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2. DECLARATION OF RANDY ROSSI IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT OR, ALTERNATIVELY, FOR SUMMARY ADJUDICATION ON PLAINTIFFS' AMENDED COMPLAINT

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SUPERIOR COURT OF CALIFORNIA

COUNTY OF FRESNO

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| **EDWARD W. HUNT, in his official capacity as District Attorney of Fresno County, and in his personal capacity as a citizen and taxpayer, et al.,**<br><br>Plaintiffs,<br><br>v.<br><br>**STATE OF CALIFORNIA, et al.,**<br><br>Defendants. | Case No. 01CECG03182<br><br>**DECLARATION OF RANDY ROSSI IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT OR, ALTERNATIVELY, FOR SUMMARY ADJUDICATION ON PLAINTIFFS' AMENDED COMPLAINT**<br><br>Date: February 1, 2007<br>Time: 3:30 p.m.<br>Dept: 72<br><br>Before the Honorable Alan Simpson |

I, Randy Rossi, declare:

1. I am the Director of the Firearms Divisions within the California Department of Justice ("DOJ"). I have 24 years of experience with DOJ, and I have held my present position since the Firearms Division was created in September 1999. I have over 29 years of experience in law enforcement. The matters set forth in this declaration are true of my own knowledge, and if called as a witness, I could and would testify competently thereto.

2. The Firearms Division of DOJ conducts eligibility checks for firearm purchases, issues various special weapons permits, conducts inspections of firearms dealers to ensure compliance with California firearms laws and policies, regulates gun shows, regulates assault weapon registration, certifies the testing of handguns and firearm safety devices, and performs other tasks regarding firearm-related matters. In my position as Director, I have responsibility for oversight of all the Firearms Division's activities. I am familiar with this lawsuit and with the Assault Weapons Control Act (the "Act") described in the lawsuit. In particular, I am familiar with the amendments to the Act established by Senate Bill 23, Chapter 129 of the Statutes of 1999 ("SB 23"). I attended each and every legislative hearing on SB 23 on behalf of the Attorney General. Among other things, SB 23 created Penal Code section 12276.1, which for the first time defined assault weapons by reference to objective design characteristics, in addition to the existing list of assault weapons already identified by manufacturer and model.

3. The Firearms Division had and has responsibility for all aspects of DOJ's role in the process with respect to the "Department of Justice Regulations for Assault Weapons and Large Capacity Magazines" (the "Regulations") adopted in connection with the Act, which are part of the subject of this lawsuit. For example, the Firearms Division was responsible for drafting the Regulations, shepherding the Regulations through the adoption process, and appropriately informing the public of their provisions, and was and is responsible for responding to any public inquiries regarding the Regulations. In particular, as Director of the Firearms Division, I am personally familiar with the history of the Regulations as a direct participant in various meetings and hearings, as well as the person ultimately responsible for promulgation of the Regulations.

4. Upon passage of SB 23 and the Governor's signing of the bill in July 1999, DOJ set about the process of establishing the regulations that would facilitate the enforcement of the provisions of, and public compliance with, SB 23, including the provisions at issue in this case. There was no requirement in SB 23 that regulations be established, but such regulations were authorized under Penal Code section 12276.5(i). Before even starting to develop the language of the regulations to be considered, DOJ began by bringing together all interested parties, those that DOJ considered to be "stakeholders" in the assault weapons law, for the purpose of preliminary discussions, including what

topics the potential regulations might address. I hosted and chaired two meetings that brought together representatives of the National Rifle Association, the California Rifle and Pistol Association, Handgun Control Inc., the California State Sheriffs' Association, the California Police Chiefs' Association, the California Peace Officer Association, the California District Attorneys' Association, the California Organization of Police and Sheriffs, the Bureau of Alcohol, Tobacco, and Firearms, the California Firearms Dealers Association, California state senators, the Speaker of the California Assembly, firearms owners, and others. These meetings took place in the fall of 1999 in Sacramento. During the meetings, we solicited input regarding issues on which the participants felt they would benefit from further clarification.

5. With feedback gathered from the meetings of the stakeholders and the direct input of legal and firearms experts within the Firearms Division, we drafted the proposed regulations. The formal rulemaking process pursuant to the Administrative Procedure Act ("APA") was initiated with submission of the Notice of Proposed Rulemaking to Office of Administrative Law ("OAL") for publication in the California Regulatory Notice Register. During the course of the rulemaking process, we held public hearings in Sacramento and Los Angeles to receive public comment. As a result of the public hearings and comments received through the mail, we received a total of over 4,100 comments from more than 1,300 people. We responded to public input with two new iterations of proposed regulations. The succession of improvements to the proposed regulations reflects our responsiveness to public comment and is the natural and desired result of the APA's provisions for public input in the rulemaking process. The succession of improvements in no way reflects any dissatisfaction by OAL with the regulations or any supposed failure by DOJ, as plaintiffs attempt to suggest in their complaint. On the contrary, the revisions demonstrate the Department's acceptance, consideration, and implementation of public comment as intended by the APA. Each iteration of the regulations was cleared through DOJ's Executive Staff. It is significant to note that OAL approved the DOJ regulations for adoption upon our one and only submission for review. Notably, most of the plaintiffs in the present action did not provide any comment on the proposed regulations during the course of the OAL process.

6. Upon adoption of the Regulations, although not required to, DOJ immediately gave notice to the stakeholders concerning the adoption of the Regulations and set about providing information and training to the interested parties by a host of methods and on a sweeping scale. DOJ held many training sessions throughout the state for law enforcement groups, district attorneys, firearms dealers, and others. DOJ field reps conducted many face-to-face meetings and demonstrations in response to a standing offer to provide training to whoever desired training. Information was included in the Assault Weapons Guide that DOJ published, and on a page on DOJ's website which averaged 35,000 hits per week.

7. There is no validity to the suggestion that the Regulations are the product of a flawed process or that there is inadequate information available for compliance with the new assault weapons laws or enforcement of them. The rulemaking file for the Regulations is too voluminous to be attached to this declaration, but can be provided to the Court if desired. Attached hereto as Exhibit A is a true and correct copy of relevant excerpts from the rulemaking file for the Regulations, including the "Initial Statement of Reasons," the "Updated Informative Digest," the "Final Statement of Reasons," the "Notice of Addition of Reference Material to Rulemaking File," and the comment/response summaries for the "flash suppressor" and "permanently altered" terms at issue in this lawsuit. (The pages of Exhibit A are numbered consecutively for ease of reference.)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed in Sacramento, California this 1st day of December, 2006.

RANDY ROSSI

Exhibit A

# INITIAL STATEMENT OF REASONS

## Section 978.10 Title and Scope

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

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

Specific purpose of the regulation.

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

Necessity.

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

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

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

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

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

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

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

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

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

Section 978.20 "Definitions of Terms Used to Identify Assault Weapons"

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

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

Specific purpose of the regulation.

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

Necessity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Specific purpose of the regulation.

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

Necessity.

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

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

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

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



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

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

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

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

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

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

**Section 978.31 "Fees"**

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

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

Specific purpose of the regulation.

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

Necessity.

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

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



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

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

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

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

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

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

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

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

**Section 978.32 "Processing Times"**

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

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

Specific purpose of the regulations.

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

Necessity.

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

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

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

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

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

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

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

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

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

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

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

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

Specific purpose of the regulation.

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

Necessity.

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



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

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

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

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

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

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

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

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

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

**Section 978.41 "Processing Times"**

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

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

Specific purpose of the regulations.

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



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Necessity.

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

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

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

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

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

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

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

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

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

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

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

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

Specific purpose of the regulation.

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

Necessity.

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

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

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

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

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

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

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

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

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

**Section 978.43 , "Large Capacity Magazine Permit Record Keeping"**

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

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

Specific purpose of the regulation.

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



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Necessity.

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

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

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

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

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

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

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

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

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

**Section 978.44 "Large Capacity Magazine Permit Revocations"**

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

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

Specific purpose of the regulation.

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

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

Necessity.

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

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

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

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

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

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

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

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

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

**Department of Justice Regulations for Assault Weapons and Large Capacity Magazines**

## UPDATED INFORMATIVE DIGEST

Section 978.20 - Definitions

The Department revised the number of terms used in the identification of assault weapons pursuant to PC section 12276.1 to five. The Department determined that the proposed definition of the statutory term "permanently altered" failed to provide any additional clarity to the statutory term itself. As such, the regulations were revised to delete this originally proposed definition. The remaining five terms were modified during the rulemaking process and are defined as follows:

- "detachable magazine" means any ammunition feeding device that can be removed readily from the firearm with neither disassembly of the firearm action nor use of a tool being required. A bullet or ammunition cartridge is considered a tool. Ammunition feeding device includes any belted or linked ammunition, but does not include clips, en bloc clips, or stripper clips that load cartridges into the magazine.

- "flash suppressor" means any device designed, intended, or that functions to perceptibly reduce or redirect muzzle flash from the shooter's field of vision.

- "forward pistol grip" means a grip that allows for a pistol style grasp forward of the trigger.

- "pistol grip that protrudes conspicuously beneath the action of the weapon" means a grip that allows for a pistol style grasp in which the web of the trigger hand (between the thumb and index finger) can be placed below the top of the exposed portion of the trigger while firing.

- "thumbhole stock" means a stock with a hole that allows the thumb of the trigger hand to penetrate into or through the stock while firing.

Section 978.30 - Requirements for Assault Weapon Registrations Pursuant to Penal Code Section 12285

The Department made the following revisions to the Requirements for Assault Weapon Registrations:

- The Department added a provision stating the Department will process registration applications even if the application must be returned to an applicant for completion or correction after the close of the registration period, provided the application and required fee is submitted to the Department with a postmark date no later than the end of the registration period.

- The Department removed the requirement to provide the weapon's barrel length on the Assault Weapon Registration Application (FD 023). The Department revised the date of acquisition requirement to state that the day and month of acquisition be provided only if known, and made the requirement to provide the name and address of the person or firearms dealership from whom the assault weapon was acquired optional.

- The Department removed the requirement that joint registrants identify one individual as the primary registrant, and the requirement that joint registrations remain valid only while the registrants reside in the same household.

Section 978.33 - Voluntary Cancellations

The Department added section 978.33 which allows for voluntary cancellations for assault weapons that are no longer possessed by the registrants, and for registered assault weapons that have subsequently been modified or reconfigured to no longer meet the assault weapon definition.

Addition of Reference Material to Rulemaking File

The Department added the following reference material to the rulemaking file during the rulemaking process:

- Jane's Infantry Weapons, Glossary, Twentieth Edition, 1994-95
- Sporting Arms and Ammunition Manufacturers' Institute, Inc. (SAAMI), Technical Correspondent's Handbook, Glossary of Industry Terms
- SAAMI Non-Fiction Writer's Guide
- National Rifle Association Institute for Legislative Action (NRA-ILA), Firearms Glossary
- Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Federal Firearms Regulations Reference Guide, 2000
- California Attorney General's Assault Weapons Identification Guide, 1993
- Complete Guide to Guns & Shooting, by John Malloy, 1995

There have been no other changes in the proposed regulations or laws related to the proposed action or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Regulatory Action.

Department of Justice Regulations for Assault Weapons and Large Capacity Magazines

# FINAL STATEMENT OF REASONS

Hearing Dates: February 24, 2000, Sacramento, California
February 28, 2000, Los Angeles, California

## UPDATE OF INITIAL STATEMENT OF REASONS

### Section 978.10 - Title and Scope

There is no information to be updated. This section was adopted as originally proposed.

### Section 978.20 - Definitions of Terms Used to Identify Assault Weapons

Section 978.20 further defines terms used in Penal Code section 12276.1 to describe the characteristics that identify a firearm as an assault weapon. The six terms (Section 978.20 (a-f)) initially identified in this section are addressed separately relative to the revisions made to each of the original definitions proposed by the Department and subsequently noticed and modified.

### 978.20(a) - Detachable Magazine

The proposed definition as originally noticed to the public defined a detachable magazine as "any magazine that can be readily removed without the use of tools." During the initial public comment period (December 31, 1999 through February 28, 2000), comments were received that caused the Department to make revisions to the definition. Comments expressed concern about the use of the term "magazine," which is often erroneously used to describe clips that are used to load ammunition into a fixed magazine. Recognizing that to be true, the Department changed the word "magazine" to the statutory term "ammunition feeding device" (PC section 12276.1(c)(1)). The Department also added the phrase "without disassembly of the firearm action" as a result of public comment stating that there are firearms with fixed magazines that can be field stripped (disassembled in the field) without using any tools (such as the M1 Garand). Including those firearms in the definition of a "detachable magazine" would have been inconsistent with the legislative intent of the statute. Several comments were made that claimed that an assault weapon pursuant to PC section 12276 has a detachable magazine requiring the use of a bullet tip or cartridge to remove it from the firearm. The comments claimed that if a bullet or ammunition cartridge were to be considered a tool, these types of firearms statutorily defined as assault weapons would not meet the definition of having a detachable magazine. For that reason the Department added "For the purpose of this definition, a bullet or ammunition cartridge is not a tool." It was also necessary to add linked or belted ammunition to the definition of an ammunition feeding device because that type of ammunition system feeds cartridges directly into the firing chamber, like the spring and follower of a box-type magazine. The definition was accordingly revised to read "detachable magazine means any ammunition feeding device that can be removed readily from the firearm without disassembly of the firearm action or the use of a tool(s). For the purpose of this definition, a bullet or ammunition cartridge is not a tool. Ammunition feeding device includes any belted or linked ammunition."

This revised definition was noticed to the public in the first of two 15-day comment periods (May 10 through May 30, 2000). The change in terms from a magazine to an ammunition feeding device prompted new comments relating to firearms that use clips, stripper clips, and en bloc clips to load ammunition into fixed magazines. Although people affected by the regulations understand ammunition clips are clearly not considered magazines, use of the statutory term "ammunition feeding device" caused the affected parties to speculate that clips may be included in the definition. The exclusion of clips from the definition is necessary to keep the legislative intent of the statute intact. Comments also claimed that a bullet or ammunition cartridge should be considered a tool because the type of firearm that utilizes a bullet or ammunition cartridge to release the magazine is a firearm with a fixed magazine, clearly not intended by the Legislature to be categorized as an assault weapon. The Department further researched the claims and confirmed that it is necessary to identify a bullet or ammunition cartridge as a tool to allow certain firearms with fixed magazines to remain fixed by definition. The definition was again revised to read "detachable magazine means any ammunition feeding device that can be removed readily from the firearm with neither disassembly of the firearm action nor the use of a tool being required. A bullet or ammunition cartridge is considered a tool. Ammunition feeding device includes any belted or linked ammunition, but does not include clips, en bloc clips, or stripper clips that load cartridges into the magazine."

This second revision prompted a second 15-day comment period (July 12 through July 31, 2000). None of the comments received during the second 15-day comment period warranted additional revisions to the definition.

978.20 (b) - Flash Suppressor

This term was originally defined as "any device that reduces or conceals the visible light or flash created when a firearm is fired. This definition includes flash hiders, but does not include compensators and muzzle brakes (devices attached to or integral with the muzzle barrel to utilize propelling gasses for counter-recoil)." There were two primary problems with the definition when it was originally noticed to the public (December 31, 1999 through February 28, 2000). The most significant problem with the original definition was that it included and/or excluded particular devices by name (flash hider, muzzle brake, compensator) without consideration of whether the devices actually suppress flash. After further consideration prompted by public comments, the Department concluded that the absence of statutorily defined specific measurement standards or a statutory requirement to establish those standards demonstrates a legislative intent to identify any device that reduces or redirects flash from the shooter's field of vision as a flash suppressor regardless of its name and intended/additional purpose. Thus, "flash hiders" are flash suppressors only if they reduce or redirect flash from the shooter's field of vision. Conversely, "compensators" and "muzzle brakes" are not flash suppressors only if they do not reduce or redirect flash from the shooter's field of vision. The revised definition is clearly consistent with the legislative intent of the statute as it neither includes nor excludes any particular device on the basis of its name only. Additionally, "conceals" in the original definition presented the possibility of an overly broad interpretation which could have included any device positioned between the shooter's eye and the muzzle flash, such as the sights on a gun. To avoid such unintended interpretation, the word "conceals" was replaced with "redirects." Accordingly, the original definition was changed to: "flash suppressor means any device that reduces or redirects muzzle flash from the shooter's field of vision."

This revised definition was noticed to the public during the first 15-day comment period (May 10 through May 30, 2000). Comments addressing this version of the definition prompted further reconsideration and revision. As such, the definition was revised a second time by replacing " . . . that reduces or redirects muzzle flash . . . " with " . . . designed, intended, or that functions to reduce or redirect muzzle flash . . . " This change was necessary because it became clear that flash suppressors are typically attached by twisting or screwing the device onto the threaded barrel of a firearm. Therefore, by simply making a half turn (180 degrees), an otherwise fully operational flash suppressor would not function as prescribed in the prior definition. The revised definition eliminates this potential loophole. Accordingly, this final revision "flash suppressor means any device designed, intended, or that functions to reduce or redirect muzzle flash from the shooter's field of vision," was noticed during the second 15-day comment period (July 12 through July 31, 2000). Although additional comments were received, no comments were received during the second 15-day comment period that resulted in substantial revision to the definition. However, the Department made a non-substantial revision by adding "perceptibly" to the phrase "reduce or redirect" to confirm that if a reduction or redirection of flash is so minuscule that it is imperceptible to the human eye, it could not reasonably be considered a reduction.

978.20 (c) - Forward Pistol Grip

The proposed definition originally noticed to the public defined a forward pistol grip as "any protrusion in front of the trigger that is designed or intended to grasp and control the firearm." As a result of public comment during the initial comment period (December 31, 1999 through February 28, 2000), the Department determined the term "any protrusion" appeared to lack clarity in that it could include many shooting accessories or parts of the firearm that may be used to grasp and control the firearm, but could not be considered forward pistol grips, such as sling swivels, bipods and monopods, palm rests, etc. The definition was therefore revised by replacing "any protrusion" with "a grip that allows for a pistol style grasp." The Department believes that the concept of a "pistol style grasp" is generally understood by persons affected by the regulations. The revised definition: "forward pistol grip means a grip that allows for a pistol style grasp forward of the trigger" was then noticed to the public during the first 15-day comment period (May 10 through May 30, 2000). Although additional comments were received, no comments were received during the first 15-day comment period that warranted additional revisions to the definition.

978.20(d) - Permanently Altered

As originally noticed to the public, the statutory term "permanently altered" was defined to mean "any irreversible change or alteration." However, after consideration of public comment received during the initial comment period (December 31, 1999 through February 28, 2000), the Department determined that the proposed definition failed to provide any additional clarity to the statutory term "permanently altered." Furthermore, the Department found that none of the comments considered provided additional clarity while maintaining the legislative intent. The term "permanently altered" as used in the statute appears to be sufficiently understood without further definition. As such, the regulations were revised to delete this originally proposed definition and it has not been adopted by the Department.

978.20 (e) - Pistol Grip that Protrudes Conspicuously Beneath the Action of the Weapon

This term was originally defined as "any component that allows for the grasp, control, and fire of the firearm where the portion grasped is located beneath an imaginary line drawn parallel to the barrel that runs through the top of the exposed trigger" and noticed during the initial comment period (December 31, 1999 through February 28, 2000). This definition was subject to broad interpretation primarily due to the wording "any component." The definition was accordingly initially revised by replacing "any component" with "a grip that allows for a pistol style grasp." The Department believes that the concept of a "pistol style grasp" is generally understood by persons affected by the regulations. This revision: "pistol grip that protrudes conspicuously beneath the action of the weapon means a grip that allows for a pistol style grasp below the top of the exposed trigger" was noticed to the public during the first 15-day notice period (May 10 through May 30, 2000).

Subsequent comments resulted in additional modifications. To further clarify the criteria that establishes a "pistol style grasp" and its relationship to a grip that protrudes conspicuously beneath the action of the weapon, the condition "in which the web of the trigger hand (between the thumb and index finger) can be placed below the top of the exposed portion of the trigger while firing" was added to the definition. The revision also reflects a change from "top of the exposed trigger" to "top of the exposed portion of the trigger" because as one contributor pointed out, the former would mean the upper portion of a trigger, a part of which is exposed, with the balance hidden from view in the receiver of the firearm. The final revised definition: "Pistol grip that protrudes conspicuously beneath the action of the weapon means a grip that allows for a pistol style grasp in which the web of the trigger hand (between the thumb and index finger) can be placed below the top of the exposed portion of the trigger while firing" was noticed during the second 15-day comment period (July 12 through July 31, 2000). Although additional comments were received, no comments were received during the second 15-day comment period that warranted additional revisions to the definition.

978.20(e) - Thumbhole Stock

The proposed definition originally noticed to the public defined a thumbhole stock as "any stock with any opening that enables the firearm to be grasped, controlled and fired with one hand." Comments received during the initial comment period (December 31, 1999 through February 28, 2000) stated that the term "any stock with any opening" is overly broad and ambiguous. The Department agrees that any opening can include openings other than thumbholes. As a result, the Department changed "any stock with any opening" to "a stock with a hole." Significant public input received during the initial comment period also addressed the subjectivity of the phrase "fired with one hand." It appears from the comments that it could be an arbitrary standard that requires consideration of physical characteristics such as strength and dexterity that vary from person to person. The Department accordingly determined its use would add confusion rather than clarity to the definition. The definition was revised to specify the physical characteristic of a thumbhole stock as "a stock with a hole that allows the thumb of the trigger hand to penetrate the stock," and was noticed during the first 15-day comment period (May 10 through May 30, 2000). The comments received during this 15-day notice raised additional challenges regarding the definition of the term "penetrate." In an effort to further clarify the definition, the Department added the phrase "into or through" to the phrase "penetrate the stock." The final revised definition: "thumbhole stock means a stock with a hole that allows the thumb of the

trigger hand to penetrate into or through the stock" was noticed during the second 15-day comment period (July 12 through July 31, 2000). Although additional comments were received, none resulted in substantial revision to the definition. However, the Department made a non-substantial revision by adding "while firing" to make it explicit in the definition that the placement of the thumbhole must allow the thumb of the trigger hand to penetrate into or through the stock while firing.

978.30 (a) Requirements for Assault Weapon Registrations

There is no information to be updated. This section was adopted as originally proposed.

978.30 (b) Requirements for Assault Weapons Registrations

The originally proposed regulation section 978.30 (b) identified the required Assault Weapon Registration Application form (FD023) and stated the information to be provided on the form. Comments were received during the initial comment period (December 31, 1999 through February 28, 2000) concerning the disposition of an application when submitted within 30 days of the end of the registration period, since the regulations allow for a 30-day time frame for determining completeness of the application. As a result, the Department revised the regulation to specify that applications submitted to the Department with a postmark date no later than the end of the registration period with the appropriate fee, will be processed even if the application must be returned to the applicant for completion or correction after the close of the registration period. Other comments had also stated that the proposed regulation did not make a provision for firearms with extra barrels, or what must be done if the barrel must be changed in order to comply with safety or hunting regulations. The Department agreed, and deleted the requirement that barrel length information be provided on the registration application. Another contributor stated that the exact date and name and address of the person or firearms dealer from whom the assault weapon was acquired may not be known. Additional comments stated that the registration process must provide for registrations without requiring acquisition information because long guns acquired before 1990 did not required receipts, waiting periods or seller information. The Department agreed, and revised the regulation to state that the month and date of acquisition are to be provided if known. The year of acquisition is required because only assault weapons acquired before specific dates as provided by the Penal Code qualify for registration. Additionally, the regulation was revised so that the name and address of the person or firearms dealership from whom the assault weapon was acquired is optional. These revisions were noticed to the public during the first 15-day comment period (May 10 through May 30, 2000). Additional comments were received, but none were sufficient to warrant further revisions to the regulation.

978.30(c) - Requirements for Assault Weapon Registrations

Penal Code section 12285 (e) requires that the Department's registration procedures provide the option of joint registration for assault weapons owned by family members residing in the same household. As originally proposed, the Department's procedures in section 978.30(c) required that the joint registrations identify one individual as the primary registrant, and that joint registrations remain valid only while the primary and co-registrant(s) live in the same household. Comments received during the initial comment period (December 31, 1999 through February 28, 2000) stated that the Department set forth additional and unnecessary requirements by designating a primary registrant, as well as requiring that the joint registration remain valid only

while the registrants reside in the same household. Admittedly, had the Legislature intended these requirements they should have been statutorily stated in a much clearer manner. As such, the Department deleted these requirements from the regulation, and the proposed regulations was revised to read "Joint registrations will be permitted for assault weapons owned by family members residing in the same household." This revised regulation was noticed during the first 15-day comment period (May 10 through May 30, 2000). Although additional comments were received during the first 15-day comment period, none were sufficient to warrant further revision to the regulation.

978.31 - Fees

There is no information to be updated. This section was adopted as originally proposed.

978.32 - Processing Times

There is no information to be updated. This section was adopted as originally proposed.

978.33 Voluntary Cancellations

This section was not proposed or noticed in either the initial comment period (December 31, 1999 through February 28, 2000), or the first 15-day comment period (May 10 through May 30, 2000), but was noticed to the affected parties in the second 15-day comment period (July 12 through July 31, 2000). Comments received during the initial comment period stated that a procedure needs to be in place for cancellation of an assault weapon registration due to theft, destruction, or modification of the firearm to no longer meet the definition of an assault weapon. The Department agreed and added Section 978.33 to the proposed regulations. Because it was fully anticipated and expected by the affected parties there would be a procedure for voluntary cancellations, the addition of this section is considered by the Department to be a substantial modification sufficiently related to the text of the regulation as originally proposed. Thereafter, section 978.33 was noticed to the public during the Department's second 15-day comment period. After full consideration of the comments received, the Department adopts this regulation as proposed.

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

There is no information to be updated. This section was adopted as originally proposed.

978.41 - Processing Times

There is no information to be updated. This section was adopted as originally proposed.

978.42 - Term Length of Large Capacity Magazine Permits

There is no information to be updated. This section was adopted as originally proposed.

978.43 - Large Capacity Magazine Permit Record Keeping

There is no information to be updated. This section was adopted as originally proposed.

978.44 - Large Capacity Magazine Permit Revocations

There is no information to be updated. This section was adopted as originally proposed.

Additional technical, theoretical, and/or empirical studies, reports, or documents

In addition to the sources cited in the initial statement of reasons, the Department relied on information from the following sources when formulating the five definitions in the proposed regulation:

- Jane's Infantry Weapons, Glossary, Twentieth Edition, 1994-95
- Sporting Arms and Ammunition Manufacturers' Institute, Inc. (SAAMI), Technical Correspondent's Handbook, Glossary of Industry Terms
- SAAMI Non-Fiction Writer's Guide
- National Rifle Association Institute for Legislative Action (NRA-ILA), Firearms Glossary
- Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Federal Firearms Regulations Reference Guide, 2000
- California Attorney General's Assault Weapons Identification Guide, 1993
- Complete Guide to Guns & Shooting, by John Malloy, 1995

The addition of the above reference material to the rulemaking file was noticed and made available to the public from July 12, through July 31, 2000.

Local Mandate Determination

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

Business Impact

The proposed regulations do not have any significant adverse impact on small business.

Consideration of Alternatives

No alternative which was considered would be either more effective than or equally effective as and less burdensome to affected private persons than the proposed regulations.

Objections or Recommendations/Responses

The proposed regulations resulted in significant input from the affected persons. During the initial 45-day comment period (December 31, 1999 through February 28, 2000), the Department received written input from approximately 1,300 individuals. The Department also held two public hearings to receive oral testimony on the proposed regulations. During the first hearing, held in Sacramento on February 24, 2000, the Department heard testimony from 57 people. Fifty one people gave testimony in the second hearing in Los Angeles on February 28, 2000. In response to revisions to the regulations, approximately 190 letters were received during the first 15-day comment period (May 10 through May 30, 2000). Further revisions resulted in a second 15-day comment period (July 12 through July 31, 2000). An additional 85 letters were received during the second 15-day period.

In order to properly manage the immense volume of public comment, the Department developed a system consisting of a Comment/Response spreadsheet and Comment Identification Key to assist with public comment organization. The Comment/Response spreadsheets were used to categorize all comments (written and oral) and responses, and are included hereto as Attachments A, B, and C, representing each of the three comment periods (December 31, 1999 through February 28, 2000, May 10, through May 30, 2000, and July 12 through July 31, 2000, respectively). The spreadsheets also include a frequency count for all comment summaries. The Comment Identification Key was used to credit contributors with the appropriate comment summaries and is located under Part J in the rulemaking file. Additionally, Speaker Logs and video recordings for both public hearings are found under Part E in the rulemaking file. The logs include a list of speakers in chronological order and the digital video tracking number to identify at what point on the video tapes each speaker testified.

During the interpretive analysis of public comment, comment codes were assigned to the summaries of each comment, recommendation and objection (all like-comment summaries were assigned the same comment code), and entered into the Comment/Response spreadsheet. Each defined term and regulation were assigned to a specific category during each comment period. For example, section 978.20(a), the definition of detachable magazine, was assigned Category 1 in each of the comment periods (noted as A, B and C). Therefore, all summarized comments beginning with 1. (A1., B1., and C1.) represent comments pertaining to the definition of a detachable magazine. The frequency column on the spreadsheet represents the number of contributors who made each of the summarized comments. All comments, both written and oral, were responded to in this manner and were either accepted or rejected for the reasons identified in the attachments.

Department of Justice
4949 Broadway
Sacramento, CA 95820

July 12, 2000

# NOTICE OF ADDITION OF REFERENCE MATERIAL TO RULEMAKING FILE

Pursuant to the requirements of Government Code section 11346.8(d) and 11346.9(a)(1), and section 45 of Title 1 of the California Code of Regulations, the Department of Justice is providing notice that reference material which the agency has relied upon in adopting the proposed regulation sections 978.10 through 978.44 has been added to the rulemaking file and is available for public inspection and comment.

The reference material added to the rulemaking file is as follows:

- Jane's Infantry Weapons, Glossary, Twentieth Edition, 1994-95
- Sporting Arms and Ammunition Manufacturers' Institute, Inc. (SAAMI), Technical Correspondent's Handbook, Glossary of Industry Terms
- SAAMI Non-Fiction Writer's Guide
- National Rifle Association Institute for Legislative Action (NRA-ILA), Firearms Glossary
- Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Federal Firearms Regulations Reference Guide, 2000
- California Attorney General's Assault Weapons Identification Guide, 1993
- Complete Guide to Guns & Shooting, by John Malloy, 1995

This reference material is available for public inspection at the Department's office located at 4949 Broadway, Sacramento, CA from July 12, 2000 through July 31, 2000, between the hours of 8:00 a.m. and 5:00 p.m. If you have any comments regarding the reference material, written comments must be submitted to the Department by 5:00 p.m. on July 31, 2000, and addressed to:

Debbie Coffin, Analyst
Department of Justice, Firearms Division
P. O. Box 820200
Sacramento, CA 94203-0200

All written comments received by July 31, 2000, which pertain to the above-listed reference material will be reviewed and responded to by the Department's staff as part of the compilation of the rulemaking file.

| 978.20(b) Flash Suppressor | | | |
|---|---|---|---|
| Number | Freq. | Summary of Comment | Department Response |
| A2.01 | 84 | Flash suppressor definition lacks clarity; does not provide measurement standards or testing procedures. | The Department disagrees with the comment. The Department believes the absence of any measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces or redirects any amount of muzzle flash from the shooter's field of vision. Therefore, establishment of specific measurement standards that permit some percentage or amount of flash suppression would conflict with the legislative intent of the statute. There is no legislative mandate or funding for the Department to establish scientific methodology for testing devices which may or may not be flash suppressors. The purpose of this regulation is to define "flash suppressor". The Department believes the revised definition is clear and consistent with the legislative intent of the statute. |
| A2.02 | 71 | Flash suppressor definition lacks clarity; does not provide the ability to determine the difference between illegal flash suppressors and flash hiders, and legal muzzle brakes and compensators. | The Department disagrees with the comment. Any definition that includes or excludes devices based solely on what they are named, without consideration of whether the devices suppress flash, would exceed statutory authority. Muzzle brakes and compensators are flash suppressors if they reduce or redirect muzzle flash from the shooter's field of vision. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, any device that reduces or redirects flash from the shooter's field of vision regardless of its name, or intended purpose, or additional purpose. Furthermore, there is no legislative mandate or funding for the Department to establish scientific methodology for testing devices which may or may not be flash suppressors. The purpose of this regulation is to define "flash suppressor". The Department believes the revised definition is clear and consistent with the legislative intent of the statute. |

## Comment/Response Spreadsheet

**978.20(b) Flash Suppressor**

| Number | Freq. | Summary of Comment | Department Response |
|---|---|---|---|
| A2.03 | 25 | Flash suppressor definition lacks clarity; it is ambiguous and subject to the arbitrary interpretation of law enforcement officers. | The Department disagrees with the comment. Any definition that includes or excludes devices based solely on what they are named, without consideration of whether the devices suppress flash, would exceed statutory authority. Muzzle brakes and compensators are flash suppressors if they reduce or redirect muzzle flash from the shooter's field of vision. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent that a device that reduces or redirects any amount of muzzle flash from the shooter's field of vision, be considered a flash suppressor. Furthermore, there is no legislative mandate or funding for the Department to establish scientific methodology for testing devices which may or may not be flash suppressors. The purpose of this regulation is to define "flash suppressor". The Department believes the revised definition is clear and consistent with the legislative intent of the statute. |
| A2.05 | 3 | The definition lacks a legal definition of "reduces". | The Department disagrees with the comment. The meaning of the word "reduces" is understood by reasonable people who are not being purposely obtuse. |
| A2.06 | 2 | The term "conceal" lacks clarity and should be further defined. | The Department agrees that as used in the proposed definition, the term "conceal" lacked clarity. The term has been removed from the revised definition. |
| A2.07 | 2 | The term 'any device' conflicts with the term used in the statute and goes beyond the language of the statute. The statute makes no distinction between a flash suppressor or muzzle brake. You don't have the authority to grant an exception to the statute. | The Department disagrees with the comment. The Department's definition begins with "any device" but then adds the appropriate qualifications or characteristics that make a device a flash suppressor. Any definition that includes or excludes devices based solely on what they are named, without consideration of whether the devices suppress flash, would exceed statutory authority. Muzzle brakes and compensators are flash suppressors if they reduce or redirect muzzle flash from the shooter's field of vision. The absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, any device that reduces or redirects muzzle flash from the shooter's field of vision regardless of its name, or intended purpose, or additional purpose. Muzzle brakes and compensators are not flash suppressors only if they do not reduce or redirect muzzle flash from the shooter's field of vision. The revised definition is consistent with that intent. |

Comment/Response Spreadsheet

| 978.20(b) Flash Suppressor | | | |
|---|---|---|---|
| Number | Freq. | Summary of Comment | Department Response |
| A2.08 | 17 | Any device mounted to the barrel or a weapon will reduce or conceal to some degree the light from the area when fired. | The Department's revised definition (including deletion of "conceals") provides the needed clarity and is consistent with the legislative intent of the statute relative to the type of firearms considered assault weapons. |
| A2.09 | 1 | The regulation should be written to clarify that a flash suppressor is a device whose only purpose is the reduction of flash signature in order to avoid such inadvertent inclusion of innocuous gun parts. | The Department disagrees with the comment. The Department believes the legislative intent of statute is to identify as a flash suppressor, a device that reduces or redirects any amount of muzzle flash from the shooter's field of vision regardless of its name, or intended purpose, or additional purpose. The revised definition is consistent with that intent. |
| A2.11 | 4 | Flash suppressor should be defined as a device attached to the end of the barrel that provides no other benefit than to reduce the flash created by firing a rifle. | The Department disagrees with the comment. The Department believes the legislative intent of statute is to identify as a flash suppressor, a device that reduces or redirects any amount of muzzle flash from the shooter's field of vision regardless of its name, or intended purpose, or additional purpose. The revised definition is consistent with that intent. |
| A2.12 | 3 | If the device serves as a muzzle brake or compensator it should not be considered to be a flash suppressor for the purposes of this definition. | Any definition that includes or excludes devices based solely on what they are named, without consideration of whether the devices suppress flash, would exceed statutory authority. Muzzle brakes and compensators are flash suppressors if they reduce or redirect muzzle flash from the shooter's field of vision. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, any device that reduces or redirects any amount of muzzle flash from the shooter's field of vision regardless of its name, or intended purpose, or additional purpose. The revised definition is consistent with the legislative intent of the statute. |

| 978.20(b) Flash Suppressor | | | |
|---|---|---|---|
| Number | Freq. | Summary of Comment | Department Response |
| A2.13 | 7 | As different cartridges have different propellants and charges, cartridges will have varying amounts of muzzle flash. Regulations need to address how much reduction in visible light is required, and how the change of ammunition will affect the testing of various firearms, since different cartridges have different propellants, charges and varying amounts of muzzle flash. | The Department disagrees with the comment. The variance in the amount of muzzle flash created by different cartridges is not a factor in determining whether a device is a flash suppressor. If the presence of a particular device results in muzzle flash being reduced or redirected from the shooter's field of vision, it is a flash suppressor. The Department believes the absence of any measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces or redirects any amount of muzzle flash. Therefore, establishment of specific measurement standards that permit some percentage or amount of flash suppression would conflict with the legislative intent of the statute. Additionally, there is no legislative mandate or funding for the Department to establish scientific methodology for testing devices which may or may not be flash suppressors. The purpose of this regulation is to define "flash suppressor". The Department believes the revised definition is clear and consistent with the legislative intent of the statute. |
| A2.14 | 8 | As written, every law enforcement agency could have their own measurement standards, which can lead to inconsistent enforcement. | The Department disagrees with the comment. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent that a device that reduces or redirects any amount of muzzle flash from the shooter's field of vision, be considered a flash suppressor. The revised definition is clear and consistent with that intent. |
| A2.15 | 2 | Concise terminology is necessary to eliminate subjective interpretation. | The Department agrees with the comment. The Department believes the revised definition is clear, concise, and consistent with the legislative intent of the statute. |
| A2.16 | 1 | Questions what possible public interest this regulation is design to protect. | The purpose of the regulation is to define the term "flash suppressor" as used to identify one of the assault weapon characteristics pursuant to Penal Code section 12276.1. |

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978.20(b) Flash Suppressor

| Number | Freq. | Summary of Comment | Department Response |
|---|---|---|---|
| A2.17 | 1 | The definition of flash suppressor should be amended to include measurable criteria for defining such devices that is developed from scientific testing and measurement, and written in a way to make the requirement clear to the average citizen. | The Department disagrees with the comment. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent that a device that reduces or redirects any amount of muzzle flash from the shooter's field of vision, be considered a flash suppressor. Thus the Department would be exceeding its authority if it were to establish specific measurement standards that permitted some percentage or amount of flash suppression. The revised definition is consistent with the legislative intent of the statute and provides the needed clarity to be understood by reasonable people. |
| A2.18 | 2 | The definition of flash suppressor requires clarifying revision that actually describe the physical characteristic that make an item a "flash suppressor". | The Department disagrees with the comment that flash suppressor should be defined by physical characteristics. The revised definition defines flash suppressor by its functional characteristics and provides the needed clarity to be understood by reasonable people. |
| A2.20 | 2 | Requests a clear, fault-free definition of use of flash suppressor, compensator, muzzle brakes, which are legal and which are not. | The Department disagrees with the comment as far as the need to define compensators and muzzle brakes. However, any definition that includes or excludes devices based solely on what they are named, without consideration of whether the devices suppress flash, would exceed statutory authority. Muzzle brakes and compensators are flash suppressors if they reduce or redirect muzzle flash from the shooter's field of vision. The Department believes the legislative intent of the statute is to identify as a flash suppressor, a device that reduces or redirects any amount of muzzle flash form the shooter's field of vision regardless of its name, or intended purpose, or additional purpose. The revised definition is consistent with the legislative intent of the statute and provides the needed clarity to be understood by reasonable people. |
| A2.21 | 1 | Flash suppressor fails to delineate any method of determining whether a device is actually a flash suppressor or not. Thus the determination will be made in a subjective, rather than objective manner, any many abuses of the law are bound to occur. | There is no legislative mandate or funding for the Department to establish scientific methodology for testing devices which may or may not be flash suppressors. Accordingly, the sole purpose of this regulation is to define "flash suppressor" and it has been defined in a manner which is both clear and consistent with the legislative intent of the statute. |

| 978.20(b) Flash Suppressor | | | |
|---|---|---|---|
| Number | Freq. | Summary of Comment | Department Response |
| A2.22 | 6 | "The ("Flash Suppressor") definition is inaccurate, subjective and confusing. A flash suppressor or flash hider does not reduce or conceal visible light or flash created when the weapon is fired. It merely redirects the blast somewhat so it is less visible to the person firing the weapon. While the principles for designing military flash hiders are well known, apparently the legislature and DOJ are unaware of their capabilities and purpose. The proposed definition does nothing to clarify what a flash suppressor is, and might equally be applied to gun powder that produces less flash than "average". I recommend DOJ study how flash suppressors are designed and come up with a(n) objective definition based on those principles." | While the Department agrees a flash suppressor does not reduce or conceal total light or flash output, it does in fact, reduce or redirect light or flash very specifically away from the shooter's field of vision. The Department's revised definition (including replacing "conceals" with "redirects") provides the needed clarity and is consistent with the legislative intent of the statute. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent that a device that reduces or redirects any amount of muzzle flash from the shooter's field of vision, be considered a flash suppressor. |
| A2.23 | 5 | The definition does not differentiate between other barrel attachments such as the Browning BOSS system and bloop tubes, which are extended barrel enclosures that are used by Olympic competitors and other target shooters. | The Department agrees with the comment. The original definition exceeded Departmental authority by including and/or excluding particular devices by name without consideration of whether the devices suppress flash. The Department believes the legislative intent is to identify a flash suppressor as any device that reduces or redirects muzzle flash from the shooter's field of vision regardless of its name, or intended purpose, or additional purpose. The revised definition of a flash suppressor based on its functional characteristics is consistent with the legislative intent of the statute and provides the needed clarity to be understood by reasonable people. |

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| 978.20(b) Flash Suppressor | | | |
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| Number | Freq. | Summary of Comment | Department Response |
| A2.24 | 1 | Commentary suggests there is no way to quantify the effectiveness of any given design of flash suppressor type device; there are too many variables, including primer composition and flame temperature; propellant sensitivity, frangibility, burn rate, caloric content and expansion ratio; working pressure; projectile weight, obturation and friction coefficient; muzzle pressure and plume temperature, etc. | While the Department believes it is possible to measure a device's effectiveness at reducing or redirecting flash or light from the shooter's field of vision, there is no legislative mandate or funding for the Department to establish scientific methodology for testing devices which may or may not be flash suppressors. |
| A2.25 | 4 | Objects to Flash Suppressors or hiders being banned. | The comment addresses the statute and not the proposed regulations. The Department has no authority to amend the statute. |
| A2.26 | 2 | ATF has a process for testing. Commentary questions whether DOJ will accept ATF's determination on any devices submitted to them for testing. | There is no legislative mandate or funding for the Department to establish a testing program for devices such as flash suppressors, muzzle brakes, etc. The Department will neither approve nor disapprove any devices regardless of ATF determinations. |
| A2.27 | 2 | Recommends specifically excluding tuning devices, and barrel extensions for increasing the sign radius or weight and balance, because many of those devices are being installed on a large number of hunting and competitive rifles to enhance accuracy. Excluding those terms from the definition of flash suppressors will protect the rights of sportsmen and competitive shooters. | The Department disagrees with the comment. The Department believes the legislative intent of the statute is to identify as a flash suppressor, a device that reduces or redirects any amount of muzzle flash from the shooter's field of vision regardless of its name, or intended purpose, or additional purpose. The Department does not have statutory authority to make exclusions that would be inconsistent with the intent of the law. |
| A2.28 | 2 | The Department should abide by federal standards. | No formal standards or specifications have been published by the Bureau of Alcohol, Tobacco, and Firearms regarding flash suppressors. |

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## Comment/Response Spreadsheet

**978.20(b) Flash Suppressor**

| Number | Freq. | Summary of Comment | Department Response |
|---|---|---|---|
| A2.29 | 1 | The proposed definition greatly expands the scope and effect of SB 23 by including firearms not typically classified as "assault weapons" and fails to provide clarity as to the types of firearms that will be banned. | The Department's revised definition provides the needed clarity and is consistent with the legislative intent of the statute relative to the type of firearms considered assault weapons. |
| A2.30 | 1 | The term 'muzzle barrel' is not only unclear, it is inherently contradictory. | The Department agrees with the comment. The term "muzzle barrel" has been deleted from the revised definition. |
| A2.31 | 4 | The definition is ambiguous because compensators and muzzle brakes also reduce visible light but are, by the proposed regulations, exempt. | The Department believes the legislative intent of the statute is to identify as a flash suppressor, a device that reduces or redirects any flash from the shooter's field of vision regardless of its name, or intended purpose, or additional purpose. Any definition that includes or excludes devices based solely on what they are named, without consideration of whether the devices suppress flash, would exceed statutory authority. The revised definition is consistent with the legislative intent of the statute and provides the needed clarity to be understood by reasonable people. |
| A2.32 | 2 | Flash suppressor must be accounted for in terms of intensity and frequency of visible electromagnetic flux. | The Department disagrees with the comment. The Department believes the revised definition provides the needed clarity for proper understanding of the regulations by those people affected by them and is consistent with the legislative intent of the statute relative to the type of firearms considered assault weapons. |
| A2.33 | 3 | Since many flash suppressors perform some recoil compensation or muzzle braking functions, and many compensators and muzzle brakes also suppress flash to some extent, it may be impossible to provide a definition that meets both the literal requirements of SB 23 and its legislative intent. A legislative "fix" may be required. | The Department agrees with the comment. However, in the absence of any legislative amendment, the Department believes the intent of the existing statute is to identify as a flash suppressor, a device that reduces or redirects any flash from the shooter's field of vision regardless of its name, or intended purpose, or additional purpose. The revised definition is consistent with the legislative intent of the statute and provides the needed clarity to be understood by reasonable people. |

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## Comment/Response Spreadsheet

| 978.20(b) Flash Suppressor | | | |
|---|---|---|---|
| Number | Freq. | Summary of Comment | Department Response |
| A2.34 | 1 | Does not agree that flash hiders should be lumped with flash suppressors, they were designed for two different things. | The Department agrees with the comment as far as including and/or excluding devices based on the name of the device. The Department believes the legislative intent of statute is to identify as a flash suppressor, a device that reduces or redirects any flash from the shooter's field of vision regardless of its name, or intended purpose, or additional purpose. The revised definition is consistent with that legislative intent. |
| A2.35 | 2 | Recommends using military engineering drawing to describe "flash suppressors". | The Department disagrees with the comment. The Department believes the revised definition is sufficiently clear without the use of military engineering drawings. |
| A2.36 | 1 | The Department should publish a list of legal muzzle brakes and compensators so that law enforcement officers don't mistakenly engage in false arrest. | The Department disagrees with the comment. The Department believes the legislative intent of statute is to identify as a flash suppressor, a device that reduces or redirects any flash from the shooter's field of vision regardless of its name, or intended purpose, or additional purpose. Furthermore, there is no legislative mandate or funding for the Department to establish a testing program for the approval/disapproval of devices such as flash suppressors, muzzle brakes, etc. Therefore, the Department will publish no list. The revised definition is consistent with the legislative intent of the statute and provides the needed clarity to be understood by reasonable people. |
| A2.37 | 1 | The definition is insufficiently broad so as to be exclusionary by class. | The Department agrees with the comment. The Department's revised definition provides the needed clarity and is consistent with the legislative intent of the statute relative to the type of firearms considered assault weapons. |

| 978.20(b) Flash Suppressor | | | |
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| Number | Freq. | Summary of Comment | Department Response |
| A2.38 | 1 | Requests a modification that would fairly reflect legislative intent and incorporate an exclusion of the Browning BOSS and BOSS-CR. | The Department disagrees with the comment. Any definition that includes or excludes devices based solely on what they are named, without consideration of whether the devices suppress flash, would exceed statutory authority. The Department believes the legislative intent is to identify a flash suppressor as any device that reduces or redirects muzzle flash from the shooter's field of vision regardless of its name, or intended purpose, or additional purpose. The revised definition of a flash suppressor based on its functional characteristics is consistent with the legislative intent of the statute and provides the needed clarity to be understood by reasonable people. |

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| Number | Freq. | Summary of Comment | Response |
|---|---|---|---|
| B2.01 | 2 | Definition of flash suppressor is confusing and inadequate and requires clarification so as to avoid varying interpretations by law enforcement. | The Department's revised definition provides the needed clarity and is consistent with the legislative intent of the statute. |
| B2.02 | 1 | The flash suppressor definition is inadequate, confusing and preposterous by engineering design standards. | The Department's revised definition provides the needed clarity and is consistent with the legislative intent of the statute. |
| B2.03 | 1 | Muzzle brakes by design are devices which typically increase the report of the firearm as do flash suppressors and make the firearm more audible during daylight and thus more detectable by law enforcement. | The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. Thus, muzzle brakes and compensators are flash suppressors if they also suppress flash. The revised definition is consistent with the legislative intent. |
| B2.04 | 1 | Flash suppressor definition has no meaning because no flash is at present directed AT a shooter's field of vision by any weapon. | The Department disagrees with the comment. When a firearm is discharged, although no muzzle flash is directed at the shooter, muzzle flash is directed into the shooter's field of vision. |
| B2.05 | 1 | Recommended revision: A flash suppressor is a device, other than the barrel or muzzle brake, that is designed as its primary purpose to reduce or redirect muzzle flash from the shooter's field of vision. | The Department disagrees with the comment. The recommended definition would exceed Departmental authority by excluding devices based on what they are named without consideration of whether the devices suppress flash. Muzzle brakes and compensators are flash suppressors if they also suppress flash. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. The revised definition is consistent with the legislative intent. |

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| Number | Freq. | Summary of Comment | Response |
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| B2.06 | 3 | The gun barrel itself could be construed to be a device that reduces or redirects muzzle flash from the shooter's field of vision. | The Department disagrees with the comment. A barrel is part of the firearm. A flash suppressor is a device that would reduces or redirects the flash emitted from whatever barrel is on the firearm. |
| B2.07 | 1 | Although a compensator or muzzle brake is primarily designed to reduce recoil, the fact that it just adds length to the barrel may serve to reduce muzzle flash from the shooter's field of vision. | The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. Thus, muzzle brakes and compensators are flash suppressors if they also suppress flash. The revised definition is consistent with the legislative intent. |
| B2.08 | 1 | Leaving the original proposed definition intact eliminates any ambiguity regarding the use of muzzle brakes and successfully addresses the intent of SB 23 by referring specifically to "flash hiders". | The Department disagrees with the comment. Any definition that includes or excludes devices based solely on what they are named, without consideration of whether the devices suppress flash, would exceed statutory authority. Muzzle brakes and compensators are flash suppressors if they also suppress flash. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. The revised definition is consistent with the legislative intent. |

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| Number | Freq. | Summary of Comment | Response |
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| B2.09 | 15 | The definition continues to lack clarity relative to the lack of measurement standards (how much reduction or redirection of muzzle flash constitutes a flash suppressor). | The Department disagrees with the comment. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent that a device that reduces or redirects any amount of flash, be considered a flash suppressor. Thus the Department would be exceeding its authority if it were to establish specific measurement standards that permitted some percentage or amount of flash suppression. Furthermore, there is no legislative mandate or funding for the Department to establish scientific methodology for testing devices which may or may not be flash suppressors. The purpose of this regulation is to define "flash suppressor". The Department's revised regulation is clear and consistent with the legislative intent of the statute. |
| B2.10 | 6 | The definition should state that the design and intended purpose of a given device should be to reduce or redirect flash to the shooter's field of vision. | The Department agrees that the design and intended purpose of the device should be considered when identifying a flash suppressor. However, the Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to also identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended purpose or additional functionality. |
| B2.11 | 5 | The original proposed definition was better than this one. | The Department disagrees with the comment. Any definition that includes or excludes devices based solely on what they are named, without consideration of whether the devices suppress flash, would exceed statutory authority. Muzzle brakes and compensators are flash suppressors if they also suppress flash. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. The revised definition is consistent with the legislative intent. |

978.20(b) Flash Suppressor

| Number | Freq. | Summary of Comment | Response |
|---|---|---|---|
| B2.12 | 32 | Under this new definition true muzzle brakes and/or compensators could be classified as flash suppressors. | The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. Thus, any definition that includes or excludes devices based solely on what they are named, without consideration of whether the devices suppress flash, would exceed statutory authority. Muzzle brakes and compensators are flash suppressors if they also suppress flash. |
| B2.13 | 1 | For this definition to be clear it needs to provide objective means for quantification, as well as reference points from which quantities are measured, and clarify where and how a device must be attached to a firearm to be considered a "flash suppressor". | The Department disagrees with the comment. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. The Department believes the revised definition is clear and consistent with the legislative intent of the statute. |
| B2.14 | 4 | The definition can be interpreted to mean anything attached to a firearm, or even integral components of the firearm such as the barrel which does direct the muzzle flash away from the shooter. | The Department disagrees with the comment that a firearm barrel could be considered a flash suppressor. A barrel is part of the firearm. A flash suppressor is a device that reduces or redirects the flash emitted from whatever barrel is on the firearm. |
| B2.15 | 1 | The proposed definition greatly expands the scope and effect of SB23 by including weapons not typically classified as 'assault weapons' and fails to provide clarity as to the types of weapons that will be banned. | The Department disagrees with the comment. The definition does not make any particular type of firearm an assault weapon. A flash suppressor is only one of the characteristics that could make a firearm an assault weapon, but only if the firearm also meets other specified criteria. Nevertheless, the Department believes the revised definition is consistent with the legislative intent of the statute relative to the type of firearms considered assault weapons. |

978.20(b) Flash Suppressor

| Number | Freq. | Summary of Comment | Response |
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| B2.16 | 4 | Under this definition a blindfold, a pillow and/or a pair of sunglasses would be classified as a 'flash suppressor'. | The Department disagrees with the comment. This is a specious criticism of the definition. Pursuant to Penal Code section 12276.1, the definition applies to a firearm that "has" a flash suppressor. Neither the Department nor any reasonable people would consider the items referenced in the comment to be firearm devices that could be plausibly identified as "flash suppressors". |
| B2.17 | 21 | Objects to the removal of the exemption of muzzle brakes and compensators as stated in the originally proposed regulations. | The Department disagrees with the comment. Any definition that includes or excludes devices based solely on what they are named, without consideration of whether the devices suppress flash, would exceed statutory authority. Muzzle brakes and compensators are flash suppressors if they also suppress flash. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. The revised definition is consistent with the legislative intent. |
| B2.18 | 10 | Concerned that the Browning BOSS could be interpreted as a flash suppressor. | The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. Therefore, if the device referenced in the comment suppresses flash it would fall within the definition. |

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978.20(b) Flash Suppressor

| Number | Freq. | Summary of Comment | Response |
|---|---|---|---|
| B2.20 | 4 | The definition should expressly exclude any device formally approved by the federal Bureau of Alcohol, Tobacco, and Firearms as a non-flash suppressor. | The Department disagrees with the comment. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. Regardless of any determinations made by the Bureau of Alcohol, Tobacco, and Firearms, devices such as muzzle brakes and compensators are flash suppressors if they also suppress flash. |
| B2.21 | 1 | Recommended revision: A flash suppressor is any device that is designed to reduce or redirect muzzle flash from the shooter's field of vision. | The Department disagrees with the comment because it would exceed Departmental authority by excluding devices that the Legislature intended to be identified as flash suppressors. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. Thus, muzzle brakes and compensators that suppress flash are flash suppressors even if they were not "designed" for that purpose. |
| B2.22 | 2 | The definition lacks clarity because it fails to define "field of vision". | The Department disagrees with the comment. The Department believes that to a reasonable person, the meaning of a "shooter's field of vision" is sufficiently understood within the context of the entire definition without the need for additional clarification. |
| B2.23 | 3 | Any and all devices forward of the muzzle suppress flash therefore are included within this definition, which exceeds the intent of the legislature. | The Department disagrees with the comment that all devices forward of the muzzle suppress flash. However, the Department acknowledges that devices that do suppress flash are flash suppressors. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. The revised definition is consistent with the legislative intent of the statute. |

978.20(b) Flash Suppressor

| Number | Freq. | Summary of Comment | Response |
|---|---|---|---|
| B2.24 | 1 | Under this definition even a device that provides a small degree of muzzle flash reduction as a side effect would be defined as a "flash suppressor". | The Department agrees with the comment. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. The Department believes the revised definition is clear and consistent with the legislative intent of the statute relative to the type of firearms considered assault weapons. |
| B2.25 | 1 | The deletion of the specific exemption for muzzle brakes and compensators is a serious prejudicial move against the elderly, the handicapped, and women. The DOJ's insensitivity to the special needs of these groups will undoubtedly lead to litigation. | The Department does not have authority to exclude devices that function as flash suppressors on the basis of the device being particularly useful for certain segments of the population. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. The revised definition is consistent with that legislative intent. |
| B2.26 | 1 | The DOJ is working at odds with other state organizations such as the Department of Fish and Game, which provides lifetime hunting licenses. A lifetime hunting license will be meaningless if someone is too frail to fire an uncompensated, bolt-action rifle and your regulations prohibit him or her from using a semiautomatic with a muzzle brake. | The Department does not have authority to exclude devices that function as flash suppressors on the basis of the device being particularly useful for certain segment of the population. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. The revised definition is consistent with that legislative intent. |

978.20(b) Flash Suppressor

| Number | Freq. | Summary of Comment | Response |
|---|---|---|---|
| B2.27 | 1 | Recommended revision: "'Flash suppressor' means any device that reduces or redirects muzzle flash for the sole purpose of hiding the muzzle flash from the shooter or an observer. This does not include compensators and muzzle brakes (devices attached to or integral with the muzzle barrel to utilize propelling gasses for counter-recoil)." | The Department disagrees with the comment. The recommended definition would exceed Departmental authority by excluding devices based on what they are named without consideration of whether the devices suppress flash. Muzzle brakes and compensators are flash suppressors if they also suppress flash. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. The revised definition is consistent with the legislative intent. |
| B2.28 | 1 | Redirection of the muzzle flash from the shooter's field of vision is a wholly new provision not part of the legislative act. Inclusion of this provision is not only improper, but vague and uncertain with regard to interpretation. | The Department disagrees with the comment. The Department believes the addition of redirection of muzzle flash is an appropriate and necessary description of the function of a flash suppressor. The revised definition is clear and consistent with the legislative intent of the statute. |
| B2.29 | 1 | Recommended revision: "'Flash suppressor' means any appliance, extension, alteration or void at the muzzle end of a rifled barrel which, when compared to a plain rifled barrel of the same chambering, bore diameter, and overall length, has the effect of diminishing luminescence measured by laboratory instruments directed toward the muzzle, placed above the vertical axis of the trigger, at the normal eye position of the shooter when the firearm is discharged from the shoulder. | The Department disagrees with the comment. The recommended definition's reference to the eye position of the shooter when the firearm is discharged from the shoulder is not appropriate because pursuant to Penal Code Section 12276.1, "flash suppressor" may be a charactoristic identified on a semi-automatic pistol. This type of firearm would not typically be discharged from the shoulder. Additionally, the definition uses several terms that would have to be defined further to avoid the misinterpretation of the statute that would be contrary to the legislative intent. |

978.20(b) Flash Suppressor

| Number | Freq. | Summary of Comment | Response |
|---|---|---|---|
| B2.30 | 2 | The definition makes no exception for devices attached to the muzzle to improve the accuracy of the rifle, such as the Browning BOSS-CR, which may inadvertently reduce muzzle flash. | The Department agrees with the comment. Any definition that includes or excludes devices based solely on what they are named, without consideration of whether the devices suppress flash, would exceed statutory authority. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. Thus, muzzle brakes, compensators and also the device specifically referenced in the comment, are flash suppressors if they suppress flash. The revised definition is consistent with the legislative intent. |
| B2.31 | 2 | The definition lacks clarity because even replaceable barrels, which, by virtue of their varying length, can significantly affect visible muzzle flash. | The Department disagrees with the comment. A flash suppressor is the device, on the barrel of the firearm, that causes the reduction or redirection of flash from the shooter's field of vision. |
| B2.32 | 2 | Changing to a longer barrel could become a flash suppressor because it might tend to reduce muzzle flash. | The Department disagrees with the comment. A flash suppressor is the device, on the barrel of the firearm, that causes the reduction or redirection of flash from the shooter's field of vision. |
| B2.33 | 2 | In order for autoloading firearms to cycle properly when using various blank ammunition, they must be altered through various methods of reducing and redirecting muzzle flash and chamber pressure. These devices would be technically the closest to what is described as a 'flash suppressor', and would apply to any autoloading firearm used in the motion picture and television industry. | The Department's revised definition is clear and consistent with the legislative intent of the statute relative to the type of firearms considered assault weapons. |

978.20(b) Flash Suppressor

| Number | Freq. | Summary of Comment | Response |
|---|---|---|---|
| B2.34 | 2 | The definition in the corrected version is difficult to understand. | The Department disagrees with the comment. Any definition that includes or excludes devices based solely on what they are named, without consideration of whether the devices suppress flash, would exceed statutory authority. Muzzle brakes and compensators are flash suppressors if they also suppress flash. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. The Department believes the revised definition provides the needed clarity and is consistent with the legislative intent of the statute relative to the type of firearms considered assault weapons. |
| B2.35 | 1 | Contributor supports the definition. | The Department appreciates the support expressed by the contributor. However, in response to problems and concerns expressed in other comments, the definition has been revised. The Department's revised definition provides the needed clarity and is consistent with the legislative intent of the statute relative to the type of firearms considered assault weapons. |
| B2.36 | 2 | The definition does not distinguish the difference from a muzzle brake or BOSS device and a flash suppressor. | Any definition that includes or excludes devices based solely on what they are named, without consideration of whether the devices suppress flash, would exceed statutory authority. Muzzle brakes and compensators are flash suppressors if they also suppress flash. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. The revised definition is consistent with the legislative intent. |

978.20(b) Flash Suppressor

| Number | Freq. | Summary of Comment | Response |
|---|---|---|---|
| B2.37 | 3 | Disagrees with definition. Flash suppressors are designed to reduce the sight of the flash from down range, not the shooter. | The Department disagrees with the comment. The description provided by the comment is for a "flash hider" not a "flash suppressor". |
| B2.38 | 1 | The definition is ambiguous because the muzzle of any firearm could be considered as directing the flash away from the shooters field of vision. | The Department disagrees with the comment. A muzzle is part of the firearm. A flash suppressor is a device that would reduces or redirects the flash emitted from the muzzle end of the firearm. |
| B2.39 | 1 | In terms of safety it would be more sensible to outlaw the use of firearms that do not protect the user from temporary blindness caused by muzzle flash. | The comment addresses the statute rather than the proposed regulations. A "flash suppressor" was established as one of the assault weapon characteristics by the Legislature in Penal Code section 12276.1, not by the Department's proposed regulations. |
| B2.40 | 1 | Recommends removal of the word 'reduce' from the definition. | The Department disagrees with the comment. Removal of "reduce" from the proposed definition would improperly narrow the meaning of the definition that would be inconsistent with the legislative intent of the statute relative to the types of devices that should be identified as "flash suppressors". |
| B2.41 | 1 | Recommends that any reference to the shooter's field of vision is confusing and might result in inappropriate application of the regulation. | The Department disagrees with the comment. The Department believes that to a reasonable person, the meaning of a "shooter's field of vision" is sufficiently understood within the context of the entire definition without the need for additional clarification. |
| B2.42 | 1 | There is no mention of size, shape, or type of attachment. | An attachment's size, shape and type are not appropriate criteria to identify it as a flash suppressor. The Department's revised definition appropriately defines a flash suppressor based on functionality. |
| B2.43 | 1 | Recommends the use of illustrations. | The Department disagrees with the comment. The Department believes the revised regulation is sufficiently clear without the use of illustrations. |

978.20(b) Flash Suppressor

| Number | Freq. | Summary of Comment | Response |
|---|---|---|---|
| B2.44 | 2 | The definition lacks clarity because it can include devices such as telescopes and scope mounts, and some sights. | The Department disagrees with the comment. Only devices that reduce or redirect muzzle flash from the shooter's field of vision meet the definition of a flash suppressor. An attachment that does not affect the flash but merely blocks some of it by virtue of being between the shooter's eye and the muzzle flash would not be a flash suppressor. |
| B2.45 | 1 | The definition would impact negatively on a number of gun owners other than those who have assault weapons, and should be modified so that the device cannot be used in the commission of a violent crime. | The Department disagrees with the comment. The comment that the identification of a flash suppressor as an assault weapon characteristic be limited to devices used in the commission of a crime would require an amendment to the statute. The Department does not have authority to incorporate the recommended qualification/condition into the definition. |
| B2.46 | 1 | Recommended rovision: "'flash suppressor' means any device that conceals muzzle flash from other observers." | The Department disagrees with the comment. The recommended definition more closely describes a "flash hider" than a "flash suppressor". Thus, the comment would not be consistent with the legislative intent of the statute |
| B2.47 | 1 | Objects to the inclusion of the wording 'redirects muzzle flash from the shooter's field of vision'. | The Department disagrees with the comment. The Department believes the addition of redirection of muzzle flash is an appropriate and necessary description of the function of a flash suppressor. The revised definition is clear and consistent with the legislative intent of the statute. |
| B2.48 | 1 | It is unfair to smaller shooters and many female shooters to require the removal of recoil compensators in order to be in compliance with the regulations. | The Department does not have authority to exclude devices that function as flash suppressors on the basis of the device being particularly useful for small and or female shooters. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. The revised definition is consistent with that legislative intent. |

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978.20(b) Flash Suppressor

| Number | Freq. | Summary of Comment | Response |
|---|---|---|---|
| B2.49 | 1 | Recommended revision: "'flash suppressor' means a device whose sole purpose is to conceal the muzzle flash from a fired round". | The Department disagrees with the comment. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. The revised definition is consistent with that legislative intent. |

978.20(b) Flash Suppressor

| Number | Freq. | Summary of Comment | Response |
|---|---|---|---|
| C2.01 | 4 | Without an objective measurement of flash luminosity it is impossible to determine if a device "functions to reduce . . . muzzle flash". | The Department disagrees with the comment. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. The revised definition is consistent with that legislative intent. |
| C2.02 | 5 | The definition would still classify the Browning Bar with the CR BOSS system as an assault weapon, and is inconsistent with the intent of the Legislature. | The Department disagrees with the comment. Any definition that includes or excludes devices based solely on what they are named, without consideration of whether the devices suppress flash, would exceed statutory authority. Muzzle brakes and compensators are flash suppressors if they also suppress flash. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. The revised definition is consistent with the legislative intent. |
| C2.03 | 1 | Compensators that are used to help control the recoil of firearms can (without intention) suppress the muzzle flash of the weapon. This definition is too broad, as it would restrict weapons that have increased safety devices built in, due to an incidental side effect. | The Department disagrees with the comment. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. The revised definition is consistent with the legislative intent. |

978.20(b) Flash Suppressor

| Number | Freq. | Summary of Comment | Response |
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| C2.04 | 3 | The definition is too broad. The unintended consequence will be to define as assault weapons guns that use 'tuning' devices such as the CR BOSS system, or muzzle brakes. Reducing and/or redirecting the muzzle flash away from the shooters field of vision is an unintended result of tuning the barrels harmonics for greater accuracy. The definition must be written in such a way that the flash suppressor is defined as a device whose primary purpose is to reduce or redirect muzzle flash from the shooter's field of vision. | The Department disagrees with the comment. Any definition that includes or excludes devices based solely on what they are named, without consideration of whether the devices suppress flash, would exceed statutory authority. Muzzle brakes and compensators are flash suppressors if they also suppress flash. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. The revised definition is consistent with the legislative intent. |
| C2.05 | 2 | The proposed language does not clearly define what a flash suppressor is, nor does it give officers in the field clear direction in being able to determine if a device has been "designed, intended, or that functions to reduce or redirect muzzle flash from the shooter's field of vision." | The Department disagrees with the comment. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. The revised definition is consistent with that legislative intent. |
| C2.06 | 1 | It will be difficult to show in a court of law that a certain device was intended to direct muzzle flash away from the shooter's field of vision without extensive testing and expert testimony. | The Department disagrees with the comment. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. The revised definition is consistent with that legislative intent. |

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| Number | Freq. | Summary of Comment | Response |
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| C2.07 | 1 | As long as you allow compensators (which redirect muzzle blast, not flash), the definition reads fine. If you feel that "flash" is the same as "blast", then the flash suppressor definition is way too limiting. | The Department disagrees with the comment. Any definition that includes or excludes devices based solely on what they are named, without consideration of whether the devices suppress flash, would exceed statutory authority. Muzzle brakes and compensators are flash suppressors if they also suppress flash. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. The revised definition is consistent with the legislative intent. |
| C2.08 | 4 | The proposed definition still does not make a distinction between a flash suppressor and a muzzle brake or compensator. The proposal is too broad in scope and vague in its meaning. It would likely be interpreted by some prosecutors and law enforcement personnel in a manner that was not intended by SB 23 and should be revised further. | The Department disagrees with the comment. Any definition that includes or excludes devices based solely on what they are named, without consideration of whether the devices suppress flash, would exceed statutory authority. Muzzle brakes and compensators are flash suppressors if they also suppress flash. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. The revised definition is consistent with the legislative intent. |
| C2.09 | 3 | Suggested addition to the definition: "except for the devices defined as muzzle brakes the primary purpose, of which, is to reduce recoil". | The Department disagrees with the comment. Any definition that includes or excludes devices based solely on what they are named, without consideration of whether the devices suppress flash, would exceed statutory authority. Muzzle brakes and compensators are flash suppressors if they also suppress flash. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. The revised definition is consistent with the legislative intent. |

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| Number | Freq. | Summary of Comment | Response |
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| C2.10 | 7 | The definition is interpreted to include muzzle brakes and/or compensators. | Muzzle brakes and compensators are flash suppressors if they also suppress flash. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. The revised definition is consistent with the legislative intent. |
| C2.11 | 1 | The definition should clarify that the field of vision of the shooter is the upper hemisphere of the barrel. Proposed revision: "flash suppressor" means any device designed, intended or that functions to reduce or redirect the muzzle flash from the shooter's field of vision. The shooter's field of vision being defined as the hemisphere region above the axis of the barrel. | The Department disagrees with the comment. The Department believes that to a reasonable person, the meaning of a "shooter's field of vision" is sufficiently understood within the context of the entire definition without the need for additional clarification. |
| C2.12 | 6 | The definition could be interpreted as anything on or done to the end of the barrel. | The Department disagrees with the comment. Only devices that reduce or redirect muzzle flash from the shooter's field of vision meet the definition of a flash suppressor. |
| C2.13 | 4 | Inclusion of the phrase "or that functions" in the definition changes the definition in such a way that it will be interpreted to include devices that the legislature clearly did not mean to include as flash suppressors. | The Department disagrees with the comment. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of whether flash suppression is an intended function of the device. The revised definition is consistent with that legislative intent. |

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| Number | Freq. | Summary of Comment | Response |
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| C2.14 | 2 | The definition is unsatisfactory because the owner of an otherwise lawful firearm has no means to determine the intent of the design of the device. | The Department believes the proposed definition's use of "intended" is appropriate. The term "intended" is necessary to include a device that ordinarily functions as a flash suppressor but is temporarily disabled or temporarily attached in a manner so that it does not "function" as a flash suppressor at the moment. |
| C2.15 | 3 | The definition lacks measurement criteria. | The Department disagrees with the comment. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. The revised definition is consistent with that legislative intent. |
| C2.16 | 4 | The installation of a longer barrel could be considered to meet this definition. | The Department disagrees with the comment. A barrel is part of the firearm. A flash suppressor is a device that reduces or redirects the flash emitted from whatever barrel is on the firearm. |
| C2.17 | 2 | Muzzle flash varies from one type of ammunition to another, and a device that reduces the flash from one type of ammunition may not do so for another. | The Department disagrees with the comment. The Department does not believe that a device that effects muzzle flash with one type of ammunition would have no effect on another type of ammunition. However if a device can reduce or redirect muzzle flash from the shooter's field of vision for any type of ammunition capable of being fired from the weapon to which it is attached, the device is a flash suppressor. |
| C2.18 | 2 | The clarification of flash suppressor is clear. | The Department appreciates the contributor's acknowledgement that the revised definition is clear. |
| C2.19 | 3 | The sights on a gun can be interpreted to be flash suppressors. | The Department disagrees with the comment. Only devices that reduce or redirect muzzle flash from the shooter's field of vision meet the definition of a flash suppressor. An attachment that does not affect the flash but merely blocks some of it by virtue of being between the shooter's eye and the muzzle flash would not be a flash suppressor. |

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978.20(b) Flash Suppressor

| Number | Freq. | Summary of Comment | Response |
|---|---|---|---|
| C2.20 | 1 | If the redirection of muzzle flash does not reduce it, it is not a flash suppressor. | The Department disagrees with the comment. The Department believes the redirection of muzzle flash from the shooter's field of vision serves the purpose of a flash suppressor even if the amount of flash is not reduced. |
| C2.21 | 1 | Recommended revision: "any device attached to or integral with the muzzle end of the barrel and extending at least 1/2 inch (some distance is necessary to eliminate the possibility of classifying the barrel itself as a flash suppressor) beyond the bore of the barrel, which is designed or intended to reduce the muzzle flash seen by the shooter." | The Department disagrees with the comment. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or primary function. The condition that a flash suppressor must be designed or intended to reduce flash would conflict with the legislative intent of the statute. |
| C2.22 | 1 | The definition literally includes the word "intended". That means a device that is a flash suppressor is a device which is intended to be a flash suppressor. Such terms do not belong in documents of law enforcement. | The Department believes the proposed definition's use of "intended" is appropriate. The term "intended" is necessary to include a device that ordinarily functions as a flash suppressor but is temporarily disabled or temporarily attached in a manner so that it does not "function" as a flash suppressor at the moment. No changes are being made in response to this comment. |
| C2.23 | 1 | Suggests the Department approve compensators/muzzle brakes either by manufacturer's name or by adopting physical specifications (to include a drawing such as used by engineers). | The Department disagrees with the comment. Any definition that includes or excludes devices based solely on what they are named, without consideration of whether the devices suppress flash, would exceed statutory authority. Muzzle brakes and compensators are flash suppressors if they also suppress flash. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent that a device that reduces or redirects any amount of flash, be considered a flash suppressor. There is no legislative mandate or funding for the Department to establish scientific methodology for testing devices which may or may not be flash suppressors. The purpose of this regulation is to define "flash suppressor". The Department believes the revised definition is clear and consistent with the legislative intent of the statute. |

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## 978.20(b) Flash Suppressor

| Number | Freq. | Summary of Comment | Response |
|---|---|---|---|
| C2.24 | 1 | The Department should develop and promulgate objective criteria for determining whether a device "functions" to reduce or redirect flash. | The Department disagrees with the comment. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent that a device that reduces or redirects any amount of flash, be considered a flash suppressor. Thus the Department would be exceeding its authority if it were to establish specific measurement standards that permitted some percentage or amount of flash suppression. Furthermore, there is no legislative mandate or funding for the Department to establish scientific methodology for testing devices which may or may not be flash suppressors. The purpose of this regulation is to define "flash suppressor". The Department believes the revised definition is clear and consistent with the legislative intent of the statute. |
| C2.25 | 2 | Remove the word "functions" from the definition. A device that is not designed as a flash suppressor and only incidentally redirects muzzle flash as part of it's primary role of reducing recoil should not be administratively banned contrary to obvious legislative intent. | The Department disagrees with the comment. Any definition that includes or excludes devices based solely on what they are named, without consideration of whether the devices suppress flash, would exceed statutory authority. Muzzle brakes and compensators are flash suppressors if they also suppress flash. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. The revised definition is consistent with the legislative intent. |
| C2.26 | 2 | Recommended revision: "any device designed and intended solely to reduce or redirect muzzle flash from the shooter's field of vision." | The Department disagrees with the comment. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. Thus, devices such as muzzle brakes and compensators are not flash suppressors only if they do not also suppress flash. |
| C2.27 | 1 | The flash suppressor should be considered a separate accessory of a weapon and not part of the definition of the assault weapon. | The comment addresses the statute rather than the proposed regulations. A "flash suppressor" was established as one of the assault weapon characteristics by the Legislature in Penal Code section 12276.1, not by the Department's proposed regulations. |

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978.20(b) Flash Suppressor

| Number | Freq. | Summary of Comment | Response |
|---|---|---|---|
| C2.28 | 1 | The broad definition violates the original legislative intent and puts the Department in the position of creating law. | The Department disagrees with the comment. The Department believes the revised definition is consistent with the legislative intent of the statute. |
| C2.29 | 1 | Recommended revision: "'flash suppressor' means any device specifically designed or intended to reduce muzzle flash from the shooter's field of vision when firing the weapon. This definition includes flash hiders, but does not include compensators and muzzle brakes (devices attached to or integral with the barrel to utilize propelling gases for counter-recoil). The definition of "flash suppressor" also expressly excludes any device attached to or integral to the barrel which has been formally approved by the Federal Bureau of Tobacco, Alcohol and Firearms as a non-flash suppressor." | The Department disagrees with the comment. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. Any definition that includes or excludes devices based solely on what they are named, without consideration of whether the devices suppress flash, would exceed statutory authority. Regardless of any determinations made by the Bureau of Alcohol, Tobacco, and Firearms, devices such as muzzle brakes and compensators are flash suppressors if they also suppress flash. |
| C2.30 | 1 | Contributor questions whether smokeless powder, which can be reloaded into cases by anyone, is a flash suppressor. | The Department disagrees with the comment. Pursuant to Penal Code section 12276.1, the definition applies to a firearm that "has" a flash suppressor. Neither the Department nor any reasonable people would seriously consider smokeless powder to be a firearm device that could be plausibly identified as "flash suppressors". |
| C2.31 | 2 | Objects to a flash suppressor being an assault weapon characteristic. | The comment addresses the statute rather than the proposed regulations. A "flash suppressor" was established as one of the assault weapon characteristics by the Legislature in Penal Code section 12276.1, not by the Department's proposed regulations. |
| C2.32 | 1 | Law enforcement and firearms owners cannot be expected to determine the intent of a device. | There is no legislative mandate or funding for the Department to establish scientific methodology for testing devices which may or may not be flash suppressors. The purpose of this regulation is to define "flash suppressor". The Department's revised definition provides the needed clarity and is consistent with the legislative intent of the statute. |

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978.20(b) Flash Suppressor

| Number | Freq. | Summary of Comment | Response |
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| C2.33 | 1 | The definition would allow devices determined to be 'flash suppressors' by the Bureau of Alcohol, Tobacco, and Firearms (BATF) to be legal by California law. | Although no regulations establishing formal standards or specifications regarding flash suppressors have been promulgated or published by BATF, the Department is not aware of any devices determined to be "flash suppressors" by BATF that would be excluded from the Department's revised definition. |
| C2.34 | 4 | Tinted eye protection and/or a shooter's rest that may reduce muzzle flash could fit this definition. | The Department disagrees with the comment. Pursuant to Penal Code section 12276.1, the definition applies to a firearm that "has" a flash suppressor. Neither the Department nor any reasonable people would seriously consider the items referenced in the comment to be firearm devices that could be plausibly identified as "flash suppressors". |
| C2.35 | 1 | Eyes could be considered a flash suppressor, if a shooter closes their eyes the instant after their guns fires. | The Department disagrees with the comment. Pursuant to Penal Code section 12276.1, the definition applies to a firearm that "has" a flash suppressor. Neither the Department nor any reasonable people would seriously consider a shooter's own eyes to be firearm devices that could be plausibly identified as "flash suppressors". |
| C2.36 | 1 | The intent of flash suppression is to render the shooter less visible to an enemy target, it makes no sense to talk about reducing muzzle flash from the shooter's field of vision. | The Department disagrees with the comment. The description provided by the comment is for a "flash hider" not a "flash suppressor". |
| C2.37 | 1 | Any compensator or port redirects muzzle flash without necessarily reducing it. | The Department's revised definition is clear and consistent with the legislative intent of the statute relative to the type of firearms considered assault weapons. |

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| Number | Freq. | Summary of Comment | Response |
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| C2.38 | 2 | A device that is primarily designed as a muzzle brake but also reduces flash could be considered a flash suppressor under this definition. | The Department agrees with the comment. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. Any definition that includes or excludes devices based solely on what they are named, without consideration of whether the devices suppress flash, would exceed statutory authority. Muzzle brakes and compensators are flash suppressors if they also suppress flash. The revised definition is consistent with the legislative intent. No changes to definition are being made in response to the comment. |
| C2.39 | 2 | Contributor questions whether the Department will provide a list of muzzle brakes approved as brakes and not flash suppressors. | There is no legislative mandate or funding for the Department to establish a program to test or otherwise approve/disapprove devices such as flash suppressors, muzzle brakes, etc. |
| C2.40 | 2 | The definition could mean a bored out potato. | The Department disagrees with the comment. The Department believes this is a specious comment. Pursuant to Penal Code section 12276.1, the definition applies to a firearm that "has" a flash suppressor. Neither the Department nor any reasonable people would consider a potato to be a firearm device that could be plausibly identified as a "flash suppressor". |
| C2.41 | 1 | Contributor recommends the U.S. Department of Defense research be incorporated into the recommended testing and evaluation of the "effectiveness and intent of "flash hiders". | The Department disagrees with the comment. The recommended research material is not applicable because the proposed regulation defines "flash suppressors" not "flash hiders". |
| C2.42 | 1 | Contributor recommends objective testing with light meters and other measuring devices be conducted to quantify the abilities and effectiveness of devices that reduce or redirect muzzle flash from the shooter's field of vision. | The Department disagrees with the comment. There is no legislative mandate or funding for the Department to establish scientific methodology for testing devices which may or may not be flash suppressors. The purpose of this regulation is to define "flash suppressor". The Department believes the revised definition is clear and consistent with the legislative intent of the statute. |

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| Number | Freq. | Summary of Comment | Response |
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| C2.43 | 1 | Contributor objects to the definition as it is based on intent and function. Many flash hiders are also intended and many actually function as recoil compensators and vice-versa. | The Department disagrees with the comment. The Department believes the revised definition is consistent with the legislative intent of the statute. Furthermore, the purpose of the regulation is to define "flash suppressors" not "flash hiders". |
| C2.44 | 1 | The proposed definition greatly expands the scope and effect of SB 23 by including weapons not typically classified as assault weapons and fails to provide clarity as to the types of weapons that will be banned. | The Department disagrees with the comment. The definition does not make any particular type of firearm an assault weapon. A flash suppressor is only one of the characteristics that could make a firearm an assault weapon, but only if the firearm also meets other specified criteria. Nevertheless, the Department believes the revised definition is consistent with the legislative intent of the statute relative to the type of firearms considered assault weapons. |
| C2.45 | 1 | If the Department feels that the BATF standards should be used for defining a flash suppressor, they should be incorporated in their entirety. | No formal standards or specifications have been published by the Bureau of Alcohol, Tobacco, and Firearms regarding flash suppressors. No changes are being made in response to this comment. |
| C2.46 | 1 | Contributor assumes that the Department doesn't intend to approve devices that don't meet their proposed standards, regardless of who else may have approved them. | There is no legislative mandate or funding for the Department to establish a program to test or otherwise approve/disapprove devices such as flash suppressors, muzzle brakes, etc. As such, the Department will neither approve nor disapprove any devices regardless of determinations made by other agencies/organizations. |

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| Number | Freq. | Summary of Comment | Response |
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| C2.47 | 1 | The key to understanding the proposed definition is knowing what "shooter's field of vision" means. Since it is undefined, contributor assumes it means below a horizontal plane that passes through the center line of the device. This or any other rational definition of "field of vision" would include the Springfield Armory muzzle brake, the Browning BAR - BOSS CR or many other sporting rifle devices as "flash suppressor". The "approved" Springfield muzzle brake redirects flash in an arc in excess of 300 degrees. If that isn't beyond the "shooters field of vision" what is? | The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. Furthermore, there is no legislative mandate or funding for the Department to establish a program to test or otherwise approve/disapprove devices such as flash suppressors, muzzle brakes, etc. As such, the Department will neither approve nor disapprove any devices regardless of determinations made by other agencies/organizations. |
| C2.48 | 1 | The portion of the definition that relates to redirecting "muzzle flash from the shooter's field of vision" is still unclear as to what is really meant. | The Department disagrees with the comment. The Department believes this is a specious comment. For a reasonable person, the meaning of redirecting muzzle flash from a "shooter's field of vision" is sufficiently understood within the context of the entire definition without the need for additional clarification. |
| C2.49 | 1 | The primary purpose for using a flash suppressor is to not reveal the position of the shooter. | The Department disagrees with the comment. The description provided by the comment is for a "flash hider" not a "flash suppressor". |
| C2.50 | 1 | If literally interpreted, the proposed regulation would effectively prohibit the sporting use of a muzzle brake or compensator on a detachable magazine semiautomatic firearm. | The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. Thus, muzzle brakes and compensators are flash suppressors if they also suppress flash. |

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978.20(b) Flash Suppressor

| Number | Freq. | Summary of Comment | Response |
|---|---|---|---|
| C2.51 | 1 | Even devices designed exclusively as a muzzle brake also potentially create a flash suppression effect. | The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces any amount of flash regardless of its intended or additional functionality. Thus, muzzle brakes and compensators are flash suppressors if they also suppress flash. |
| C2.52 | 1 | The primary difference between the two devices is that muzzle brakes and compensators have to vent the gases unsymmetrically, while maximum flash suppression is achieved with symmetrical dispersion of the gas cloud. | Any definition that includes or excludes devices based solely on what they are named, without consideration of whether the devices suppress flash, would exceed statutory authority. Muzzle brakes and compensators are flash suppressors if they also suppress flash. The Department believes the absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, any device that reduces the amount of flash regardless of its intended or additional functionality. |
| C2.53 | 1 | The only clear unequivocal evidence for a device being designed for flash suppression is a symmetrical dispersion without a bias for upward venting. | The Department disagrees with the comment. Not all flash suppressors meet the description of having a symmetrical dispersion without a bias for upward venting. This criteria would improperly exclude some devices that should be identified as flash suppressors. |
| C2.54 | 1 | Contributor questions whether the Department will defer to the technical assessment of the BATF and approve those devices approved by BATF. | There is no legislative mandate or funding for the Department to establish a testing program for devices such as flash suppressors, muzzle brakes, etc. As such, the Department will neither approve nor disapprove any devices regardless of ATF determinations. |
| C2.55 | 1 | The definition has been modified to include a feature useful to those who have to use Semi-auto militia arms in a defensive capacity and is intended to be punitive to the law abiding. | The Department disagrees with the comment. The revised definition is not intended to impact a particular segment of the population nor to punish law abiding citizens. The Department's revised definition is consistent with the legislative intent of the statute. |
| C2.56 | 1 | Permissible and impermissible reductions in flash must be specified in regards to their perceptibility by human observers since small variations cannot be perceived by most observers, and the ability to discern variations in brightness varies greatly from one individual to another. | The Department disagrees with the comment. The absence of specific measurement standards in the statute demonstrates the legislative intent to identify as a flash suppressor, a device that reduces or redirects any amount of flash. Thus, there is no permissible amount of flash. Nevertheless, common sense suggests that if a variation is so miniscule that it is imperceptible to the archetypal human eye, it could not reasonably be considered a reduction. |

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| 978.20(d) Permanently Altered | | | |
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| Number | Freq. | Summary of Comment | Response |
| A4.01 | 13 | The definition lacks clarity; commentary suggests that the only way a firearm can be permanently altered is for it to be destroyed. | The Department agrees the definition lacks clarity. The Department has deleted the proposed definition because it believes the phrase "permanently altered" conveys a meaning that is sufficiently understood by reasonable people. None of the alternative definitions considered by the Department added clarity to the inherent meaning of the phrase. |
| A4.02 | 3 | This vague requirement can be interpreted to mean just about anything, even to stock checkering and stock recoil pad installation. | The Department agrees the definition lacks clarity. The Department has deleted the proposed definition because it believes the phrase "permanently altered" conveys a meaning that is sufficiently understood by reasonable people. None of the alternative definitions considered by the Department added clarity to the inherent meaning of the phrase. |
| A4.03 | 1 | There is no language in statute that allows for the alteration of a magazine, permanent or temporary that will take it out of the definition given by the statute itself. | The Department disagrees with the comment. The Department has determined the phrase "permanently altered" as stated in PC section 12276.1(c)(2) is easily understood by reasonable people. Therefore, the Department believes further specificity is not necessary and has deleted the definition from its regulations. |
| A4.04 | 2 | The definition lacks clarity; and indicates there is no way of telling which modification DOJ would or would not consider irreversible. The definition must specify those procedures it would find acceptable in order to make the resale of large-capacity magazines legal. | The Department disagrees a need exists for resale procedures because 12020(a)(2) prohibits, with certain exceptions, the sale of Large Capacity Magazines. The Department would exceed its authority to create sales procedures. |

| 978.20(d) Permanently Altered | | | |
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| Number | Freq. | Summary of Comment | Response |
| A4.05 | 22 | The description of "permanently altered" is vague and confusing because the irreversible standard is unachievable. | The Department agrees the definition lacks clarity. The Department has deleted the proposed definition because it believes the phrase "permanently altered" conveys a meaning that is sufficiently understood by reasonable people. None of the alternative definitions considered by the Department added clarity to the inherent meaning of the phrase. |
| A4.07 | 2 | The definition is vague and does not include a standard by which it can be enforced. | The Department agrees the definition lacks clarity. The Department disagrees that establishment of enforcement standards is required. Physical inspection is sufficient to determine a magazine's capacity to accept more than ten rounds. The Department has deleted the proposed definition because it believes the phrase "permanently altered" conveys a meaning that is sufficiently understood by reasonable people. None of the alternative definitions considered by the Department added clarity to the inherent meaning of the phrase. |
| A4.08 | 1 | Recommended revision: "altered so as to not conform to the definition of an assault rifle as defined in SB 23 and requiring the use of tools to change the alteration." | The Department disagrees with the comment. The statute does not allow for the alteration to be restored. Therefore, such definition would be in conflict with the statute and the Department does not have authority to conflict with the statute. |
| A4.09 | 2 | Recommended revision: "Permanently altered means any change or modification which cannot be readily restored or converted to allow the magazine or other feeding device to accept more than ten rounds of ammunition. | The Department disagrees with the comment. The statute does not allow for the alteration to be restored. Therefore, such definition would be in conflict with the statute and the Department does not have authority to conflict with the statute. |

| 978.20(d) Permanently Altered | | | |
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| Number | Freq. | Summary of Comment | Response |
| A4.10 | 1 | This definition would negate the part of the law that allows things to be done with magazines that have been altered so as to hold no more than 10 rounds. A realistic standard for ease of restoration should be specified. | The Department disagrees with the comment. The statute does not allow for the alteration to be restored. Therefore, such definition would be in conflict with the statute and the Department does not have authority to conflict with the statute. |
| A4.11 | 22 | The definition needs to be reworded because there is nothing irreversible that cannot be fixed, repaired or changed back on a firearm. | The Department agrees that "irreversible" is not synonymous with the word "permanent". The Department has deleted the proposed definition because it believes the phrase "permanently altered" conveys a meaning that is sufficiently understood by reasonable people. None of the alternative definitions considered by the Department added clarity to the inherent meaning of the phrase. |
| A4.12 | 1 | The definition does not specify acceptable methods of implementation and tests of "irreversible change". | The Department agrees the definition lacks clarity. The Department has deleted the proposed definition because it believes the phrase "permanently altered" conveys a meaning that is sufficiently understood by reasonable people. None of the alternative definitions considered by the Department added clarity to the inherent meaning of the phrase. |
| A4.13 | 2 | The regulation should be amended to include a definition that allows the devices to be modified such that they cannot be returned to the original state without the use of specialized tools, machinery, and knowledge not generally available to the average citizen. A simple test of this status should be developed and specified so that the average citizen can quickly and cheaply determine if any change is in compliance with the law. | The Department disagrees with the comment. The statute does not allow for the alteration to be restored. Therefore, such definition would be in conflict with the statute and the Department does not have authority to conflict with the statute. |

| 978.20(d) Permanently Altered | | | |
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| Number | Freq. | Summary of Comment | Response |
| A4.14 | 1 | The term "modification" in the definition of "Permanently Altered" is unclear. | The Department does not agree that the term "modification" is unclear. However, the Department has deleted the proposed definition because it believes the phrase "permanently altered" conveys a meaning that is sufficiently understood by reasonable people. None of the alternative definitions considered by the Department added clarity to the inherent meaning of the phrase. |
| A4.15 | 2 | The definition of "Permanently Altered" says virtually nothing that would be useful to firearms owner, law enforcement or the courts. The department must describe what is a "permanent" alteration. For example, is "welding" deemed to be "permanent?" The statute does not require that "permanent" be "irreversible". If a large capacity detachable magazine is configured by alteration to be identical to a lawful 10 round magazine as newly manufactured, is that acceptable? The definition as proposed is vague and has great potential for unnecessary confusion, arrest and prosecution. It requires revision. The department must state what procedures are "permanent" for the purposes of the new law. | The Department agrees the definition lacks clarity. The Department agrees that the word "irreversible" is not synonymous with the work "permanent". The Department has deleted the proposed definition because it believes the phrase "permanently altered" conveys a meaning that is sufficiently understood by reasonable people. None of the alternative definitions considered by the Department added clarity to the inherent meaning of the phrase. |
| A4.16 | 1 | Death is the only "irreversible change". | The comment addresses neither the statute nor the proposed regulations. However, The Department has determined the phrase "permanently altered" as stated in PC section 12276.1(c)(2) is easily understood by reasonable people. Therefore, the Department believes further specificity is not necessary and has deleted the definition from its regulations. |

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| Number | Freq. | Summary of Comment | Response |
| A4.17 | 1 | The use of the word "irreversible" in its definition, thus making it impossible to "permanently alter" something, alters the meaning of the law, which DOJ does not have the authority to do. | The Department agrees that the word "irreversible" is not synonymous with the word "permanent". The Department has determined the phrase "permanently altered" as stated in PC section 12276.1(c)(2) is easily understood by reasonable people. Therefore, the Department believes further specificity is not necessary and has deleted the definition from its regulations. |
| A4.18 | 1 | Recommended revision: "Permanently Altered" means any change or modification not reversible without extensive use of tools. | The Department disagrees with the comment. The statute does not allow for the alteration to be restored. Therefore, such definition would be in conflict with the statute and the Department does not have authority to conflict with the statute. |
| A4.19 | 1 | The irreversible standard would damage the functionality of the magazine. | The Department disagrees with the comment because the alteration of a magazine does not necessarily damage its functionality. The Department has deleted the proposed definition because it believes the phrase "permanently altered" conveys a meaning that is sufficiently understood by reasonable people. None of the alternative definitions considered by the Department added clarity to the inherent meaning of the phrase. |
| A4.20 | 1 | The proposed definition greatly expands the scope and effect of SB 23 by including firearms not typically classified as "assault weapons" and fails to provide clarity as to the types of firearms that will be banned. | The Department agrees the definition lacks clarity. The Department has deleted the proposed definition because it believes the phrase "permanently altered" conveys a meaning that is sufficiently understood by reasonable people. None of the alternative definitions considered by the Department added clarity to the inherent meaning of the phrase. |
| A4.21 | 1 | The regulation is not adequate in the context of the due process required of a statute that imposes criminal penalties for violation. | The Department has deleted the proposed definition because it believes the phrase "permanently altered" conveys a meaning that is sufficiently understood by reasonable people. None of the alternative definitions considered by the Department added clarity to the inherent meaning of the phrase. |

| 978.20(d) Permanently Altered | | | |
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| Number | Freq. | Summary of Comment | Response |
| A4.22 | 1 | If proposed definition stands, the DOJ should be the single point of approval to pass judgment on proposed alterations by manufacturers, importers, retailers, gunsmiths and owners, or every jurisdiction could impose its own standard. | The Department has deleted the proposed definition because it believes the phrase "permanently altered" conveys a meaning that is sufficiently understood by reasonable people and there is no reason for the DOJ to be the point of approval to pass judgment on proposed alterations. None of the alternative definitions considered by the Department added clarity to the inherent meaning of the phrase. |
| A4.23 | 1 | Definition is purposefully broad and would include alterations made to firearms such as lengthening or shortening the stock to fit the shooter, or the addition of swivels for accuracy. | The Department disagrees with the comment. The comment references firearms and firearms accessories, while the term "permanently altered" refers solely to the capacity of feeding devices. |
| A4.24 | 1 | "Permanently altered" = "Irreversibly changed" = Tautology. | The Department has deleted the proposed definition because it believes the phrase "permanently altered" conveys a meaning that is sufficiently understood by reasonable people. None of the alternative definitions considered by the Department added clarity to the inherent meaning of the phrase. |
| A4.25 | 1 | Recommended revision: one or more parts are modified or replaced so as not to allow more than 10 rounds in any one feeding device. | The Department agrees with the intent of the comment. The Department has deleted the proposed definition because it believes the phrase "permanently altered" conveys a meaning that is sufficiently understood by reasonable people. None of the alternative definitions considered by the Department added clarity to the inherent meaning of the phrase. |
| A4.26 | 1 | Recommended revision: Permanent alteration would require substantial reworking of the magazine structure or replacement of altered parts to restore the magazine to the original capacity. | The Department disagrees with the comment. The statute does not allow for the alteration to be restored. Therefore, such definition would be in conflict with the statute and the Department does not have authority to conflict with the statute. |

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| Number | Freq. | Summary of Comment | Response |
| A4.27 | 1 | Regulation is vague and meaningless. All forms of use, wear and maintenance produce permanent alteration. | The Department agrees the definition lacks clarity. However, the Department disagrees with the relevance of the assertion that all forms of use produce permanent alteration. The Department has deleted the proposed definition because it believes the phrase "permanently altered" conveys a meaning that is sufficiently understood by reasonable people. None of the alternative definitions considered by the Department added clarity to the inherent meaning of the phrase. |
| A4.28 | 1 | The definition is in conflict with legislative intent and the plain reading of the bill. | The Department agrees with the comment. The Department has deleted the proposed definition because it believes the phrase "permanently altered" conveys a meaning that is sufficiently understood by reasonable people. None of the alternative definitions considered by the Department added clarity to the inherent meaning of the phrase. |

Permanently Altered (Deleted)

| Number | Freq. | Summary of Comment | Response |
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| B4.01 | 4 | This definition should not be dropped from the proposed regulations because it is critical that the public know what this term means in order to avoid arrest and prosecution for failing to comply with an undefined mandate. | The Department disagrees with the comment. The Department has deleted the proposed definition because it believes the phrase "permanently altered" conveys a meaning that is sufficiently understood by reasonable people. None of the alternative definitions considered by the Department added clarity to the inherent meaning of the phrase. |
| B4.02 | 1 | Screwing, gluing, welding and riveting are probably as close to "Permanently Altered" as we can get. Recommend that they be given as examples to establish some sort of guideline under this section. | The Department disagrees with the comment. The Department has deleted the proposed definition because it believes the phrase "permanently altered" conveys a meaning that is sufficiently understood by reasonable people. None of the alternative definitions considered by the Department added clarity to the inherent meaning of the phrase. |
| B4.03 | 1 | The DOJ needs to give clear instructions as to what methods of modification are acceptable. | The Department disagrees with the comment. The Department has deleted the proposed definition because it believes the phrase "permanently altered" conveys a meaning that is sufficiently understood by reasonable people. None of the alternative definitions considered by the Department added clarity to the inherent meaning of the phrase. |
| B4.04 | 1 | The proposed definition greatly expands the scope and effect of SB 23 by including weapons not typically classified as 'assault weapons' and fails to provide clarity as to the types of weapons that will be banned. | The Department disagrees with the comment. Permanently altered refers to magazines, not assault weapons. The Department has deleted the proposed definition because it believes the phrase "permanently altered" conveys a meaning that is sufficiently understood by reasonable people. None of the alternative definitions considered by the Department added clarity to the inherent meaning of the phrase. |
| B4.05 | 1 | The failure to define a critical term in SB 23 is not adequate in the context of the due process required of a statute that imposes criminal penalties for violation. | The Department disagrees with the comment. The Department has deleted the proposed definition because it believes the phrase "permanently altered" conveys a meaning that is sufficiently understood by reasonable people. None of the alternative definitions considered by the Department added clarity to the inherent meaning of the phrase. |

Permanently Altered (Deleted)

| Number | Freq. | Summary of Comment | Response |
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| B4.06 | 1 | Consumers must have some guidelines, consistent with the intent of the legislature, to guide them in determining what type of modification would be considered permanent. | The Department disagrees with the comment. The Department has deleted the proposed definition because it believes the phrase "permanently altered" conveys a meaning that is sufficiently understood by reasonable people. None of the alternative definitions considered by the Department added clarity to the inherent meaning of the phrase. |
| B4.07 | 2 | Since the definition has been removed from the regulations, contributor questions whether a weapon can be altered to make it a non-assault type weapon. | The Department disagrees with the comment. Permanently altered refers to magazines, not assault weapons. The Department has deleted the proposed definition because it believes the phrase "permanently altered" conveys a meaning that is sufficiently understood by reasonable people. None of the alternative definitions considered by the Department added clarity to the inherent meaning of the phrase. |
| B4.08 | 1 | Contributor questions how to permanently alter a magazine. | The Department disagrees that the regulation needs to include a method of permanent alteration. The Department has deleted the proposed definition because it believes the phrase "permanently altered" conveys a meaning that is sufficiently understood by reasonable people. None of the alternative definitions considered by the Department added clarity to the inherent meaning of the phrase. |
| B4.09 | 2 | Because there is no definition, varying interpretations will be made as to what constitutes 'permanent alteration'. | The Department disagrees with the comment. The Department has deleted the proposed definition because it believes the phrase "permanently altered" conveys a meaning that is sufficiently understood by reasonable people. None of the alternative definitions considered by the Department added clarity to the inherent meaning of the phrase. |
| B4.10 | 1 | Questions whether there is no such thing as "permanently altered" or is it just being left open to interpretation. | The Department disagrees with the comment. The Department has deleted the proposed definition because it believes the phrase "permanently altered" conveys a meaning that is sufficiently understood by reasonable people. None of the alternative definitions considered by the Department added clarity to the inherent meaning of the phrase. |

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Permanently Altered (Deleted)

| Number | Freq. | Summary of Comment | Response |
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| B4.11 | 1 | Since the definition has been removed from the regulations, no firearm can be altered in any way either temporarily or permanently. | The Department disagrees with the comment. Removal of the definition from the regulations does not alter the statute. Penal Code section 12276.1(c)(2) allows for the permanent alteration of magazines to limit their capacity to no more than 10 rounds. |
| B4.12 | 1 | The Legislature intended for firearm owners to be able to alter their large capacity feeding devices to comply with the law, thus making registration of some firearms unnecessary and resale of firearms possible. | The Department agrees with the comment. Removal of the definition from the regulations does not alter the statute. Penal Code section 12276.1(c)(2) allows for the permanent alteration of magazines to limit their capacity to no more than 10 rounds. |
| B4.13 | 1 | The Legislature specifically recognized that "permanently altered" required further explanation and clarification in order to give firearm owners sufficient guidance in how to bring their property into compliance with the law, and passed responsibility for that clarification to the Department. | The Department disagrees with the comment. The Department has deleted the proposed definition because it believes the phrase "permanently altered" conveys a meaning that is sufficiently understood by reasonable people. None of the alternative definitions considered by the Department added clarity to the inherent meaning of the phrase. |