

INITIAL STATEMENT OF REASONS

PROBLEM STATEMENT

Chapters 5 and 6 in the California Code of Regulations (CCR), title 11, division 5 were originally adopted in 2006. Chapter 5 was based on the legislation of Senate Bill 15 (Chapter 248, Statutes of 1999), regarding unsafe handguns. These chapters were adopted to ensure safety testing was being performed on handguns and firearm safety devices (FSDs), and to clarify the related Penal Code sections. The Department has found that these regulations need to be revised based on new technology and feedback received from the DOJ-Certified Laboratories who perform the testing.

BENEFITS

The proposed regulations provide references for revised forms, and further clarification on the testing procedures for handguns and FSDs. With revised regulations in place, the products placed on the Departments' Roster of Handguns Certified for Sale, and Roster of Firearm Safety Devices Certified for Sale will have been tested more accurately and lead to fewer unsafe incidents.

PURPOSE AND NECESSITY

§ 4049. Definition of Key Terms

This section defines multiple terms which are necessary in reading Chapter 5 of these regulations. Subdivision (c) defines "completed application" which includes the Laboratory Certification (Handgun Testing), Form BOF 019 (Rev. 07/2018). This form has been revised and is incorporated by reference. This form was listed in the regulations previously but the name has been changed and the form has been revised.

Subdivision (d) defines "compliance test report" which includes the Compliance Test Report (Handguns), Form BOF 021 (Rev. 07/2018). This form has been revised and is incorporated by reference. This form was listed in the regulations previously but the name has been changed to reflect the correct name, and the form has been revised.

Subdivision (q) adds the definition of "primed case." This term is discussed throughout Chapter 5 and this addition provides a clear definition of the item.

Subdivisions (v) and (w) have been revised to include the correct name for the Roster of Handguns Certified for Sale. The Department wants to be consistent with their naming conventions.

Additionally, many other subdivisions in this section have been re-lettered so the additional term could be added in alphabetical order.

§ 4050. Who Must Be DOJ-Certified.

Subdivision (b) requires submission of Laboratory Certification (Handgun Testing), Form BOF 019 (Rev. 07/2018), which is incorporated by reference. This form was listed in the regulations previously but the name has been changed and the form has been revised. This subdivision was updated to clarify that written notification shall be made to the BOF within 10 days of any proposed change in ownership. This was added for consistency throughout the regulations, as this is a requirement for Certified Firearm Safety Device laboratories but was not listed for laboratories wishing to participate in the California Handgun Testing Program.

§ 4051. Application for DOJ-Certification.

This section requires submission of Laboratory Certification (Handgun Testing), Form BOF 019 (Rev. 07/2018), which is incorporated by reference. This form was listed in the regulations previously but the form has now been revised.

Subdivisions (a) through (k) have been removed as they tell what information is needed on the form. Since the form is incorporated by reference, this information is not necessary.

§ 4052. Pre-DOJ-Certification Requirements.

Subdivision (b) was added to specify that applicant laboratories and existing certification holders subject to renewal must have a valid Federal Firearms License (FFL). The Department requires laboratories to maintain a FFL status because they receive shipments of firearms directly from manufacturers. Penal Code sections 26525 and 26700 state that in order to obtain a dealer license to sell firearms, or receive shipments of firearms, you must have a federal firearms license.

The numbering of subdivision (b) was changed to (c) to reflect the addition of new subsection (b). Subdivision (c)(3) of this section lists testing equipment that must be made available for Department staff to inspect. Items (i) (ii) and (iii) re-letters to (A), (B) and (C) to match the structure of the regulations. Subdivisions (B) and (C) were moved under (3)(A) as items (i) and (ii), since these regulations deal only with drop test fixtures.

Subdivision (c) was renumbered to subdivision (d) to reflect the addition of new subsection (b).

§ 4053. Grounds for Denial.

Subdivision (a)(3) of this section has added language regarding financial support of a laboratory to make it clear that being an FFL does not affect the grounds for denial of an initial application of a laboratory to become DOJ-Certified.

Subdivision (a)(5) of this section previously required that a DOJ-Certified Laboratory be a Certificate of Eligibility (COE) holder. The language was revised to clarify that a DOJ-Certified Laboratory must also have the required COE(s) as a condition of maintaining the certification, not just to obtain the initial certification.

Subdivision (a)(6) has been added to state that the laboratory must also obtain and maintain their Federal Firearms License (FFL) status. The Department requires laboratories to maintain a FFL status because they receive shipments of firearms directly from manufacturers. Penal Code sections 26525 and 26700 state that in order to obtain a dealer license to sell firearms, or receive shipments of firearms, you must have a federal firearms license.

Subdivision (a)(6) was renumbered to (a)(7) to reflect the addition of the new (a)(6).

Subdivision (a)(7) was renumbered to (a)(8) to reflect the addition of the new (a)(6).

Subdivision (a)(8) was renumbered to (a)(9) to reflect the addition of the new (a)(6).

Subdivision (a)(9) was renumbered to (a)(10) to reflect the addition of the new (a)(6).

Commas were added to subdivision (a)(9) for clarity.

A comma was added to subdivision (c) for clarity.

§ 4057. Security and Safety.

Subdivision (a)(1)(A) previously referenced Underwriters Laboratories Residential Security Container rating standards by a Nationally Recognized Testing Laboratory (NRTL), which has been revised. The Department wanted to make it clear that if a laboratory had a safe in place prior to July 1, 2018 that met the Underwriters Laboratories Residential Security Container rating standards at that time, it is still acceptable to use that safe. It has also been added that a current DOJ-Certified Laboratory, or newly certified laboratory as of July 1, 2018, shall only use safes that meet the new Underwriters Laboratories Standards for Antitheft Alarms and Devices under 1037 Edition 6 standards by a NRTL dated September 15, 2017. Additionally, the Department purchased a copy of the standard, but is not allowed to further duplicate the standard, so information on how to obtain a copy or review the standard has been included. The language was modeled after existing regulations with a similar situation.

Subdivision (a)(4) was revised to reference the California Penal Code for clarity.

Subdivision (a)(6) was revised to include reference to DOJ-Certified Laboratory Theft Report (Handguns), Form BOF 022 (Rev. 07/2018), which is incorporated by reference. This form specifies how laboratories shall report lost or stolen handguns to the DOJ.

§ 4060. Testing Procedures.

Subdivision (a) has added language to clarify that when a laboratory is using an approved off site testing location, the staff members at that location, who are not part of the DOJ-Certified Laboratory, are allowed to be present during any testing.

A comma was added to subdivision (e) and “indicating” was changed to “indicate” for clarity.

A comma was added to subdivision (f) and (f)(3) for clarity.

Subdivision (h)(2) was amended to change “photographs” to “images” for consistency and clarity throughout the regulations.

Commas were added to subdivisions (i) and (i)(2) for clarity.

In subdivision (j), commas were added and “and/or” was repealed for clarity.

§ 4061. Test Reporting.

Subdivision (a) requires submission of Compliance Test Report (Handguns), Form BOF 021, which is incorporated by reference. This form was listed in the regulations previously but the name has been changed and the form has been revised. Additionally, this section has added the detail of the number of digital images to provide and areas of the firearm that should be captured, per the requirement of digital images in current regulations, section 4060, subdivisions (e), (g), and (h).

Subdivision (b) has been added to outline the documentation required of a firearm that fails any laboratory test.

Subdivision (c) was amended to reference the Compliance Test Report (Handguns), Form BOF 021, instead of the Compliance Test Report. The language was revised for clarity.

Existing subdivisions (b) and (c) were re-lettered to accommodate the addition of subdivision (b).

§ 4062. Required Records, Retention Periods, Reporting Changes

This section requires submission of Laboratory Certification (Handgun Testing), Form BOF 019 (Rev. 07/2018), which is incorporated by reference. This form was listed in the regulations previously but has now been revised.

Subdivision (a) was amended to reference Compliance Test Report (Handguns), Form BOF 021 for clarity.

Subdivisions (a)(1) through (a)(13) have been removed as they tell what information is needed on the form. Since the form is incorporated by reference, this information is not necessary.

Subdivision (d)(1) details an instance when Laboratory Certification (Handgun Testing), Form BOF 019 (Rev. 07/2018) could not be grounds for denial. This form was listed in the regulations previously but the name has been changed and the form has been revised.

§ 4063. Off-Site Location

Subdivision (b) details the use of a form to request using an off-site location, Request to Utilize an Additional Off-Site Location (Handgun Testing), Form BOF 020 (Rev. 07/2018), which is incorporated by reference. This form was listed in the regulations previously but the name has been changed and the form has been revised.

§ 4065. Application Fees.

This section details the fees associated with applying to be a DOJ-Certified Laboratory and the necessary inspections of the laboratory by the Department. The current language is confusing so it has been revised for clarity.

Subdivision (b) has been renamed “application fees” and number (1) requires the application for certification, Laboratory Certification (Handgun Testing), Form BOF 019 (Rev. 07/2017), which is incorporated by reference. This form was listed in the regulations previously but the name has been changed and the form has been revised. Number (2) has been moved from number (3) so that it is included under the “application fee section.” Additionally the Form BOF 019 has been revised and changed names.

Subdivision (c) has been renamed “standard inspection fees.” Number (1), was previously number (2), and has added language to note the fee for inspection is per DOJ employee. This was not clear before. Number (4) has been renumbered (2). Subdivision (c)(1) was revised to remove “actual” and subdivision (c)(2) was revised to remove “actual reasonable,” when referring to the costs, for clarity and consistency throughout the regulations.

§ 4066. DOJ-Certification Revocation.

Subdivision (d) has been added to indicate that if the laboratory does not maintain their FFL or COE, it is grounds for suspension and possibly revocation, pending the outcome of the revocation process detailed in section 4066 subdivision (b). As previously stated, Penal Code sections 26525 and 26700 states that in order to obtain a dealer license or to sell firearms you must have a federal firearms license and receiving shipments of firearms makes you a dealer. Since firearms are shipped directly from the manufacturer to the laboratory, they are receiving shipments, hence the need for the FFL and COE.

§ 4067. DOJ-Certification Renewal Procedures.

Subdivision (b) requires the use of Laboratory Certification (Handgun Testing), Form BOF 019 (Rev. 07/2018), which is incorporated by reference. This form was listed in the regulations previously but the name has been changed and the form has been revised.

§ 4068. DOJ-Certification After Expiration.

This section requires the use of Laboratory Certification (Handgun Testing), Form BOF 019 (Rev. 07/2018), which is incorporated by reference. This form was listed in the regulations previously but the name has been changed and the form has been revised.

Article 9. Roster of Handguns Certified for Sale; Roster of Handguns Certified for Sale Listing Renewal Procedures.

The title of Article 9 has been changed to reflect the correct name of the Roster of Handguns Certified for Sale. Additionally, the new name will also match the name of the corresponding forms and help to maintain consistency throughout these regulations.

§ 4070. Roster of Handguns Certified for Sale.

The title of this section has been revised to reflect the correct name of the Roster of Handguns Certified for Sale. Additionally, the new name will also match the name of the corresponding forms, and the Article 9 title as well as to maintain consistency throughout these regulations.

Subdivision (a) previously stated that within 10 days of receipt of the report and sample handgun, the Department will determine whether the handgun submitted is not unsafe and may be sold in California. Ten days was not enough time to make this determination and the time has been increased to 30 days. The referenced Compliance Test Report (Handguns), Form BOF 021 (Rev. 07/2018), which is incorporated by reference, has been revised and the name was revised to reflect the correct name of the form. The language, “the listing will be valid during the calendar year in which payment was received, ending December 31 of that year,” has been added to conform to Penal Code section 32015(b)(1) which states that the annual fee shall be paid on January 1, or the next business day, of every year, in order to maintain status on the Roster.

Subdivision (b) previously stated that within 10 days of receipt of the initial annual listing fee and request to have a handgun listed on the Roster pursuant to Penal Code section 32030, the Department will determine whether the handgun may be listed without testing. Ten days was not enough time to make this determination and the time has been increased to 30 days. Also, the language, “the listing will be valid during the calendar year in which payment was received, ending December 31 of that year,” has been added to conform to Penal Code section 32015(b)(1) which states that the annual fee shall be paid on January 1, or the next business day, of every year, in order to maintain status on the Roster.

The subpoints of subdivision (c) were reordered for clarity.

Subdivision (e) has been revised to state that, “the listing will be valid during the calendar year in which payment was received, ending December 31 of that year.” This has been added to conform to Penal Code section 32015(b)(1) which states that the annual fee shall be paid on January 1, or the next business day, of every year, in order to maintain status on the Roster.

Additionally, it has been added that the current sample of the approved handgun shall be provided to the Department and that the Department will keep it indefinitely. This was added to ensure compliance with Penal Code section 32030 and these regulations.

§ 4071. Roster of Handguns Certified for Sale; Listing Renewal Procedures.

The title of this section has been revised to reflect the correct name of the Roster of Handguns Certified for Sale. Additionally, the new name will also match the name of the corresponding forms, and the Article 9 title, as well as to maintain consistency throughout these regulations.

Subdivision (c) has been updated to state the Department will inform manufacturers that the renewal request was approved by updating the Roster of Certified Handguns on the Bureau of Firearms (BOF) website.

Subdivision (d) has been updated to delete “will be” for clarity.

§ 4082. Definition of Key Terms.

Subdivision (b) has been revised to list the correct name of the DOJ-Certified Laboratory and to maintain consistency throughout these regulations.

Subdivision (d) has been revised to include specific sizes of screwdrivers that should be used, and to add numerous items considered “common household tools” which have been used to defeat a Firearm Safety Device (FSD).

Subdivision (e) defines for Laboratory Certification (Firearm Safety Device Testing), Form BOF 019A (Rev. 07/2018), which is incorporated by reference. This form was listed in the regulations previously but the name has been changed and the form has been revised.

Subdivision (f) renamed the “Compliance Test Report” definition and was updated to reference the associated Compliance Test Report (Firearm Safety Devices), Form BOF 021A.

Subdivisions (f) through (p) have been re-lettered to place the definitions in alphabetical order.

Subdivision (w) adds the definition of “primed case.” This term is discussed throughout Chapter 5 and this addition provides a clear definition of the item.

Subdivisions (t) through (y) have been re-lettered to continue placing the definitions in alphabetical order. Additionally subdivision (z) provides the correct name for the Department’s Roster of Firearm Safety Devices Certified for Sale.

Subdivision (aa) has been added to define the term “similar” as it is used in reference to these regulations.

§ 4083. Who Must be a DOJ-Certified Laboratory

The title of this section has been revised to reflect the correct name of the DOJ-Certified Laboratory. Additionally, the new name will maintain consistency throughout these regulations

Subdivision (a) has been revised to reflect the correct names of the California Firearm Safety Device testing program and the DOJ-Certified Laboratory in order to maintain consistency throughout these regulations.

Subdivision (b) has been revised to reflect the correct name of the DOJ-Certified Laboratory in order to maintain consistency throughout these regulations. The subdivision also requires the use of Laboratory Certification (Firearm Safety Device Testing), Form BOF 019A (Rev. 07/2018), which is incorporated by reference. This form was listed in the regulations previously but the name has been changed and the form has been revised. Additionally, it was added that when there

is a change in the ownership of five percent or more of a Certified FSD Laboratory, BOF shall be notified within 10 days of the change. This time stipulation was added because laboratories were not informing the Department when there was a change in ownership, which could potentially lead to the laboratory no longer having someone who is a COE or FFL, as is required. As previously stated, the Department requires laboratories to maintain a FFL status because they receive shipments of firearms directly from manufacturers. Penal Code sections 26525 and 26700 states that in order to obtain a dealer license, sell firearms, or receive shipments of firearms, you must have a federal firearms license.

§ 4084. Application for Laboratory Certification.

The title of this section has been changed to remove “Firearm Safety Device” as the certification is for any laboratory, not specific to FSDs or handguns.

This section requires the use of Laboratory Certification (Firearm Safety Device Testing), Form BOF 019A (Rev. 07/2018), which is incorporated by reference. This form was listed in the regulations previously but the name has been changed and the form has been revised.

Subdivisions (a) through (i) have been removed. These subdivisions are not needed to detail what is on the form because the form has been incorporated by reference.

§ 4085. Pre-Certification Requirements.

Subdivision (c) was added to ensure that new and existing applicants obtain and maintain their FFL so they may be in compliance. As previously stated, the Department requires laboratories to maintain a FFL status because they receive shipments of firearms directly from manufacturers. Penal Code sections 26525 and 26700 states that in order to obtain a dealer license or to sell firearms you must have a federal firearms license and receiving shipments of firearms makes you a dealer.

§ 4086. Grounds for Denial.

In subdivision (a) the term “FSD” was removed as it is no longer part of the identification of a certified laboratory. The application name was revised to more clearly reference the Application for Laboratory Certification (Firearm Safety Device Testing). In number (3), language has been added regarding financial support of a laboratory that is a FFL to make it clear that being an FFL does not affect the grounds for denial of an initial application of a laboratory to become DOJ-Certified. Number (5) was revised to ensure that laboratories know they need to renew their COE. Number (6) was added to ensure laboratories know they must obtain and maintain a FFL. The additional numbers were changed to accommodate the addition of number (6). As previously stated, the Department requires laboratories to maintain a FFL status because they receive shipments of firearms directly from manufacturers. Penal Code sections 26525 and 26700 states that in order to obtain a dealer license or to sell firearms you must have a federal firearms license and receiving shipments of firearms makes you a dealer. Numbers (7) through (10) were renumbered to allow for the addition of number (6). Numbers (8) and (9) have been reworded to make the language stronger in the event there is a legal issue.

Subdivision (b) has been reworded for clarity.

§ 4090. Absence of Conflict of Interest.

The name of the Certified Laboratory has been changed to DOJ-Certified Laboratory as the certified laboratories are not specific to testing handguns or FSDs. They often test both.

Subdivision (a) has added language regarding financial support of a laboratory that is a FFL to make is clear that being an FFL does not affect the grounds for denial of an initial application of a laboratory to become DOJ-Certified.

Subdivision (b) and number (1) have been reworded to make the language stronger in the event there is a legal issue. Number (3) has been removed as it is no longer necessary because it is covered in subdivision (b).

§ 4093. Firearm Safety Device Testing and Submission Requirements

Subdivision (a) has been revised to reflect the correct name of the Roster of Firearm Safety Devices Certified for Sale. Additionally, the new name will also match the corresponding forms and maintain consistency throughout these regulations.

Subdivision (b) indicates the name of the Certified Laboratory has been changed to DOJ-Certified Laboratory as the certified laboratories are not specific to testing handguns or FSDs. Also, (b) has been changed to clarify that a maximum of four devices shall be submitted. The number of devices depend on what type of FSD it is and what tests are applicable to that device. It also notes the addition of a new section, 4095.1, which details the FSDs needed for each test. Number (1) was modified to state that the FSD submitted must bear the manufacturer's model name and make, so that it is clear what FSD is being submitted for testing. Number (3) was revised to ensure that the FSD includes operating instructions that are readable, so that the laboratory will know how the device is intended to function. Number (5) was added to ensure that if batteries are needed to operate the FSD, they will be sent to the laboratory by the manufacturer.

Subdivision (c) number (2) has been revised to reflect the correct name of the Roster of Firearm Safety Devices Certified for Sale. Additionally, the new name will also match the corresponding forms and maintain consistency throughout these regulations. Letter (A) adds silk-screening as an option of the FSD finish. This was included as silk-screening on a FSD has become more prevalent. Letter (B) adds the language including when the dimensional changes do not alter the size of the door and/or the locking bolts. This was necessary as safe manufacturers will often inquire about slight tweaks to their products. Subdivision (c)(3)(A) and (c)(3)(B) were revised to reference the manufacturer model name and model number for consistency and clarity throughout the regulations. Subdivision (c)(3)(D) has been added to detail the requirements for submitting an FSD for testing, the form that shall be used, and that proof is needed of the CEO or owner of the company that is submitting the form and FSD. In the past there has been some confusion as to who the current CEO or owner was.

§ 4094. Firearm Safety Device Standards

Subdivision (b) has added the instruction to the laboratory to use the smallest handgun available for testing a lock box or fully enclosed FSD. This was added because some labs have multiple handguns in their inventory. If, during testing, the laboratory used the largest firearm in their inventory, the test might not reflect smaller guns in the market that are owned by citizens.

§ 4095. Testing Procedures.

This section has been revised to discuss testing procedures, and the actual detail of the tests to be performed have been moved to a new section. The actual tests and the testing sequence were moved to new section 4095.1. This was done for clarity, and to re-order the sequence of tests so that it was clear how many FSDs are used depending on type of FSD and the type of tests that need to be performed.

Subdivision (a) indicates the name of the Certified Laboratory has been changed to DOJ-Certified Laboratory as the certified laboratories are not specific to testing handguns or FSDs.

Subdivision (b)(4) was revised to include a new standard that replaces the old one previously used. Additionally, the Department purchased a copy of the standard, but is not allowed to further duplicate the standard, so information on how to obtain a copy or review the standard has been included. The language was modeled after existing regulations with a similar situation. Number (11) discusses the new test and sequence section. Number (12) was reworded for clarity.

Subdivisions (c) through (f) were removed because they have been moved to section 4095.1 of these regulations. This was to provide clarity and group all the testing together and to provide the sequence of testing.

§ 4095.1. Firearm Safety Device Tests and Testing Sequence.

The detail of the tests was moved into this new section so that we could list them in testing sequence order and identify the amount of FSDs the manufacturer will be required to submit.

Subdivision (a) details the first test sequence. One FSD is to be used for the tests in this subdivision. The tests outlined in this subdivision are the manipulate or pick test, the tensile test, the shock impact test, and the shackle or cable cutting test. The tests are designed to replicate the force of a child 17 years old and younger using common household tools to defeat the FSD. Additionally, there are standards referenced in number (4) of this subdivision but the Department is not allowed to further duplicate the standard, so information on how to obtain a copy or review the standard has been included. The language was modeled after existing regulations with a similar situation.

Subdivision (b) details the second test sequence. One FSD is to be used for the tests in this subdivision. The tests outlined in this subdivision are the plug torque test, the forced removal test, and the forced entry test. The tests involve trying to pull or pry the FSD apart.

Subdivision (c) details the third test sequence. One FSD is to be used for the tests in this subdivision. The tests outlined in this subdivision are the sawing test, and the plug pulling test. The tests involve sawing the FSD and testing a cylinder lock's ability to withstand a pulling force.

Subdivision (d) details the fourth test sequence. One FSD is to be used for the tests in this subdivision. The test outlined in this subdivision is the drop test. The test involves dropping a firearm with an FSD attached at varying angles in an attempt to defeat the FSD.

Subdivision (e) further details what constitutes failure of a device that is being tested.

§ 4096. Test Reporting.

Subdivision (a) requires the use of Compliance Test Report (Firearm Safety Devices), Form BOF 021A (Rev. 07/2018), which is incorporated by reference. This form was listed in the regulations previously but the name has changed and the form has now been revised. Additionally, this subdivision states the procedures the DOJ-Certified Laboratory must take if a device fails the testing and the form that shall be used.

Subdivision (b) indicates the name of the Certified Laboratory has been changed to DOJ-Certified Laboratory as the certified laboratories are not specific to testing handguns or FSDs.

Subdivision (c) adds that manufacturers or dealers are also prohibited from placing any logos or stickers on the FSD itself or the box or packaging. This is necessary because the Department has found that some manufacturers or dealers are using labeling to indicate an item is approved by the Department, when it is not. Additionally, this subdivision indicate the proper name for the Roster of Firearm Safety Devices Certified for Sale.

§ 4097. Required Records, Retention Periods, Reporting Changes.

Subdivision (a) indicates the name of the Certified Laboratory has been changed to DOJ-Certified Laboratory as the certified laboratories are not specific to testing handguns or FSDs. It also requires the use of Compliance Test Report (Firearm Safety Devices), Form BOF 021A (Rev. 07/2018), which is incorporated by reference. This form was listed in the regulations previously but the name has changed and the form has now been revised. Also, number (1) through (15) have been removed because the form that is incorporated by reference indicates all the information that is necessary.

Subdivision (b) indicates the name of the Certified Laboratory has been changed to DOJ-Certified Laboratory as the certified laboratories are not specific to testing handguns or FSDs. This subdivision was also revised to specify that the requirement is for a listing of any and all current off-site facilities, as the current regulations do not specify whether current or previous facilities are required to be listed.

Subdivision (c) also indicates the name of the Certified Laboratory has been changed to DOJ-Certified Laboratory as the certified laboratories are not specific to testing handguns or FSDs. Additionally, it adds that when a Certified FSD Laboratory has any changes in the ownership, involvements, or relationships, it is required to report that to the Department within 10 days, or their certification could be revoked. The Department has encountered issues where there was a staffing change at the laboratory and the COE or FFL holder was no longer employed there, thus making the laboratory out of compliance. Additionally, numbers (1) and (2) indicated required forms that have changed names and been revised.

§ 4098. Off-Site Location.

Subdivision (a) indicates the name of the Certified Laboratory has been changed to DOJ-Certified Laboratory as the certified laboratories are not specific to testing handguns or FSDs.

Subdivision (b) also indicates the name of the Certified Laboratory has been changed to DOJ-Certified Laboratory as the certified laboratories are not specific to testing handguns or FSDs. Additionally, this subdivision requires the use of Request to Utilize an Additional Off-Site Location (Firearm Safety Device Testing), Form BOF 020A (Rev. 07/2018), which is incorporated by reference. This form was listed in the regulations previously but the name has been changed and the form has now been revised.

§ 4099. Inspections.

Subdivisions (a) and (c) indicate the name of the Certified Laboratory has been changed to DOJ-Certified Laboratory as the certified laboratories are not specific to testing handguns or FSDs.

Subdivision (e) has been removed because it is not necessary. It required a DOJ-Certified Laboratory submit to the Department a monthly testing schedule. Now, laboratories are required to report all testing that is performed, pass or fail.

§ 4100. Gun Safes: Standards, Proof of Ownership, and Lock Boxes

This section's title has been changed to include to pluralize gun safes, and add standards, proof of ownership, and lock boxes. This was necessary to better identify what the section is about, and to include mention of subdivisions that were added.

The subdivisions have been re-lettered and renumbered to better match the organizational hierarchy of the CCR.

Subdivision (a)(2) previously referenced Underwriters Laboratories Residential Security Container rating standards by a Nationally Recognized Testing Laboratory (NRTL), which has been revised. The Department wanted to make it clear that if a laboratory had a safe in place prior to July 1, 2018 that met the Underwriters Laboratories Residential Security Container rating standards at that time, it is still acceptable to use that safe. It has also been added that a current DOJ-Certified Laboratory, or newly certified laboratory as of July 1, 2018, shall only use safes that meet the new Underwriters Laboratories Standards for Antitheft Alarms and Devices under 1037 Edition 6 standards by a NRTL dated September 15, 2017. Additionally, the Department purchased a copy of the standard, but is not allowed to further duplicate the standard, so information on how to obtain a copy or review the standard has been included. The language was modeled after existing regulations with a similar situation.

Subdivisions (b), (c), (d), and (e) have been added, from sections 4101 and 4102, to explain how a firearms purchaser or transferee can establish proof of ownership of an acceptable gun safe or lock box that they already own. The purchaser or transferee will be required to state, under penalty of perjury, that their previously owned gun safe meets the current standards to safely house their new firearm. Penal Code section 23635 states that any firearm sold or transferred in California must be accompanied by a FSD that is listed on the Department's Roster of Firearm Safety Devices Certified for Sale, unless they own a gun safe or lock box that meets the standards set forth in Penal Code 23650. The requirements to establish proof of ownership are not listed in the Penal Code, therefore it was necessary to add them to these regulations.

Penal Code section 23635 was added to the note as an authority because this section of the Penal Code states that approved FSDs must accompany a firearm that is sold or transferred and how to provide proof of ownership of an approved gun safe that is already in the purchaser/transferee's possession. The regulations are not duplicative as they clarify the Penal Code.

§ 4101. Gun Safe Proof of Ownership of an Acceptable Gun Safe

This section has been removed and incorporated in the previous section 4100. Since the section was so similar in substance to the previous section it made sense to combine them.

§ 4102. Lock Box Proof of Ownership of an Acceptable “Lock Box” Type Firearm Safety Device

This section has been removed and incorporated in the previous section 4100. Since the section was so similar in substance to the previous section it made sense to combine them.

§ 4105. Firearm Safety Device Laboratory Certification Renewal Procedures.

The title of this section has been revised to reflect the correct name of the DOJ-Certification. The new name will help maintain consistency throughout the regulations. This section was also revised to indicate that the name of the FSD Laboratory Certification has been changed to DOJ-Certification.

Subdivision (b) indicates the name of the Certified Laboratory has been changed to DOJ-Certified Laboratory as the certified laboratories are not specific to testing handguns or FSDs. Additionally, this subdivision requires the use of Laboratory Certification (Firearm Safety Device Testing), Form BOF 019A (Rev. 07/2018), which is incorporated by reference. This form was listed in the regulations previously but the name has been changed and the form has now been revised.

§ 4106. Firearm Safety Device Laboratory Certification After Expiration.

The title of this section has been revised to reflect the correct name of the DOJ-Certification. The new name will help maintain consistency throughout the regulations.

This section requires the use of Laboratory Certification (Firearm Safety Device Testing), Form BOF 019A (Rev. 07/2018), which is incorporated by reference. This form was listed in the regulations previously but the name has been changed and the form has now been revised.

§ 4107. Service of Notices, Orders, and Communications.

Subdivision (a) requires the use of Laboratory Certification (Firearm Safety Device Testing), Form BOF 019A (Rev. 07/2018), which is incorporated by reference. This form was listed in the regulations previously but has now been revised.

Article 8. Roster of Firearm Safety Devices Certified for Sale, Appeal Process

The title of Article 8 has been changed to reflect the correct name of the Roster of Firearm Safety Devices Certified for Sale. Additionally, the new name will also match the name of the corresponding forms and help to maintain consistency throughout these regulations.

§ 4108. Roster of Firearm Safety Devices Certified for Sale.

The name of this section has been changed to reflect the correct name of the Roster of Firearm Safety Devices Certified for Sale. Additionally, the new name will also match the name of the corresponding forms and help to maintain consistency throughout these regulations.

Subdivision (a) has changed the time the Department has to determine whether an FSD may be placed on the Roster from 10 days to 30 days. It has been determined that 10 days is not enough time to make this determination. Also, this subdivision requires the use of Compliance Test Report (Firearm Safety Devices), Form BOF 021A (Rev. 07/2018), which is incorporated by reference. This form was listed in the regulations previously but the name has been changed and the form has now been revised. Additionally, the correct name for the Roster of Firearm Safety Devices Certified for Sale has been revised.

Subdivision (b) has also changed the time the Department has to determine whether a similar FSD may be placed on the Roster without testing from 10 days to 30 days. It has been determined that 10 days is not enough time to make this determination.

Subdivision (c) has been changed to reflect the correct name of the Roster of Firearm Safety Devices Certified for Sale. Additionally, the new name will also match the name of the corresponding forms and help to maintain consistency throughout these regulations.

AUTHORITY AND REFERENCE

California Penal Code section 23650 states the Attorney General shall develop regulations to implement a minimum safety standard for firearm safety devices (FSDs) and gun safes to significantly reduce the risk of firearm-related injuries to children 17 years old and younger. Penal Code section 32030(c) states the Department of Justice (Department) may, in its discretion and at any time, require a manufacturer to provide to the Department any model of firearm for which listing is sought under this section, to determine whether the model complies with the requirements of this section. Furthermore, Penal Code section 32010 states the Department shall certify laboratories to verify compliance with the standards defined in Section 31910. Therefore, in order to comply with the above mentioned sections, it is necessary for the Department to revise the existing Chapters 5 and 6, in the California Code of Regulations (CCR), title 11, division 5.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The Department relied on the experience of operating the Roster of Handguns Certified for Sale, program since January 2001, and the Roster of Firearm Safety Devices Certified for Sale program since January 2002, in addition to corresponding with DOJ-Certified Laboratories. Also the Department relied on information from the following sources:

“Baseline Specifications for Law Enforcement Service Pistols with Security Technology,” National Institute of Justice, November 2016.

“Best Biometric Gun Safes,” by Jaime, gunsafereviewsguy.com/buyers-guide/best-biometric-gun-safe/ December 19, 2016.

Connecticut Statutes of 2013, Title 29, Chapter 529, sections 29-33, “Sale, delivery or transfer of pistols and revolvers. Procedure. Penalty.”

Massachusetts, General Laws, Part I, Title XX, Chapter 140, section 131K: “Firearms or large capacity weapons without safety devices; liability.”

Penal Code section 25850, Amended by Statutes of 2011, Chapter 15, Section 544.

Statutes of 1999, Chapter 246, (Assembly Bill 106)

ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Department has determined the proposed regulations will not have a significant adverse economic impact. The Department concludes it is unlikely the proposed regulations will affect:

- (1) The creation or elimination of jobs within California because all of the current DOJ-Certified Laboratories are located outside of California;
- (2) The creation of new businesses or the elimination of existing businesses within California, because all of the current DOJ-Certified Laboratories are located outside of California;
- (3) The expansion of businesses currently doing business within California because all of the current DOJ-Certified Laboratories are located outside of California. It is not known if future laboratories who wish to become DOJ-Certified will be located within California, or outside of California.

Additionally, these regulations will not have a benefit or worker safety or the state’s environment in California. However, these regulations will benefit the health and welfare of California residents, in that there is further clarification of the testing procedures for handguns and FSDs. With revised regulations in place, the products placed on the Departments’ Roster of Handguns Certified for Sale, and Roster of Firearm Safety Devices Certified for Sale will have been tested more accurately and lead to fewer unsafe incidents thus benefiting the health and welfare of California citizens.

By eliminating the requirement of using a drop test fixture to perform the test on larger safes the laboratories will save money. This should have an insignificant impact on the local economy that sold the items that were previously required for this test.

There will be a savings to gun safe manufacturers who need to ship large safes (over 75 pounds) to the laboratories. Previously they were required to send four FSDs for testing, and now they only need to send three FSDs due to the new drop test standards. This will also provide a savings to the laboratories not having to store and dispose of additional safes.

The time for the manipulation and pick tests has increased, leading to a potential increase in laboratory staff costs, but it is an additional four to six minutes, so fiscal impact would be minimal.

Manufacturers are now required to supply batteries to laboratories if their FSD requires them, slightly increasing their costs. Conversely, the laboratories no longer need to purchase the batteries, so this will be a cost savings to them.

The laboratories are now required to use additional common household tools on some of the tests, but the items listed are of minimal cost and the laboratories may already possess the items.

The laboratories are now required to provide Compliance Test Reports, pass or fail, to the Department. This should be an insignificant impact because the laboratories were already providing these reports to the manufacturers. We have just added that they provide to the Department as well.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Department has determined that the proposed regulations will not have a significant, statewide, adverse economic impact affecting business for the reasons explained in the preceding section. Furthermore, any economic impact will most likely not occur in California.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES

No reasonable alternatives to the regulations were presented to, or considered by the Department, that would be either more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESSES, AND THE AGENCY'S REASONS FOR REJECTING THEM

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