DOJ lacks the authority to restrict existing statutory exemptions, especially in such a manner that would defeat the intended purpose of the exemption – i.e., grandfathering in those who have already serialized and</p>	<p>The Department accepts this comment in part. Section 5508 (c)(2) reflects existing recordation requirements. It is not a new requirement that would limit the exemption in Penal Code section 29181. Nevertheless, in response to this comment, the Department has revised the text of section 5508(c) by removing subdivision (c)(2) to avoid duplication and confusion.</p>

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	<p>registered their firearms. Moreover, the regulation is inconsistent with the statutory law, as described above, and is unnecessary – since said firearms are already serialized and registered in the centralized registry.”</p>	
22.	<p>“Proposed Regulation sections 5511-5513, 5518, and 5521 mandate electronic requests. Nothing in Chapter 3 mandates or restricts requests to electronic submissions. Submissions should be open and available to everyone, not just those that possess certain technological capacities.</p> <p>Limiting the means of complying with Chapter 3 is unnecessary, as the State has long accepted and still does accept paper applications for registrations of firearms, certain firearm transfers, and other necessary firearm submissions. Moreover, nothing in Chapter 3 provides the DOJ the authority to limit the compliance to electronic means, and the overall restriction would appear to be inconsistent with the law, which is intended to permit and promote the registration and traceability of firearms that, allegedly, are not otherwise traceable. It is not proper or prudent to place unlawful technological requirements in the way of those seeking to comply with California law, especially since Penal Code section 29182 states that the DOJ “shall” accept applications.”</p>	<p>The Department rejects this comment. No change has been made in response to this comment because Penal Code section 29182(f) authorizes the Department “to adopt regulations to administer this chapter,” which enabled the Department to create the unique serial number application process. Moreover, throughout Penal Code section 29180, the Legislature gives the Department the discretion to create a procedure to govern the unique serial number application process, without imposing limitations on the method the Department shall use to accept unique serial number applications. The unique serial number application is submitted electronically because it will make it more efficient and cost-effective for both the applicant and the Department. Electronic submissions will expedite the process for the applicant because the Department will receive the application as soon as the applicant submits it online. Furthermore, an electronic process makes it more efficient to store and retrieve information.</p>
23.	<p>“Proposed Regulation section 5513 mandates that the applicant provide a brief description of the firearm, including the material from which the firearm is made.</p> <p>The California Penal Code is one of the most comprehensive and detailed firearm schemes in the United States. In general, firearm transfers must either be performed through a dealer</p>	<p>The Department rejects this comment. No change has been made in response to this comment because the Department may reasonably require the applicant to provide a general description of the firearm. The Department determines that it is necessary to identify the material from which the firearm is made, especially one that an individual intends to manufacture or assemble on or after July 1, 2018, because Penal Code section 29180(b)(2)(B) requires that a firearm manufactured</p>

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	<p>(which requires the submission of a dealer’s record of sale) or through an exemption (which generally mandate the submission of a registration form). The information recorded during these transfers all mandate the tracking of the firearms features, i.e., barrel length, color, caliber, maker, serial number, overall length, etc. Not one of these mandated forms requires the material from which the firearm is manufactured. In these situations, the licensed manufacturer would and could provide a description of the materials from which the firearms are composed – as they are engaged in the business of manufacturing firearms. General laymen and ordinary gun owners may not know or be able to competently provide a description of the materials from which their firearm was manufactured from. And, given the fact that no other firearm recording mandates that the materials be recorded, this requirement that is not mandated statutorily in Chapter 3, is unnecessary.”</p>	<p>or assembled from polymer plastic contain its serial number on 3.7 ounces of material type 17-4 PH stainless steel that is embedded within the plastic. If the material of the firearm is not reported, the Department cannot carry out the intent of the Legislature and enforce Penal Code section 29180(b)(2)(B).</p>
24.	<p>“Proposed Regulation sections 5513(c) mandates that the applicant waive their privacy rights with regard to the information submitted during the process, which includes the applicant’s full name, residence street address, email address, telephone number, date of birth, gender, military identification number, driver’s license number, identification number, U.S. citizen status, place of birth, country of citizenship, alien registration number, the fact that they own at least one firearm, their firearms serial numbers, their passwords for accessing their mandated electronic application system, and other private and personal information.</p>	<p>The Department rejects this comment. No change has been made in response to this comment because the Legislature has mandated that the Department maintain a registry of certain information for each individual who possesses or owns a firearm. (Penal Code § 11106.) The Department is committed to promoting and protecting the privacy rights of individuals. Department policies regarding the collection and maintenance of personal information must conform to the requirements of the Information Practices Act (Civil Code § 1798 et seq.), the Public Records Act (Government Code § 6250 et seq.), Government Code sections 11015.5 and 11019.9, and other laws pertaining to information privacy. The Department does not disclose personal data without the consent of an applicant, unless authorized by law. The Department uses security technologies to protect an applicant’s personal information</p>

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	<p>This waiver goes so far as permitting the disclosure of this information to any person designated by the Attorney General upon request. This is, essentially, a wholesale grant for the California Attorney General to use the personal information of firearms as they see fit, even for personal or political gain and retribution. The information contained in firearms databases are statutorily maintained in confidence. For example, Under the Public Records Act (PRA), government records are open and subject to inspection by and disclosure to the public, unless they are “exempt from disclosure by express provisions of law.” (Gov’t Code, § 6253, subd. (b).) The PRA specifically exempts certain types of documents from public disclosure, including those described in Government Code sections 6254 and 6255. In addition, Government Code section 6254, subdivision (k) incorporates confidentiality privileges set forth elsewhere in law, and makes those privileged documents exempt from the disclosure requirements of the PRA. The Department of Justice’s database containing information from Dealers’ Record of Sale information (including firearm ownership record) is specifically exempt from disclosure pursuant to Penal Code sections 11105 and 11106. Yet, the DOJ seeks to mandate that those seeking to comply with Chapter 3 waive their statutory rights to privacy.</p> <p>And the Attorney General himself recognizes the existence and importance of privacy on his Web site about privacy laws, wherein he states, “The state Constitution gives each citizen an inalienable right to pursue and obtain privacy.” A.G. Xavier Becerra, “California Law - Constitutional Right to Privacy,” Privacy Laws, online at <a href="https://oag.ca.gov/privacy/privacy-laws">https://oag.ca.gov/privacy/privacy-laws</a> (internal quotations omitted). Indeed, “All people are by nature</p>	<p>against loss, unauthorized access, and illegal use of disclosure. Access to personal information is limited to Department staff whose work requires such access. Section 5513(c) is not a waiver of privacy rights. It is a notice from the Department to the applicant that is required by law. The notice informs the applicant why the Department is collecting personal information and how the personal information will be used by the Department as authorized by law.</p>

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	<p>free and independent and have inalienable rights. Among these are . . . pursuing and obtaining safety, happiness, and privacy.” Cal. Const., Art. I, Sec. 1 (underline added).</p> <p>There is no conceivable legal or rational basis to mandate that those seeking to comply with the requirements of Chapter 3 waive their rights to privacy relating to their firearm ownership records. The inclusion of this mandatory waiver of privacy is in direct conflict with statutory and constitutional privacy rights and the DOJ lacks the legal authority to mandate that those seeking to comply with Chapter 3 give up their privacy rights.”</p>	
25.	<p>“Proposed Regulation Section 5514 mandates a fee of \$35 for the initial serial number request, and an additional \$15 for each serial number request performed in the same transaction. The DOJ states that the \$35 consists of a fee of \$20 for the background check, and \$15 fee for processing the serial number.</p> <p>Current law relating to the retail transfer of firearms mandates a total state fee of \$25.00. Specifically, the DROS fee is \$19.00, which covers the costs of the background checks and transfer registry (and a number of other programs; see, e.g., Bauer v. Becerra, 858 F. 3d 1216 (9th Cir. 2017), cert. denied). There is also a \$1.00 Firearms Safety Act Fee and a \$5.00 Safety and Enforcement Fee. And, in the event of a private party transfer (PPT), the firearms dealer may charge an additional fee of up to \$10 per firearm. (Pen. Code, §§ 23690, 28055, 28225, 28230, 28300.)</p>	<p>The Department rejects this comment. No change has been made in response to this comment because Penal Code section 30105 authorizes the Department to charge a \$20.00 processing fee for the background check. This fee covers the cost of the background check. Although Penal Code section 30105 does not provide a breakdown of how the funds are used to process the background check, the Department, in an effort to maintain transparency, provides a break down on page 9 of its Initial Statement of Reasons as to how the \$20.00 is used. Additionally, Penal Code section 29183 authorizes the Department to charge an applicant a fee for each unique serial number it issues as long as it is in an amount sufficient to reimburse it for the actual costs associated with issuing a unique serial number. The Department calculated that a fee of \$15 for each unique serial number issued is sufficient to reimburse it for the time and labor that will be involved in analyzing and processing each firearm reported.</p>

#	Summarized Comment	DOJ Response
	<p>The proposed regulation is inconsistent as the fee for performing a background check in the proposed regulation, \$20.00, exceeds the current cost for the same thing charged in the sale of firearms, \$19.00. Moreover, a dealer is limited to charging a fee of \$10.00 per firearm, while the DOJ is claiming a \$15.00 fee per firearm – where the actual labor is being performed by the applicant – not the DOJ. These fees are unsupported, inconsistent, and should be adjusted accordingly.”</p>	
26.	<p>“Penal Code section 29180(b)(2)(b) states: “Commencing July 1, 2018, prior to manufacturing or assembling a firearm, a person manufacturing or assembling the firearm shall do all of the following: If the firearm is manufactured or assembled from polymer plastic, 3.7 ounces of material type 17-4 PH stainless steel shall be embedded within the plastic upon fabrication or construction with the unique serial number engraved or otherwise permanently affixed in a manner that meets or exceeds the requirements imposed on licensed importers and licensed manufacturers of firearms pursuant to subsection (i) of Section 923 of Title 18 of the United States Code and regulations issued pursuant thereto.”</p> <p>Proposed Regulation section 5519 states that “a firearm manufactured or assembled from polymer plastic shall contain its unique serial number on 3.7 ounces of material type 17-14PH stainless steel. This stainless-steel pieces shall be imbedded within the plastic receiver or frame upon the firearm’s manufacturer or assembly.” This proposed regulation would apply to all polymer plastic firearms – not just those manufactured after July 1, 2018. Thus, this proposed regulation seeks to impose a retroactive mandate on those firearms</p>	<p>The Department accepts this comment. In response to this comment, the Department has revised the regulatory restatement of the statute to expressly state that it only applies to firearms manufactured or assembled after July 1, 2018 in conformity with the statute.</p>



#	Summarized Comment	DOJ Response
	<p>manufactured before July 1, 2018 – a mandate that would not only be impossible to comply with for those who already own and possess polymer plastic firearms manufactured without the steel insert – but one that would also negate the intentional grandfathering in of those firearms by the legislature. The DOJ lacks the authority to eliminate an exemption expressly provided by the legislature, and the underlying restriction directly conflicts with the statutory law. The elimination of the statutory exemption is also unnecessary for the administration of Chapter 3 – which necessitates the existence of the statutory exemption.”</p>	
27.	<p>“Proposed Regulation section 5520 mandates that certain additional information be engraved on the frame or receiver, including the caliber or gauge of the firearm, the manufacturer’s first and last name, their city and state, and the model of the firearm. Yet, depending on the date of manufacture, the serialization requirement begins either once the firearm is a frame or receiver or the owner intends to manufacture the frame or receiver. This presents a few important issues.</p> <p>First, the gauge or caliber of the firearm may not be determined at the time that the frame or receiver is manufactured, or it may be a multi-caliber firearm.</p> <p>Second, the frame, receiver, and/or barrel may not be large enough to sufficiently conspicuously engrave all of the required markings. Traditionally, semi-automatic firearms include many of the federally-required markings on exterior components like the slide (such as the caliber, make, model, city and state).</p>	<p>The Department rejects this comment. No change has been made in response to this comment because requiring the additional identifying information to be affixed to the firearm will allow law enforcement to quickly identify the owner of a firearm and to determine whether an individual’s possession of it is lawful. Furthermore, the unique serial number application on CFARS provides an option for the applicant to select “multi-caliber” on the drop down menu.</p>

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	<p>Third, and perhaps most significantly, this is all irrelevant information when the sole provider of the serial numbers is the DOJ. As we understand it, the DOJ will not reissue any numbers. Thus, unlike commercially manufactured firearms which could have identical serial numbers and therefore the need of the additional information in traces becomes relevant, the state being the sole issuer of serial numbers for firearms serialized in accordance with Chapter 3 eliminates that need. All DOJ-issued numbers will be unique and linked to the applicant directly. The inclusion of all the other markings will not only confuse law enforcement into thinking that the firearm is manufactured by a federally licensed firearms manufacturer, but it will slow down investigations as they seek to trace the firearms through the ATF. It is recommended that only the DOJ-issued serial number be applied to the frame or receiver, and not the additional information proposed in the section 5520.”</p>	
28.	<p>“Proposed Regulation section 5521 mandates that four digital pictures be submitted in order to complete the process. Submissions should be open and available to everyone, not just those with technological capacities, including digital cameras that are capable of taking the type and clarity of photos required to comply with the proposed regulations. Limiting the means of complying with Chapter 3 is unnecessary, as the State has long accepted and still does accept paper applications for registrations of firearms, certain firearm transfers, and other necessary firearm submissions. Moreover, Nothing in Chapter 3 provides the DOJ the authority to limit the compliance to electronic means, and the overall restriction would appear to be inconsistent with the law, which is intended to permit and</p>	<p>The Department rejects this comment. No change has been made in response to this comment because the use of digital pictures facilitates coordination between the Department staff and the applicant and speeds up the time it takes for the analyst to process the application. Moreover, it allows the Department to electronically monitor and ensure that all of the timeframes set by Penal Code sections 29180 and 29182 are met by the Department and the applicant.</p>

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	<p>promote the registration and traceability of firearms that, allegedly, are not otherwise traceable. It would not be prudent or consistent to place technological barriers upon those seeking to comply with California law – especially when Penal Code section 29182 states that the DOJ “shall” accept applications.”</p>	
29.	<p>“Proposed Regulation section 5522 states that the “uploaded images shall reflect the final version of the firearm, including any changes that were made to it by the applicant.” This implies that the firearm cannot be modified, altered, gun-smithed, enhanced, or otherwise changed once the firearm owner has complied with Chapter 3. Nothing in Chapter 3 prohibits or restricts a person from making any alterations or changes to their firearms, either before or after complying with the serialization requirements contained therein. The DOJ was granted the limited authority to adopt regulations to administer Chapter 3, and that is it. Section 5522 is unrelated to the administration of Chapter 3 and woefully exceeds that authority. Prohibiting users from making any changes or alterations to their firearms is unnecessary for the administration of Chapter 3. Moreover, it is inconsistent with Chapter 3, which is void of any legislative intent, design, or desire to prohibit someone from changing, altering, or customizing their firearm once serialized.”</p>	<p>The Department rejects this comment. No change has been made in response to this comment because the regulations do not address modifications after the unique serial number application process is complete. Some modifications may violate other laws.</p>
30.	<p>“These proposed regulations need a substantial rewrite because they lack a basic understanding of California and federal firearms law. The Department clearly does not understand the process and procedures one must follow in creating a firearm, nor do they appear to be sympathetic to the consequences that will befall law-abiding Californians who will be stuck between the proverbial rock and hard place in trying to comply with these new rules.”</p>	<p>No change has been made in response to this comment because this is a generalized comment in opposition to the regulation. The Department is adopting the regulations for the reasons stated in the initial statement of reasons.</p>

#	Summarized Comment	DOJ Response
31.	<p>“The scope of the law applies to individuals "who own[] a self-manufactured or self-assembled firearm before July 1, 2018 that is not recorded with the Department of Justice (Department), and shall also apply to an individual who intends to manufacture or assemble a firearm on or after July 1, 2018." Proposed regulations section 5505.</p> <p>These regulations do not address firearms manufactured before or after July 1, 2018 by those who, after January 1, 201[9] move to California. As discussed above, generally federal law allows an individual to make a firearm for their personal use. Few states regulate or restrict this practice and nothing under federal law prevents an individual who manufactured one of these lawful firearms from bringing the firearm into California. These regulations do not address this eventuality. California boasts several military bases and members of our military are often firearm enthusiasts. These requirements will also no doubt effect members of our military. The lack of any guidance on this issue will no doubt cause confusion in the future. Therefore, regulations discussing this practice should be proposed.”</p>	<p>The Department accepts this comment and will consider addressing this issue in a future regulation. At this time, the Department wishes to implement these regulations in a timely manner for current California residents.</p>
32.	<p>a. “Section 5507(s) states that a "'[s]elf-assembled' or 'self-manufactured' firearm means a firearm fabricated or constructed by a person, or a firearm the component parts which were fit together by a person to construct a firearm, but does not include:</p> <p style="padding-left: 40px;">"(1) A firearm assembled or manufactured by a firearms manufacturer licensed by the State of California and/or the Federal Government, or</p>	<p>The Department rejects this comment. No change has been made in response to this comment because the term “firearm” is defined by Penal Code section 16520. Penal Code section 16520(b)(13) cross-references Penal Code section 29180, indicating that the term firearm defined by Penal Code section 16520 applies to the term firearm mentioned throughout Penal Code section 29180. The Department cited Penal Code 16520 in the reference section of proposed regulation section 5507 to avoid duplicating portions of Penal Code section 16520</p>

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	<p>(2) A firearm with a serialized receiver purchased from a California gun store and later assembled it into a functional firearm. In this case, a licensed Federal Firearms Licensee is the manufacturer of the firearm and has applied its own serial number to the firearm."</p> <p>The definition used above appears to refer to a fully functioning firearm, which is different from a "firearm" per se. This problem is a recurring one throughout these regulations as the term "firearm" is used repeatedly throughout this proposal. But regulations do not define it or cite to a definition for "firearm" from the Penal Code or federal law.</p> <p>Under California law, a "firearm" means a device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of an explosion or other form of combustion. Further, a frame or receiver is considered a firearm for Penal Code section 29180. And a receiver, under the proposed regulations, is defined in the proposed regulations as "the basic unit of a firearm which houses the firing and breech mechanisms and to which the barrel and stock are assembled."</p> <p>Frames and receivers do not, by themselves, discharge ammunition. They typically do not have barrels and often do not have a specific caliber. But they are "firearms."</p> <p>As stated above, a regulation is drafted with "clarity" when it is "written or displayed so that the meaning of regulations will be easily understood by those persons directly affected by them." Therefore, the above proposed regulations that also refer to</p>	<p>in the definitions section (section 5507) of the proposed regulations. (Gov. Code § 11349(f).)</p>

#	Summarized Comment	DOJ Response
	<p>"firearms," including the one referenced above, should not be adopted without a clear and easily understood definition of the term. As we will point out, this lack of definition is a problem that permeates these proposed regulations.”</p> <p>b. “Again, section 5511 employs the phrase "self-manufactured and self-assembled firearm" in subdivisions (a) and (c). The term "firearm" is used again in (a). As stated above, these phrases lack clarity.”</p> <p>c. “Finally, once again, DOJ refers to the term "firearm" in proposed section 5513(c)(l) (requiring applicants to agree to the terms of the Department's Privacy Notice) without providing an adequate definition of the term. For the reasons stated above, this regulation (and others) should not be implemented unless a suitable definition is provided for the benefit of the public.”</p> <p>d. “DOJ refers to the term "firearm" in proposed section 5518 (invalidating applicants who fail to engrave, cast, stamp or permanently press a unique serial number) without providing an adequate definition of the term. For the reasons stated above, this regulation ( and others) should not be implemented unless a suitable definition is provided for the benefit of the public.”</p> <p>e. “Here, DOJ refers to the term "firearm" in proposed section 5521 (regulation requiring the submission of digital images of self-manufactured or self-assembled firearms.) without</p>	

#	Summarized Comment	DOJ Response
	<p>providing an adequate definition of the term. For the reasons stated above, this regulation (and others) should not be implemented unless a suitable definition is provided for the benefit of the public. Furthermore, the term '[s]elf-assembled' or 'self-manufactured' firearm identified here again appears to refer to a fully functioning firearm, which is different from a firearm per se. As we have made clear, these regulations do not define "firearm" or cite to a definition from the Penal Code or federal law."</p> <p>f. "Again, "a regulation is drafted with "clarity" when it is "written or displayed so that the meaning of regulations will be easily understood by those persons directly affected by them." Therefore, for the reasons stated above, this regulation (and others) should not be implemented unless a suitable definition is provided for the benefit of the public."</p>	
33.	<p>"The proposed regulations frequently refer to "self-assembled and self-manufactured firearms." These terms are defined as "a firearm fabricated or constructed by a person, or a firearm the component parts of which were fit together by a person to construct a firearm."</p> <p>The problems with the use of the term "firearm" have been addressed above but they are present here as well. The term "person" here is unclear because the term, in its common usage, refers to an individual. The use of "self" lends one to believe that is the case. But under most laws a "person" can be an individual or company or corporation. Firearms can be made or assembled by an individual or their "fabrication" or assembled</p>	<p>The Department rejects this comment. No change has been made in response to this comment because firearms without a serial number made by a company before the Gun Control Act would not be subject to these regulations. Such firearms meet the definition of a curio or relic because they were manufactured at least 50 years prior to January 1, 2019.</p>

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	<p>can be done by a company. Prior to the Gun Control Act, firearms could have been made by a company and would not have needed a serial number. According to the Penal Code, this could be a firearm requiring a serial number pursuant to the proposed regulations. But due to the use of the term "person" it is not entirely clear which.”</p>	
34.	<p>“In proposed section 5507(r), DOJ defines the term "rifle" as it is defined in Penal Code § 17090.31 However, DOJ has failed to define the terms "handgun," "long gun," and "shotgun." Definitions of these terms can be found at Penal Code sections 16640, 16865, and 17190 respectively. But, it would behoove regulators to recognize that laypersons (who are as bound by the law as any lawyer or government official) to list and define all relevant terms when drafting regulations that potentially impose criminal liability. We recommend that these regulations should not be adopted without adding further definitions of these terms which are referred to repeatedly throughout the proposal.”</p>	<p>The Department rejects this comment. No change has been made in response to this comment because the terms “handgun,” “long gun,” and “shotgun” are defined in the Penal Code. In an effort to avoid duplicating sections of the Penal Code within these regulations, the Department did not define these terms within section 5507 of the proposed text of the regulations. (Gov. Code, § 11349(f).)</p>
35.	<p>“DOJ proposes the following rule to account for the exceptions provided by the Legislature to the registration requirement for persons who manufacture or assemble their own firearms. However, this regulation is not within the scope allowed by the Legislature and inaccurately cites to the Code. Proposed section 5508(b) states:</p> <p>A firearm that was self-manufactured or self-assembled prior to December 16, 1968, as long as the firearm is not a handgun.</p>	<p>The Department accepts this comment and amended section 5508(b) pursuant to the commenter’s recommendation. In response to this comment, the Department removed the prefix “self” from “self-manufactured or self-assembled” to make it identical to the language in Penal Code section 29181.</p>



#	Summarized Comment	DOJ Response
	<p>Penal Code Section 29181 states that Section 29180 shall not apply to "A firearm made or assembled prior to December 16, 1968, that is not a handgun."</p> <p>If, as questioned above, "self-manufactured or self-assembled" firearms appear to mean a firearm made by an individual, it is narrower than the language found in the Penal Code. Whether the firearm was "self-made" or "self-assembled" by an individual is not the legal distinction here; as long as it is a non-handgun firearm that came into existence prior to December 16, 1968, it must be exempt from these regulations. Unless DOJ amends or clarifies this proposed regulation to match the statutory language, this proposed regulation should not be adopted as it is inconsistent with the Penal Code.”</p>	
36.	<p>“Pursuant to proposed section 5509, DOJ has set out that the following persons who will be affected by these regulations:</p> <ul style="list-style-type: none"> <li>(a) An individual who owns a self-manufactured or self-assembled firearm as of July 1, 2018; and</li> <li>(b) An individual who intends to manufacture or assemble a firearm on or after July 1, 2018.</li> </ul> <p>Subsection (a) again points out the problems with the terms "self-manufactured or self-assembled firearms." The Penal Code section 29180(c) requires "[b]y January 1, 2019, any person who, as of July 1, 2018, owns a firearm that does not bear a serial number assigned to it pursuant to either Section 23910 or Chapter 44 (commencing with Section 921) of Part 1 of Title 18 of the United States Code and the regulations issued pursuant thereto" (barring limited exceptions) to seek from DOJ</p>	<p>The Department rejects this comment in part because Penal Code section 16520 defines “firearm” to include the frame or receiver of the weapon.</p> <p>The Department accepts this comment in part. In response to this comment, the Department revised sections 5509 and 5510 to reiterate that the regulations apply to firearms made from an unfinished receiver or frame.</p> <p>These regulations are aimed at self-manufactured and self-assembled firearms.</p>

#	Summarized Comment	DOJ Response
	<p>a serial number and apply that number to their firearm. This requirement, and the violation of the penal code for failure to follow the requirement applies to all firearms lacking a serial number, not just those that were "self-manufactured or self-assembled" by an individual.</p> <p>For subsection (b ), we deal with an instance where DOJ refers to a "firearm" and fails to specify whether it means a fully functioning firearm or the receiver of the firearm. As stated above, this regulation (and others) should not be implemented unless a suitable definition is provided for the benefit of the public.</p> <p>The same applies to section 5510. Subsection ( a) states that it only applies to "self-manufactured or self-assembled firearms," if these terms only apply to those made by an individual they are inconsistent with the Penal Code because the Code applies to all firearms that do not bear a serial number assigned to it pursuant to "Section 23910 or Chapter 44 ( commencing with Section 921) of Part 1 of Title 18 of the United States Code and the regulations." And subsection (b) applies to "firearms" again without defining or clarifying that term.”</p>	
37.	<p>“According to proposed Section 5511 ( c ), the website for "request[ing] a unique serial number to record ownership of a self-manufactured or self-assembled firearm that was built prior to July 1, 2018" will be available until 11:59 p.m. of December 31, 2018. This is inconsistent with current law. According to Penal Code section 29180, a person must apply for the serial number, apply it to the firearm, and notify DOJ that the serial number was placed on the firearm by January 1, 2019.</p>	<p>The Department rejects this comment. No change has been made in response to this comment because the Department’s application system will automatically stop accepting unique serial number applications at 12:00 AM midnight as soon as the date changes to January 1, 2019. The date changes at 12:00 AM, so the purpose of mentioning that the application is available until 11:59 PM on December 31, 2018 to notify applicants that they cannot wait until midnight to submit their unique serial number application.</p>

#	Summarized Comment	DOJ Response
	<p>Individuals who wait until the last minute will be in violation of California law as they will not have enough time to meet the requirements of Section 29180.</p> <p>The proposed regulation states: "To be processed, all such applications shall be paid in full and submitted online before January 1, 2019." Failing to provide any notice or guidance that the actual deadline to apply the serial number and notify DOJ prior to January 1, 2019, gives Californians an unrealistic expectation of the registration requirements and sets them up for failure; the consequences here being misdemeanor prosecution pursuant to Penal Code 29182(f)."</p>	
38.	<p>“Here, DOJ has proposed the following:</p> <p>"After creating a CF ARS account . . . the applicant shall provide the following information . . . (2) A description of the firearm that specifies: date of manufacture or the date its assembly will be complete, firearm type, make, caliber, firearm color, barrel length, type of material used to build the receiver (aluminum, steel, polymer plastic, or other), whether it is a frame or receiver only, all identification marks, and firearm city and state of origin.</p> <p>There are several problems with this proposed regulation.</p> <p>a. <b><i>"Firearm"</i></b></p> <p>Again, we see the term "firearm" used. For the reasons stated above this is unclear.</p>	<p>The Department rejects these comments:</p> <p>a. No change has been made in response to this comment because the term “firearm” is defined by Penal Code section 16520. In fact, Penal Code section 16520(b)(13) cross-references Penal Code section 29180, indicating that the term firearm defined by Penal Code section 16520</p>

#	Summarized Comment	DOJ Response
	<p data-bbox="191 386 533 418"><b>b. "Date of manufacture"</b></p> <p data-bbox="191 461 1003 781">As stated above, Section 29180 requires the registration of certain firearms lacking in a serial number. (Pen. Code 29180(c).) These firearms could have been made months/years ago. No paperwork was required to be generated when a person created the firearm in the past. And if the firearm, lacking a serial number, was acquired years ago there may be no indication when it was manufactured. To insist on as specific date of manufacture before issuance of a serial number creates an impossibility.</p> <p data-bbox="191 899 701 932"><b>c. "Date its assembly will be complete"</b></p> <p data-bbox="191 974 1003 1187">This is unknown at best because this is out of the hands of the individual. According to the law and proposed regulations DOJ has up to 15 days to complete the background check and issue the serial number. Who's to say when that will be? Consequently, this information cannot be provided with any certainty.</p>	<p data-bbox="1039 277 1923 342">applies to the term firearm mentioned throughout Penal Code section 29180.</p> <p data-bbox="1039 461 1944 711">b. No change has been made in response to this comment because the Department expects that applicants will have a general idea when they manufactured or assembled a firearm. The Department requires a date of manufacture to distinguish between a self-manufactured or self-assembled firearm that an individual intends to build and a firearm that an individual has already manufactured and assembled that does not bear a serial number assigned to it.</p> <p data-bbox="1039 974 1965 1365">c. No change has been made in response to this comment because the Department is mandated by statute to approve or deny a unique serial number application within 15 days from the date it is received. (Pen. Code § 29182.) The Department requires a projected completion date for each firearm that has not yet been built, whether it is completing the manufacture of the frame or receiver, or assembly of a functioning firearm because it is the only way to enforce Penal Code section 29180(b)(2). Penal Code section 29180(b)(2) requires the Department to ensure that the unique serial number issued by the Department has been properly engraved on the firearm within 10 days of its manufacture or assembly.</p>

#	Summarized Comment	DOJ Response
	<p>d. <i>"Firearm type"</i></p> <p>DOJ wants persons to report the firearm "type." Again, as this comment letter has pointed out multiple times, these regulations do not define the term "firearm" much less how a person is to accurately record its type. According to California and federal law, as soon as a person completes a receiver they have created a "firearm." A receiver typically does not have a "type" and certain receivers can be used in handguns and long guns. Who's to say what type of firearm will be completed by the individual completing a receiver? This term is unclear.</p> <p>e. <i>"Make"</i></p> <p>DOJ wants an applicant to report the "make" of the firearm. This term is not defined. Supposing make refers to a person made the firearm themselves, how could they possibly report the make? If this refers to the type of firearm, it is duplicative to "firearm type" discussed above. This too is unclear.</p>	<p>d. No change has been made in response to this comment because firearm "type," as used here is either a pistol or handgun, a rifle, a shotgun, or a rifle shotgun combination. The electronic application will automatically account for a firearm that is a frame or receiver only.</p> <p>e. The Department accepts this comment. In response to this comment, the Department has revised section 5513(a)(2) to delete the word "make" because a self-manufactured or self-assembled gun will not have a "make" as that term is commonly understood.</p>

#	Summarized Comment	DOJ Response
	<p>f. <b><i>"Caliber"</i></b></p> <p>Certain firearms can be modified to accept different calibers. If a person makes a "receiver" that constitutes their "firearm" for registration the receiver can have multiple calibers. Bare receivers do not have calibers and may not be restricted to only one.</p> <p>g. <b><i>"Barrel Length"</i></b></p> <p>Again, a receiver is considered a "firearm" under California and federal law. Receivers almost never have a barrel, therefore a "barrel length" will not be applicable. Also, firearms can come with or accept multiple barrels of varying lengths and/or depending on caliber. This fails to consider the existence of multi-caliber firearms and/or multiple barrels which can be fitted onto an individual firearm.</p> <p>h. <b><i>"Frame or receiver only"</i></b></p> <p>DOJ wants applicants to report if the firearm is a frame or receiver only. As discussed above a frame or receiver has no caliber or barrel and a receiver can be installed into varying types of firearms (caliber is defined as the inner diameter of the barrel).</p>	<p>f. No change has been made in response to this comment because the Legislature mandates the Department to record the caliber of each firearm it records within its registry. (Pen. Code § 11106.) Furthermore, the unique serial number application on CFARS provides an option for the applicant to select "multi-caliber" on the drop down menu.</p> <p>g. No change has been made in response to this comment because the Legislature mandates the Department to record the barrel length of each firearm it records within its registry. (Pen. Code § 11106.) If the firearm is a frame or receiver, the electronic application will automatically account for that and no barrel length will need to be entered.</p> <p>h. No change has been made in response to this comment because the Department's electronic application accounts for the type of firearm that is being recorded. If the firearm is a frame or receiver only, the system will populate that there is no caliber, and this is an option that is accepted by the Department and its system.</p>

#	Summarized Comment	DOJ Response
	<p>i. <i>"Firearm city and state of origin"</i></p> <p>As discussed above, the firearm owner may not have any information or remember where the firearm was made. Certain firearms, required to be registered pursuant to this law may not have a city or state of origin but only a country."</p>	<p>i. No change has been made in response to this comment because the Department may reasonably request identifying information about the firearm and its owner before issuing a serial number. The Department expects that applicants will have a general idea where they manufactured or assembled a firearm.</p>
39.	<p>“Subdivision b of proposed Section 5513 states that "if any part of the identifying information in subdivisions (a), (b), and (c) of this section is missing, the Department shall not approve the applicant's request for a unique serial number."</p> <p>Subdivisions (a), (b) and (c) require applicants to provide huge amounts of information to the Department of Justice. Conservatively estimated, these subdivisions require each person to provide at least twenty different pieces of personal and technical information (more if one is an immigrant, a current or former military member, or if the firearm is made up of different materials). And as this comment letter has pointed out, the myriad ways in which a firearm can be classified, defined or broken into its constituent parts only exacerbates the problem. Some of the information may well be impossible to know-how many people know the city and state where their firearm originated?</p> <p>All these things are going to inevitably cause problems for people who seek to comply with the law's registration requirements. Mistakes will be made, and DOJ has not provided any system for allowing people to correct errors and get their</p>	<p>The Department rejects this comment. No change has been made in response to this comment because the Department may reasonably request identifying information about the firearm and its owner before issuing a serial number.</p>

#	Summarized Comment	DOJ Response
	<p>firearms properly registered so that they can continue to lawfully possess them. Many people will throw up their hands in frustration and not bother to apply. Without a proper procedure to either define and describe firearms, or pare down the requirements themselves, there is no good reason why this requirement should be implemented.”</p>	
40.	<p>“In this proposed rule, DOJ establishes the application fee for obtaining a unique serial number at \$35.00. This amount exceeds all other state fees required for either registrations or background checks and is unnecessary.</p> <p>DOJ establishes this fee by stating that the cost of the certificate of eligibility check conducted by the Department is \$20. The additional \$15 dollars DOJ claims it needs for the issuance of one serial number, and an additional \$15 for each firearm thereafter, appears excessive</p> <p>The regulation states the fee is necessary for the "Certificate of Eligibility Check" but the statement of reasons provide a different story. According to the Statement of Reasons:</p> <p style="padding-left: 40px;">The \$20.00 fee for the firearms eligibility check consists of a: \$14.00 fee to reimburse the Department for costs associated with conducting the background check (Pen. Code, § 28225); \$5.00 for the Firearms Safety and Enforcement Fee (Pen. Code, § 28300); and \$1.00 for the Firearm Safety Fee (Pen. Code, § 23690).</p>	<p>The Department rejects this comment. No change has been made in response to this comment because the commenter appears to be confused about the type of check that is being conducted by the Department. The commenter cites that the Department is conducting a “certificate of eligibility check.” That is incorrect. The Department is authorized to conduct a firearms eligibility check, a background check, pursuant to Penal Code section 30105, which states within its text that “the Department shall charge a fee of twenty dollars (\$20.)...” The \$20.00 fee covers the cost of the background check. Although Penal Code section 30105 does not provide a breakdown of how the funds are used to process the background check, the Department, in an effort to maintain transparency, provides a break down on page 9 of its Initial Statement of Reasons as to how the \$20.00 is used. The Department has no control over how the fee is broken down, that power resides within the Legislature who has set the \$20 fee.</p> <p>Additionally, Penal Code section 29183 authorizes the Department to charge an applicant a fee for each unique serial number it issues as long as it is in an amount sufficient to reimburse it for the actual costs associated with issuing a unique serial number. The Department calculated that a fee of \$15.00 for each unique serial number issued is sufficient to reimburse it for the time and labor that will be involved in analyzing and processing each firearm. This \$15.00 fee will be</p>



#	Summarized Comment	DOJ Response
	<p>The actual cost of the background check is \$14. The remaining \$6 amounts to a DOJ generated slush fund having nothing to do with the background check associated with the background check and registration of the firearm. The code sections cited do not allow for the additional \$6 to be collected in this case.</p> <p>The \$5 for the Firearms Safety and Enforcement Fee (cited as Pen. Code, § 28300) allows DOJ to require firearm dealers to collect a fee for each firearm transaction. It says nothing about this money being collected for registration of a firearm pursuant to section 29180. The same can be said for the \$1 Firearm Safety Fee. Penal Code section 23690 states "The Department of Justice may require each dealer to charge each firearm purchaser or transferee a fee not to exceed one dollar (\$1) for each firearm transaction ... " Again, this fee is one associated with the purchase and transfer of a firearm requiring a firearm dealer to charge the fee. It is not associated with registration of a firearm pursuant to Penal Code section 29180.</p> <p>The allocation of this money to the Firearm Safety and Enforcement Fund and for the Firearms Safety Fund violation California law. Section 29183 specifically states that the money acquired for the issuance of distinguishing number or mark must be deposited in the Dealers' Record of Sale ("DROS") Special Account of the General fund. Accepting any money and directing it any place other than the DROS Special Account violates California law and the consistency requirement.</p> <p>These fees are excessive and unnecessary compared to other fees DOJ charges for firearm registration and background checks. The fees associated with the Law Enforcement Gun Release Application (i.e. the process in which one applies to</p>	<p>deposited in the Dealer's Record of Sale Special Account of the General Fund, as mandated by Penal Code section 29183.</p>

#	Summarized Comment	DOJ Response
	<p>have a firearm returned, that requires a background check and a check to confirm that each firearm sought to be returned is registered to the owner) is \$20 for the first firearm and \$3 for each additional firearm. Even the process by which individuals register an "assault weapon" (requiring a background check, review of forms and pictures, and register the firearm) is only \$15 per firearm.</p> <p>Yet, DOJ insists the current costs are necessary. This is laughable. Note their explanation:</p> <p style="padding-left: 40px;">The Department projects that 50,000 to 75,000 self-manufactured or self-assembled firearms will be reported to the Department within one year of the commencement of the unique serial number application process. Following the first year, the Department estimates that 2,000 self-manufactured or self-assembled firearms will be reported each subsequent year thereafter. Due to the heavy volume of applications during the first year, the Department anticipates that it will require three Analysts and one Program Technician II, to process the applications. Once the initial volume of applications are processed, the Department will require only one Analyst to process unique serial number applications submitted during subsequent years. In this way, the Department has decided that charging a fee of \$15.00 per unique serial number will be sufficient to reimburse the Department of its actual costs for processing the unique serial number applications. The \$15.00 fee collected from each unique serial number</p>	

#	Summarized Comment	DOJ Response
	<p>application will go towards covering the salaries of the staff involved in processing the applications.</p> <p>DOJ' s estimates are at best, a guess. As noted in the legislation, the reason behind this law is because there is no way to know how many of these firearms are in California because they are unregistered, and the sale/assembly of these firearms is not regulated.</p> <p>Taking DOJ's estimate as true, the projected fees would generate \$750,000.00 to \$1,125,000 for the serial number alone (this does not consider the \$14 DOJ needs for the background checks nor the \$6 for which DOJ is not entitled based on the above information). DOJ states that a total of 4 employees will be needed to process these inquires for the first year. Do these salaries amount to more than \$187,500 (\$750,000 divided by 4) for these individuals to process paperwork? Unlikely. It seems more likely that DOJ is attempting to inflate the fees to direct money towards other actions, actions which one can only speculate as to their nature but would nevertheless be an illegal tax if it were to be allowed. This proposed regulation should not be implemented, and DOJ must not be allowed to charge these fees without providing a more compelling, and frankly, more plausible, justification.”</p>	
41.	<p>“Proposed Section 5515(b) states:</p> <p>If the applicant requests multiple unique serial numbers for multiple self-manufactured or self-assembled firearms during the same transaction on CFARS, each unique serial number received by the applicant will</p>	<p>The Department rejects this comment. No change has been made in response to this comment because the Department will issue a letter, pursuant to section 5515, in which the Department will designate which unique serial number goes on which firearm.</p>

#	Summarized Comment	DOJ Response
	<p>differ from all other unique serial numbers received by the applicant as a part of that transaction or any other future transaction to obtain additional unique serial numbers. Each unique serial number shall be distinct to a particular firearm. If the applicant's request to obtain a unique serial number for multiple self-manufactured or self-assembled firearms is approved, the Department will inform the applicant which unique serial number is specifically assigned to each firearm.</p> <p>The question is: how? Receivers (which according to these regulations can be registered by themselves) can be identical. And a firearm owner may make or have more than one. This is unclear.”</p>	
42.	<p>“Section 5516 states what will happen following a background check if the applicant is eligible or ineligible to possess firearms. Section 5516(b )(2) states that a person who is ineligible to be issued a unique serial number will receive information explaining why. But there is no information about what will happen if DOJ "could not generate a disposition for the applicant's criminal history."</p> <p>And Proposed Section 5518( a) states:</p> <p>After the applicant submits an online application, the Department shall notify the applicant of its approval or denial electronically. An automated email will be sent to the applicant notifying the applicant to log on to the applicant's CFARS account to view the determination letter.</p>	<p>The Department rejects this comment. No change has been made in response to this comment because Penal Code section 29182(d) authorizes the Department to grant or deny all unique serial number applications within 15 calendar days of receipt. Hence, all applications will be either approved or denied within the allotted time period. Thus, there will be no situations where an application will be neither approved nor denied. Furthermore, the Department will deny the unique serial number application if no disposition can be generated for the applicant’s criminal history.</p>

#	Summarized Comment	DOJ Response
	<p>Here the regulations make no allowances for situations where an application is neither denied nor approved, but under further consideration. Firearm purchasers have a history of being left in limbo in their dealings with the Department, and the lack of guidance with an impending deadline means that applicants may eventually be in possession of illegal firearms if the due date passes without confirmation from DOJ. If approval or denial is not forthcoming in a timely enough manner, applicants will be stuck. These regulations (as written) do not make allowances or set procedures for such an event.”</p>	
43.	<p>“According to Proposed Section 5518:</p> <p>(b) If the applicant's request for a unique serial number is approved, the applicant shall do the following:</p> <p>(2) An applicant intending to manufacture or assemble a firearm on or after July 1, 2018 shall engrave, cast, stamp (impress), or permanently place in a conspicuous location on the receiver or frame of the firearm the unique serial number issued by the Department within 30 calendar days of receiving the unique serial number from the Department. The applicant's date of receipt of the unique serial number shall be the date on the email containing the electronic notice that tells the applicant to log into the applicant's CFARS account to view the electronic correspondence sent by the Department.</p> <p>California law requires, for those who make a firearm after July 1, 2018, to apply to DOJ for the serial number, to place the serial number on the firearm within 10 days of making the</p>	<p>The Department rejects this comment. No change has been made in response to this comment because, as mentioned on page 12 of the initial statement of reasons within the paragraph explaining the purpose and necessity for proposed section 5518(b)(2), a firearm eligibility check is only valid for 30 calendar days. The Department will not issue a unique serial number for a firearm after the firearm eligibility check expires. The 10- day time period ensures the Department can complete the entire unique serial application process within 30 days.</p>

#	Summarized Comment	DOJ Response
	firearm, and to report to DOJ that the serial number is placed on the firearm. Pen. Code 29180(b). But nothing in the code limits the time a between applying for the serial number and when the serial number must be placed on the firearm. DOJ is essentially creating a ticking clock that is not specified in the code. If such a limitation were to be required, the Legislature would have created it.”	
44.	“This requirement is vague because it fails to account for the existence of multi-caliber firearms. "Caliber" is defined as the internal diameter of the barrel of a firearm. The word "gauge" is a less formal term which indirectly refers to the internal diameter of a firearm barrel. But many firearms- particularly those that are self-assembled-can be swapped with multiple barrels (which are freely available and legal to purchase). And this requirement gets to the heart of the problem; these regulations are effectively useless without a suitable definition of the word "firearm." Under certain circumstances, a receiver is considered a firearm. But a receiver by itself has no barrel and can therefore not have a "caliber" or a "gauge." Therefore, this requirement should not be adopted.”	The Department rejects this comment. No change has been made in response to this comment because if the firearm has already been manufactured or assembled and bears no serial number, the applicant must report the caliber of the barrel that is on the firearm at the time the applicant requests a unique serial number. Moreover, the Department’s electronic application accounts for the type of firearm that is being recorded. If the firearm is a frame or receiver only, the system will populate that there is no caliber, and this is an option that is accepted by the Department and its system. Furthermore, the unique serial number application on CFARS provides an option for the applicant to select “multi-caliber” on the drop down menu.
45.	“In proposed section 5521(a), DOJ refers to "long guns" and "pistols." However, DOJ has failed to define the term "long gun," and "pistol" or refer to their definitions in the Penal Code. Definitions of these terms can be found at Penal Code sections 16865, and 17010 respectively. We recommend that these regulations should not be adopted without adding further definitions of these terms which are referred to repeatedly throughout the proposal.”	The Department accepts this comment in part. In response to this comment, for internal consistency, the Department has revised section 5521(a) by replacing the term “pistol” with the term “handgun.” The Department rejects this comment in part. The Penal Code defines the terms “long gun” and “handgun.” Thus, to prevent duplication, the Department did not include these terms in its definitions section.

#	Summarized Comment	DOJ Response
46.	<p>a. “Here, DOJ has proposed the following regulation concerning modifications of the firearm between the time an applicant has submitted his or her application and the issuance of a serial number.</p> <p style="padding-left: 40px;">If the applicant wishes to make changes to the configuration of the firearm while the applicant is manufacturing or assembling the firearm, the applicant may do so as long as all changes are made within the 30-day period following the date the Department issued the unique serial number to the applicant. The applicant shall record all changes made to the firearm in the applicant's original unique serial number application in CFARS when reporting the firearm to the Department. The uploaded digital images shall reflect the final version of the firearm, including any changes that were made to it by the applicant.</p> <p>Again, "firearm" is used in this section. For the forgoing reasons, that term is vague. And in this instance appears to refer to a fully functioning firearm because receivers rarely have a "configuration." ”</p> <p>b. “This section states that if an applicant wishes to make changes to the configuration of the firearm they may do so only in the 30-day period following the issuance of the serial number. This implies that a firearm owner cannot modify the firearm after 30 days have passed.</p> <p>Why?</p>	<p>a. The Department rejects this comment. No change has been made in response to this comment because the term “firearm” is not vague; it is defined by Penal Code section 16520, which cross-references Penal Code section 29180.</p> <p>b. No change has been made in response to this comment because, as mentioned on page 12 of the initial statement of reasons within the paragraph explaining the purpose and necessity for proposed section 5518(b)(2), once the Department runs a firearm eligibility check on an individual, the background check, within the Department’s system, is only valid for 30 calendar days. By limiting an individual to only make changes to a firearm within the 30-day time frame the applicant has to</p>

#	Summarized Comment	DOJ Response
	<p>Nothing under California or federal law prevents this, unless the firearm owner makes something that is illegal to possess. Firearm owners may modify, finetune, and/or change the configuration of their firearms as they seem fit. No agency is required to be notified.”</p> <p>c. “This restriction also does not contemplate the fact that a firearm can break. According to this section if a part were to break it could not be fixed. This section does not even take into consideration cosmetic changes to the firearm. According to this, an owner couldn't even change the grips of a firearm.</p> <p>Last, if the firearm registered is a receiver, the firearm is a piece of metal until it is assembled into a functioning configuration. If 30 days pass the owner is left with a nonfunctioning hunk of metal. The lack of any guidance on this issue will undoubtedly cause confusion in the future. Therefore, this proposed regulation should not be adopted.”</p>	<p>complete the unique serial number application process, the Department can ensure that the applicant built a legal firearm rather than an illegal firearm.</p> <p>c. The Department rejects this comment. No change has been made in response to this comment because the regulations do not address modifications to a firearm after the unique serial number application process is complete. Some modifications may violate other laws.</p>
47.	<p>“Nothing under California or federal law prohibits a person who is eligible to possess firearms from making their own firearm for themselves to use. Under federal law it is only illegal to make a firearm with the purpose of selling it. This requires a federal (and depending on the quantity, a state) license. Likewise, a person, without special permission and/or licenses, cannot make or assemble a firearm that is illegal to possess under California and/or federal law (such as</p>	<p>The Department rejects this comment. No change has been made in response to this comment because the regulations apply when an individual manufactures or assembles a firearm from an unfinished receiver or frame. Under Penal Code section 16520, a self-assembled or self-manufactured firearm may be a frame or receiver or a fully functional firearm.</p>



#	Summarized Comment	DOJ Response
	<p>machineguns, short-barreled rifles/shotguns, or destructive devices).</p> <p>DOJ misrepresents California and Federal law within their Notice of Proposed rulemaking by stating that "any prohibited person from owning a firearm could easily circumvent the law by manufacturing or assembling a firearm that could potentially be used in the commission of a crime." The DOJ fails to note that as soon as the prohibited person makes a firearm he or she is violating California and/or federal law (depending on their prohibition) by simply being in possession of the firearm.</p> <p>Under California and federal law, a firearm frame or receiver (in almost all cases) is considered a "firearm." The frame or receiver is the regulated part of the firearm. It is the one part that requires special marking under federal law. Amongst all the parts of a disassembled firearm, it is the part that is typically subject to state and federal laws relating to transfer and possession. Under federal law, it must be processed through a licensed firearms dealer when transfers occur across state lines. The sale of the frame or receiver by firearm dealers is subject to background checks and record keeping. Under California law, this same part is subject to additional firearm transfer restrictions.</p> <p>Acquiring a fully functioning firearm can occur in a few distinguishable ways. For example, an individual may obtain a firearm receiver from a licensed firearms dealer and then subsequently order and/or receive the remaining parts of the firearm from various sources and have the parts shipped to the person's residence. Or an individual may purchase a fully</p>	

#	Summarized Comment	DOJ Response
	<p>functioning firearm from a licensed firearm dealer with no further modification or assembly required.</p> <p>But when a person makes a firearm by themselves, they will typically build or complete a receiver themselves and order/purchase the remaining prerequisite parts. Therefore, under California and Federal law that person has made a firearm when they make the frame or receiver. But in general parlance, though not necessarily under the law, a person has still "made" a firearm by assembling a fully functioning firearm from a receiver and the required parts.</p> <p>This distinction, between making a "firearm" when a person makes a frame or receiver and making a firearm when a person assembles a firearm with the receiver they made and the required parts, is the source of much of the confusion surrounding the proposed regulations and why substantial changes are needed. The regulations, as pointed out later, appear to confuse these two processes and use them interchangeably without realizing that a frame or receiver is a "firearm" under both California and federal law. And a fully functioning assembled firearm is also considered a "firearm." ”</p>	

# **ATTACHMENT B**

<b>TIMELY COMMENTS</b>			
<b>Last Name</b>	<b>First Name</b>	<b>Comments</b>	<b>Delivery Method</b>
Arford	Terrance	1, 3	Email
Beltran	Justin	1, 10, 11, irrelevant	Email
Brown	Kent	1, 3, irrelevant	Email
Buhrer	Mike	Irrelevant	Email
Camp	Edward	1, 2, 3, irrelevant	Email
Campbell	Curtis	2, 3, irrelevant	Email
Carey	Darlene	Irrelevant	Email
Clark	Mara	2, 3	Email
Daniel	Brad	1, 3	Email
Davis	Jason	1, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29	Letter sent via email by the Davis Law Firm.
Dewhurst	Jonathan	1, 3, 14, irrelevant	Email
Easter	Thomas	1, 2, 9, irrelevant	Email
Easter	Thomas	9	9 Separate Emails (sent from the same email address).
Erkson	Kenneth	Irrelevant	Email
Foretravel86		6	Email
G.	Miguel	2, 3, 4	Email
Gage	Diane	13	Email
Gallagher	Collin	1, 2, irrelevant	Email - 2 emails
Glorioso	Steve	1, 2, 8, irrelevant	5 Separate Emails (different email addresses)
Goetter	Steve	1, 2 (first email)	Email
Goetter	Steve	1, 2, 15 (second email)	Email
Griffith	Nate	Irrelevant	Email
Howser Jr.	Allan	1	Email
Isaac	Jonah	1, 2, irrelevant	Email
J	Brian	2, irrelevant	Email

**ATTACHMENT B**

James	Eddy	2, irrelevant	Email
Johnson	Terry	1, 2	Email
Kindschi	Roger	1, 2, 3	Email
Lee	Gene	1, 3, 12, irrelevant	Email
Leona	Mary	13	Email
Maiden	Kenneth	1, 2	Email
Martinez	Walter	1	Email
May	G	3	Email
McAtee	Mitchell	Irrelevant	Email
McClintock	W.K.	1, irrelevant	Email
McLellan	Marc	1, 2, irrelevant	Email
Olivar	Bruce	1, 2, 3, irrelevant	Email
Perez	Johnny	2, 3, irrelevant	Email
Reeves	Eric	1, 3	Email
Reid	Daniel	1, 32, 40, 46, 47	Oral comments made at Public Hearing on 3/19/18 on behalf of NRA and FPC.
Schulze	Rick	1, 2, 3, 7	Email
Sekulich	Craig	1, 2, 3, 4, irrelevant	Email
Sennert	Alex	1, 2, 3 (first email)	Email
Sennert	Alex	1, 2, 3, irrelevant (second email)	Email
Shively	TS	1, 2	Email
Short	Ken	1, 2, 3	Email
Sieu	Lily	1, irrelevant	Email
Silvoso	Joseph	1, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47	Letter sent via email by Michel and Associates, P.C.
Sorensen	Paul	1	Email
Spielman	Ross	1	Email
Stewart	Paul	Irrelevant	Email
Sweeny	Earle	Irrelevant	Email
Takahashi	Ken	1	Email
Talamante	Tim	1, 4, irrelevant	Email
Vasquez	Lance	1	Email
Wessels	Steve	1, irrelevant	Email

**ATTACHMENT B**

White	De'Wann	2, irrelevant	Email
Woods	Eddie	2, 3, irrelevant	Email
	Judy	2, irrelevant	Email

<b>LATE/UNTIMELY COMMENTS</b>			
<b>Last Name</b>	<b>First Name</b>	<b>Comments</b>	<b>Delivery Method</b>
Premo	Rich	1	Email
Guevara	Dave	1, 3	Email