

Title 11, Division 5, Chapter 5, Department of Justice Regulations for Laboratory Certification and Handgun Testing

ARTICLE 1. GENERAL: TITLE; SCOPE; EXTENSIONS FOR COMPLIANCE

4046. Title.

This chapter shall be known as "The Department of Justice Regulations for the Laboratory Certification and Handgun Testing Programs," may be cited as such, and is referred to herein as "these regulations."

Note: Authority cited: Sections 12129-12131.5, Penal Code. Reference: Sections 12126-12133, Penal Code.

4047. Scope.

The provisions of these regulations will implement, interpret, and make specific the laboratory certification and handgun testing programs mandated by California Penal Code ss 12125 through 12133 which became effective January 1, 2000. These regulations will also establish procedures to create and maintain both a roster of DOJ-Certified Laboratories and a roster of certified handguns. These regulations will apply to any person, firm, and/or corporation who wishes to become certified as a handgun testing laboratory and, with specified exemptions, to any person in this state who manufactures or causes to be manufactured, imports into the state for sale, keeps for sale, offers or exposes for sale, gives, or lends any pistol, revolver, or other firearm capable of being concealed upon the person.

Note: Authority cited: Sections 12125-12133, Penal Code. Reference: Sections 12126-12129, Penal Code.

4048. Extensions for Compliance.

If a DOJ-Certified Laboratory provides written proof that through no fault of its own it is not able to meet a deadline provided for in these regulations, the DOJ may grant a temporary extension of time to meet that deadline. Any such extension will be in writing and will designate a specific time period for the extension.

Note: Authority cited: Sections 12129-12131.5, Penal Code. Reference: Sections 12129-12131.5, Penal Code.

ARTICLE 2. DEFINITION OF KEY TERMS

4049. Definition of Key Terms.

(a) "BATF" means the United States Department of the Treasury, Bureau of Alcohol, Tobacco, and Firearms.

(b) "COE" means a Certificate of Eligibility issued by the California Department of Justice (DOJ) pursuant to subdivision (a)(4) of Penal Code s 12071 after a check of state and federal files has determined that at the time the check was performed, and based upon available information, the applicant was not a person who was prohibited from possessing firearms pursuant to state and federal laws.

(c) "Completed Application" means: a completed Application for DOJ-Certification, Form FD 019 (Rev. 6-00), including application Attachments A, B, and C; copies of any applicable licenses and/or certificates; any additional sheets used to provide full and complete answers to questions on the application; copies of the laboratory's written procedures relating to security and prohibited persons; and the application fee.

(d) "Compliance Test Report" means a report completed by a DOJ-Certified Laboratory after a handgun model has met the requirements of Penal Code ss 12127 and 12128 and these regulations.

(e) "Corporation" means any entity organized under California Corporations Code s 102 (a) or similar statute if not a California corporation.

(f) "Day" means a calendar day unless otherwise specified in these regulations.

(g) "DOJ" means the California Department of Justice.

(h) "DOJ-Certification" means the DOJ certificate issued as evidence of compliance with the DOJ laboratory certification requirements as set forth in these regulations.

(i) "DOJ-Certified Laboratory" means a laboratory that has applied for and been granted DOJ-Certification.

(j) "Firm" means a business unit, enterprise, or partnership of two or more persons, that is not recognized as a legal person distinct from the members comprising the entity.

(k) "Local License" means any regulatory and/or business license issued by a city, county, and/or other local government agency.

(l) "Manufacturer/Importer" means either: a manufacturer of domestically produced handguns or, if one exists, a legal successor in interest or another person with the consent of the manufacturer;

and/or a federally licensed importer of foreign manufactured handguns.

(m) "Model" means the manufacturer's/importer's designation which uniquely identifies a specific design of handgun subject to the descriptive limitations imposed by subdivision (a) of Penal Code s 12131.5.

(n) "Pistol" means a handgun in which the chamber is part of the barrel. A pistol can either be semiautomatic or non-semiautomatic, but not fully automatic.

(o) "Reasonable Access" means that areas and/or items to be inspected by an authorized DOJ employee are free from physical obstruction and/or other impediments that would make access difficult and/or unsafe.

(p) "Revolver" means a handgun with a cylinder having several chambers so arranged as to rotate around an axis and be discharged successively by the same firing mechanism through a common barrel.

(q) "Roster of Certified Handguns" means a list of all pistols and revolvers that have been tested by a DOJ-Certified Laboratory, have been determined not to be unsafe handguns, and that may be sold in California pursuant to Penal Code s 12130. The roster will list, for each firearm, the manufacturer, model number, model name, and other information deemed necessary by the DOJ to facilitate identifying that handgun model.

(r) "Standard Ammunition" means commercially produced factory loaded ammunition which is available for purchase at consumer-level retail outlets.

(s) "Similar" means a handgun listed on the Roster of Certified Handguns that was not subject to testing because it satisfied the requirements of Penal Code s 12131.5.

(t) "Refined or modified" means an improvement applied to the test handguns, that is not made to retail handguns, which may result in improved performance during testing. Refining or modifying a handgun includes, but is not limited to, using material preparation, assembly techniques, or break-in processes that are different from those used to produce retail models.

(u) "Identical magazines" means magazines submitted for, and used during, testing shall not be of a higher functional quality, which might result in improved performance from those provided to retail customers.

(v) "Responsible party" includes, but is not limited to, firearm manufacturers/importers and law enforcement agencies.

Note: Authority cited: Sections 12126-12131.5, Penal Code. Reference: Sections 1001.6, 12021, 12071 and 12125-12133, Penal Code; Section 102(a), Corporations Code; and Chapter 44 ss 920 et seq., Title 18 of the United States Code.

**ARTICLE 3. DOJ-CERTIFICATION: WHO MUST BE DOJ-CERTIFIED;
APPLICATION FOR DOJ-CERTIFICATION; PRE-DOJ-CERTIFICATION
REQUIREMENTS; GROUNDS FOR DENIAL; DOJ-CERTIFICATION PERIOD;
PROCESSING TIMES; APPEAL PROCESS**

4050. Who Must Be DOJ-Certified.

(a) Any laboratory wishing to participate in the California Handgun Testing Program described in these regulations must apply for and obtain a DOJ-Certification.

(b) Any proposed change in the ownership of five percent or more of a DOJ-Certified Laboratory from that reported on the initial application shall require the submission of an Application for DOJ-Certification, Form FD 019 (Rev. 6-00), by the proposed ownership entity or owners.

Note: Authority cited: Section 12130, Penal Code. Reference: Sections 12126-12128, 12130 and 12131.5, Penal Code.

4051. Application for DOJ-Certification.

The DOJ will accept completed applications from laboratories seeking DOJ-Certification. For renewals, Parts B, C, D, F, and G of the application has boxes that can be checked if there have not been any changes since the previous application was submitted. Application for DOJ-Certification shall be made on Form FD 019 (Rev. 6-00) which shall include the following:

(a) Laboratory information: name of applicant laboratory; physical and mailing addresses; telephone and fax numbers; local licensing authority, business license number, and expiration date; the local law enforcement agency with jurisdiction over the laboratory; federal firearms license number, type, and expiration date (if licensed); business hours; e-mail address (if applicable); and copies of licenses and/or certificates identified on the application.

(b) COE holder information: name, title, COE number, and COE expiration date of any owner, chief executive officer, or person who possesses or has applied for a COE pursuant to subdivision (a) of s 4052 of these regulations.

(c) Ownership information: ownership structure; the name, title/relation to laboratory/percentage owned and/or controlled, address, telephone and fax numbers, state corporation/partnership number and expiration date, and local business license number and expiration date of any owner that is not a natural person; and the name, title/relation to laboratory/percentage owned and/or controlled, address, and telephone number of each owner, partner, officer, director and any person who owns and/or exercises control of five percent or more of outstanding common stock; and if a corporation or partnership either original certified copies of the articles of incorporation or a current roster of

general and limited partners.

(d) Facility Management and Testing Supervision information: name and title of the manager or director of the laboratory and/or unit of the laboratory that will conduct handgun tests, the persons supervising handgun tests, and persons participating and/or performing handgun tests; a copy of the laboratory's security procedures; the name, address, and telephone number of any 24-hour security service or monitored alarm system that is employed by the laboratory, and a copy of the contract for services; and a copy of the procedures for ensuring that persons prohibited from possessing firearms will not have access to firearms and a description of the method to be used to identify any such persons.

(e) Required Equipment information: whether the laboratory will obtain the required equipment at the time the application is submitted or at a later date.

(f) Off-Site Location information, if applicable: name of the owner; telephone number; physical address; and the testing to be performed and/or equipment to be used at the off-site location.

(g) Authorized Representative information: name and title of the person who has the legal authority to sign the application and attest to the required matters on behalf of the applicant laboratory.

(h) A signed certification stating that the laboratory and/or owner is free from any conflicts of interest as defined by subdivisions (a)(3), (7), (8), and, (9) of s **4053** of these regulations.

(i) A signed certification regarding: the informing of staff of laws relating to prohibitions against firearms possession; the ensuring that prohibited persons do not have access to, come into contact with, and/or possess firearms; the fact that the laboratory obtains and maintains any required federal, state, and/or local licenses; and the fact that the laboratory does comply with all applicable federal, state, and/or local laws and/or regulations.

(j) A signed certification regarding: the possession of the required equipment; the maintenance and calibration of that equipment; and the laboratory does comply with safety, design, operation, and licensing and approval requirements.

(k) The initial application processing fee required by subdivision (b)(1) of s **4065** of these regulations.

Note: Authority cited: Section 12130, Penal Code. Reference: Sections 12001.6, 12021, 12026.1, 12071 and 12126-12131.5, Penal Code.

4052. Pre-DOJ-Certification Requirements.

(a) Pursuant to subdivision (a)(4) of Penal Code s 12071, the DOJ issues COEs. One or more of the owner(s), chief executive officer(s), or person(s) with primary responsibility for the operation of the laboratory shall obtain and maintain a valid COE as a condition of obtaining and maintaining DOJ-Certification.

(b) Once a completed application has been received, the DOJ will schedule an on-site inspection of the applicant laboratory. During this inspection the applicant laboratory shall demonstrate its ability to conduct handgun testing by doing all of the following:

(1) For the firing test:

(A) Fire 100 rounds through a semiautomatic pistol, stopping for 5 to 10 minutes after the first 50 rounds have been fired to allow the weapon to cool, and stopping as needed to refill the empty magazine to capacity before continuing. After the 100 rounds have been fired, tighten any loose screws and clean the gun in accordance with the manufacturer's instructions.

(B) Fire 100 rounds through a revolver, stopping for 5 to 10 minutes after the first 50 rounds have been fired to allow the weapon to cool, and stopping as needed to refill the empty cylinder to capacity before continuing. After the 100 rounds have been fired, tighten any loose screws and clean the gun in accordance with the manufacturer's instructions.

(C) Demonstrate the method to be used to determine whether there is any crack or breakage of an operating part of the handgun that increases the risk of injury to the user as set forth in subdivision (a)(2) of Penal Code s 12127.

(2) For the drop tests:

(A) Have the following testing equipment available for inspection by DOJ staff:

(1) a drop test fixture capable of dropping a handgun from a drop height of 1m + 1cm - 0cm (39.4 in. + 0.4 in. - 0 in.).

(2) a height gauge capable of measuring the required drop height.

(3) one or more concrete slabs with minimum dimensions of 7.5 X 15 X 15 cm (3 X 6 X 6 in.).

(B) Demonstrate that the drop test fixture is in proper working order by dropping an object of the approximate size and weight of a handgun from the fixture. The object shall drop and come to rest without interference on or near the required concrete slab which shall rest upon a firm surface.

(C) Demonstrate the ability to position a handgun in the drop fixture at the required drop height and in each of the six drop positions identified in Penal Code s12128.

(c) The handguns and ammunition used during the demonstration shall be supplied by the applicant laboratory. The DOJ reserves the right to supply the handguns and ammunition used during the demonstration.

Note: Authority cited: Sections 12127, 12128, 12130 and 12131.5, Penal Code. Reference: Sections 12071, 12126 and 12130, Penal Code

4053. Grounds for Denial.

(a) An initial application for DOJ-Certification shall be denied if the applicant laboratory:

(1) Makes false statements on the application.

(2) Fails to meet the security requirements identified in subdivision (a)(1) of s 4057 of these regulations.

(3) Is wholly or partly owned by, a part of, financed by, or in any other way financially supported by any manufacturer/importer, wholesaler, distributor, or dealer of handguns. As used in this subdivision, financial support does not apply to situations wherein an applicant laboratory provides testing services to a manufacturer/importer, wholesaler, distributor, or dealer of handguns.

(4) Fails to demonstrate the ability to conduct the required testing in an impartial, technically sound manner as set forth in subdivision (b) of s 4052 of these regulations, including having and using the equipment required by subdivision (b)(2)(A) of that section.

(5) Fails to obtain the required COE(s).

(6) Fails to comply with any required local, state, and/or federal laws and/or licensing requirements relating to handgun testing.

(7) Has any present or planned contractual, organizational, employment or other financial involvement and/or relationship (spouse(s), children, sibling(s), parent(s), or in-law(s)) with any manufacturer/importer, wholesaler, distributor, or dealer of handguns. This shall also apply to any employee(s) directly involved in handgun testing, owner(s), shareholders(s), partners(s), officer(s), and/or director(s) of the applicant laboratory who has any such involvement or relationship.

(8) Is currently or plans to be a manufacturer/importer, wholesaler, distributor, or dealer of handguns. This shall also apply to any employee(s) directly involved in handgun testing, owner(s), shareholders(s), partner(s), officer(s), and/or director(s) of the applicant laboratory.

(9) Has a present or planned direct, indirect, and/or beneficial interest aggregating \$1,000 or more in any entity that is a manufacturer/importer, wholesaler, distributor, or dealer of handguns. This shall also apply to any employee(s) directly involved in handgun testing, owner(s), shareholders(s), partner(s), officer(s), and/or director(s) of the applicant laboratory.

(b) If the DOJ denies an application for DOJ-Certification, a Notice of Denial will be provided to the applicant laboratory. The Notice shall specify all grounds on which the denial is based.

(c) An applicant laboratory that has been served with a Notice of Denial may request a hearing. The written request must be received by the DOJ no later than 20 days from the date of service of the Notice of Denial. If a hearing is requested, it will be conducted in accordance with the

Administrative Procedure Act, Chapter 5 (commencing with section 11500), Part 1, Division 3, Title 2 of the Government Code. Failure to make a written request for a hearing within the time specified above constitutes a waiver of the right to a hearing. If this failure occurs or if the applicant laboratory withdraws its appeal, the denial shall be final.

Note: Authority cited: Section 12130, Penal Code. Reference: Sections 12026.1, 12071, 12126-12128 and 12130, Penal Code; and Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code.

4054. DOJ-Certification Period.

The DOJ-Certification shall be valid for two years from the date of issuance.

Note: Authority cited: Section 12130, Penal Code. Reference: Sections 12125-12128 and 12130, Penal Code.

4055. Appeal Process

(a) If the DOJ fails to meet the time periods for concluding the processing of an Application for DOJ-Certification, Form FD 019 (Rev. 6-00), the applicant may apply in writing for a full refund of all applicable application fees. The request must be received by the DOJ within 20 days from the date of service of the final decision granting or denying the application.

(b) The DOJ shall respond within 10 days from the date of receipt of a request for refund.

(c) If the refund is denied by the DOJ, the applicant may directly appeal the denial in writing to the Attorney General. The appeal must be filed within 20 days from the date of service of the refund denial. The appeal shall set forth a concise statement of facts and a chronology of events regarding the application.

(d) The appeal in subdivision (c) of this section will promptly be reviewed, and a decision will be issued within 30 days from the completion of any investigation by the Attorney General. The appeal will be decided in the applicant's favor if the DOJ has exceeded its maximum time period for the issuance or denial of the DOJ-Certification, and the DOJ has failed to establish good cause for exceeding this time period.

(e) The DOJ will provide information regarding this appeal process on all Application for DOJ-Certification Forms, Form FD 019 (Rev. 6-00).

Note: Authority cited: Sections 15374-15378, Government Code. Reference: Sections 15374-15378, Government Code; and Section 12130, Penal Code.

ARTICLE 4. OPERATIONAL REQUIREMENTS: ABSENCE OF CONFLICT OF INTEREST; SECURITY AND SAFETY REQUIREMENTS; LICENSING/MINIMUM STANDARDS COMPLIANCE; WHICH HANDGUNS MUST BE TESTED, WHO MAY SUBMIT HANDGUNS, SUBMISSION REQUIREMENTS; TESTING PROCEDURES; TEST REPORTING; REQUIRED RECORDS, RETENTION PERIODS, REPORTING CHANGES; OFF-SITE LOCATIONS; INSPECTIONS

4056. Absence of Conflict of Interest.

The DOJ-Certified Laboratory shall at all times ensure that:

(a) It is not wholly or partly owned by, a part of, financed by, or in any other way financially supported by any manufacturer/importer, wholesaler, distributor, or dealer of handguns. As used in this subdivision, financial support does not apply to situations wherein an applicant laboratory provides testing services to a manufacturer/importer, wholesaler, distributor, or dealer of handguns.

(b) None of the employee(s) directly involved in handgun testing, owner(s), shareholders(s), partner(s), officer(s), and/or director(s) of the DOJ-Certified Laboratory:

(1) Has any contractual, organizational, employment or other financial involvement and/or relationship (spouse(s), children, sibling(s), parent(s), or in-law(s)) with any manufacturer/importer, wholesaler, distributor, or dealer of handguns.

(2) Is a manufacturer/importer, wholesaler, distributor, or dealer of handguns.

(3) Has any direct, indirect, or beneficial interest aggregating \$1,000 or more in any entity that is a manufacturer/importer, wholesaler, distributor, or dealer of handguns.

Note: Authority cited: Section 12130, Penal Code. Reference: 12125, 12127 and 12128, Penal Code.

4057. Security and Safety.

(a) The DOJ-Certified Laboratory shall have written security procedures if handguns are to be stored and/or transported by the DOJ-Certified Laboratory. DOJ-Certified Laboratory staff shall be informed of these written procedures which shall be available upon request, and include all of the following:

(1) The handgun(s) shall be stored unloaded in a safe or a secure room which shall be locked while unattended, and shall meet all of the following requirements:

(A) A safe shall be Underwriter's Laboratory approved.

(B) A secure room shall be away from any general living or work area. All doors leading into a

secure storage room shall be solid core with a dead-bolt lock or the equivalent, or the handgun(s) shall be stored in an anchored, locked metal box in the room. Anchored is defined as either permanently mounted to the floor or having a gross weight of 1,000 pounds or more so that heavy equipment or tools would be required to remove the box. Any secure storage room with direct entries, including windows and skylights, from the exterior of the building shall have: steel window guards (not recommended for private residences); an audible, silent or sonic alarm to detect entry; or a 24-hour security guard service.

(2) If the handgun(s) will be stored at a location different from the principal place of business, or at the applicant's residence and that residence is rented/leased, the applicant shall submit to the DOJ written approval from the owner and the location shall meet all security requirements.

(3) Ammunition shall be stored separately from the handguns in a secure room, cabinet or box which shall be and locked while unattended.

(4) When transporting a handgun for delivery to an authorized recipient or off-site testing location, the handgun shall be transported as required by California Penal Code s 12026.1, or as required by any applicable federal, state, and/or local statute and/or ordinance if outside of California.

(5) Any handgun not actively being tested shall be locked in the safe or the secure room or box. Upon receipt, a handgun shall be placed in the laboratory's safe or the secure room or box until testing is commenced. Any handgun to be shipped from the laboratory shall be kept in the safe or secure room or locked metal box until arrival of the person authorized to receive the handgun or until laboratory personnel are prepared to transport the handgun for delivery to an authorized recipient.

(6) Any handgun that is lost or stolen shall be reported within ten (10) working days to the submitting manufacturer/importer, local law enforcement agency, and DOJ. The DOJ-Certified Laboratory shall maintain the following records relating to any such handguns: the type, make, model, caliber, barrel length, category, and serial number of the lost/stolen handgun; the date of the loss/theft; the date the loss/theft was reported to the submitting manufacturer/importer, local law enforcement, and DOJ; and any case/report number(s) assigned by the local law enforcement agency to the loss/theft. The DOJ-Certified Laboratory shall maintain these records for at least ten (10) years.

(b) The DOJ-Certified Laboratory shall at all times ensure that:

(1) All persons conducting, supervising and/or observing handgun testing under this program have and use personal safety equipment that meets or exceeds applicable current federal, state and/or local standards and the requirements of any occupational and/or industrial safety agency having jurisdiction over the laboratory and its activities.

(2) The design and operation of the laboratory's facilities meet or exceed applicable current federal, state and/or local standards and/or requirements.

(3) Laboratory testing staff are familiar with and exercise safe firearms handling and operational

practices as defined in all applicable federal, state, and/or local laws.

(4) The following warning in block letters not less than one inch in height is conspicuously posted within all areas where drop testing is performed:

"NO AMMUNITION SHALL BE PRESENT IN OR AROUND THIS DROP TESTING AREA OR IN THE POSSESSION OF ANY PERSONNEL ACTIVELY ENGAGED IN CONDUCTING DROP TESTS."

Note: Authority cited: Section 12130, Penal Code. Reference: Sections 12026.1 and 12130, Penal Code.

4058. Licensing/Minimum Standards Compliance.

The DOJ-Certified Laboratory shall at all times:

- (a) Comply with all applicable local, state, and/or federal laws relating to handgun testing.
- (b) Ensure that any required licensing and/or approvals by any federal, state, and/or local agency having jurisdiction over this laboratory have been obtained and are maintained while holding a DOJ-Certification, including the required COE(s).
- (c) Inform staff of any applicable federal, state, and/or local laws, which apply to the jurisdiction in which the laboratory does business, that prohibit a person from possessing firearms, and ensure that persons known to be prohibited from possessing firearms do not have access to, come into contact with, or possess firearms.
- (d) Have in its possession at all times while holding DOJ-Certification the equipment identified in subdivision (b)(2)(A) of s 4052. The DOJ-Certified Laboratory shall maintain and/or calibrate the equipment in accordance with the equipment manufacturer's recommendations and requirements. The DOJ-Certified Laboratory shall ensure that records of such maintenance and calibration are available for use by testing personnel and for inspection by DOJ staff.

Note: Authority cited: Section 12130, Penal Code. Reference: Section 12001.6, 12021, 12071, 12128 and 12130, Penal Code.

4059. Which Handguns Must Be Tested, Who May Submit Handguns, Submission Requirements.

(a) Pursuant to subdivision (a) of Penal Code s 12130, any pistol, revolver, or other firearm capable of being concealed upon the person manufactured in this state, imported into the state for sale, kept for sale, or offered or exposed for sale, shall be tested by a DOJ-Certified Laboratory. The handguns submitted for testing shall not be modified in any way from those that would be sold if certification is granted. If it is determined by the DOJ that the handguns submitted for testing are modified in any

way from those that are being sold after certification has been granted, that model will be immediately removed from the Roster of Certified Handguns.

(b) Pursuant to Penal Code s 12131.5, a handgun model shall be deemed not to be unsafe if another handgun model has already been determined not to be unsafe and the untested handgun differs from the tested handgun only as specified in subdivision (a) of that section. Such handguns will be reviewed on a case-by-case basis by the DOJ to determine whether or not a new test will be required.

(c) Other than the DOJ, only the manufacturer/importer of a handgun model is authorized to submit that handgun model to a DOJ-Certified Laboratory for testing.

(d) Three handguns of each model to be tested shall be submitted to the DOJ-Certified Laboratory. Manufacturers/Importers may supply any information that they believe may be needed by the laboratory for proper and safe operation of the handgun. The following information shall be supplied in the English language with each handgun model submitted for testing:

(1) Instructions for field disassembly/assembly and diagram(s) identifying all parts.

(2) Cleaning instructions. These may be different from and in addition to the instructions that are provided when the handgun model is sold.

(3) A description of each safety feature designed into the handgun, how each safety feature is intended to function, and for those under shooter control, how the shooter should operate (activate/deactivate) each safety feature.

(4) A statement regarding the ammunition the manufacturer/importer markets and/or recommends that the handgun being tested is designed to handle. This may also include information on ammunition known to be beyond the design limits of the handgun and/or known not to function in the handgun.

(e) The manufacturer/importer shall be allowed, but not required, to provide the standard ammunition to be used during the firing test provided that, if applicable, it is the more powerful cartridge marketed/recommended by the manufacturer/importer. The manufacturer/importer shall be allowed to inspect any laboratory supplied standard ammunition before testing begins. The manufacturer/importer or DOJ-Certified Laboratory shall indicate the ammunition lot number and submit to the DOJ an executed Attachment A of the Compliance Test Report. Notwithstanding the above, the DOJ may allow a handgun to be tested with newly designed non-standard ammunition that is not yet "available for purchase at consumer-level retail outlets." Any such ammunition shall be commercially produced and factory loaded.

Note: Authority cited: Sections 12127, 12128 and 12130, Penal Code. Reference: Sections 12126-12131.5, Penal Code.

4060. Testing Procedures.

(a) The only persons allowed to conduct handgun testing are authorized staff of the DOJ-Certified Laboratory. In addition to this staff, representatives of the manufacturer/importer and/or the DOJ shall be allowed to be present during testing. Any such representative(s) shall not participate in the testing. However, if deemed necessary by the staff of the DOJ-Certified Laboratory, representative(s) of the manufacturer/importer may be asked to provide advice and/or guidance regarding the characteristics, handling, and/or operation of the handgun.

(b) Prior to beginning the required testing the DOJ-Certified Laboratory shall determine whether the safety device described in Penal Code s 12126(a)(1) or (b)(1) is present.

(1) If the DOJ-Certified Laboratory needs guidance in making this determination, the information required by subdivision (d) of s 4059 of these regulations should be consulted. If the DOJ-Certified Laboratory is still not able to make this determination, they should contact the manufacturer/importer for additional information. Any additional information received from the manufacturer/importer shall be included with the information submitted pursuant to subdivision (d) of s 4059 of these regulations.

(2) If a DOJ-Certified Laboratory is still uncertain whether a positive manually operated safety device is present on a pistol even after it receives additional information, the firing and drop tests should be performed. If the pistol passes these tests, the laboratory should submit the pistol to the DOJ with a letter explaining the steps taken to determine whether the positive manually operated safety device is present. The laboratory must indicate its preliminary decision regarding the positive manually operated safety device. The letter should also include any information that would support the position taken by the laboratory. This includes a description of the positive manually operated safety device(s) incorporated into the pistol's design and an explanation of how this design replicates the positive manually operated safety device of a pistol design that has already been determined to meet the standards promulgated by the BATF. The DOJ will use this information to determine whether the pistol can be sold in California.

(c)(1) Commencing January 1, 2006, the DOJ-Certified Laboratory shall conduct the required testing of a center-fire semiautomatic pistol only after ascertaining the firearm has a functioning chamber load indicator or a functioning magazine disconnect mechanism.

(2) Commencing January 1, 2007, the DOJ-Certified Laboratory shall conduct the required testing of a center-fire semiautomatic pistol which accepts a detachable magazine only after ascertaining the firearm has both a functioning chamber load indicator and a functioning magazine disconnect mechanism.

3) Commencing January 1, 2006, the DOJ-Certified Laboratory shall conduct the required testing of a rim-fire semiautomatic pistol which accepts a detachable magazine only after ascertaining the firearm has a functioning magazine disconnect mechanism.

(d)(1) A functioning chamber load indicator must meet all of the following conditions:

(A) Explanatory text and/or graphics either incorporated within the chamber load indicator or adjacent to the chamber load indicator is/are permanently displayed by engraving, stamping, etching, molding, casting, or other means of permanent marking.

(B) Each letter of explanatory text must have a minimum height of 1/16 inch.

(C) The explanatory text and/or graphics shall be of a distinct visual contrast to that of the firearm.

(D) The "loaded" indication, that portion of the chamber load indicator that visually indicates there is a round in the chamber, shall be of a distinct color contrast to the firearm.

(E) Only when there is a round in the chamber, the "loaded" indication is visible on the firearm from a distance of at least twenty-four inches. When there is no round in the chamber, the "loaded" indication must not be visible.

(F) The text and/or graphics and the "loaded" indication together inform a reasonably foreseeable adult user of the pistol, that a round is in the chamber, without requiring the user to refer to a user's manual or any other resource other than the pistol itself.

(2) A functioning magazine disconnect mechanism must prevent the ammunition primer from being struck with a pull of the trigger or attempted pull of the trigger whenever a detachable magazine is not inserted in the pistol.

(e) The "firing requirement for handguns" is the first test to be undertaken by the DOJ-Certified Laboratory. The firing test shall be conducted in the manner prescribed in Penal Code s 12127 and in accordance with the following:

(1) For the purposes of determining whether a handgun passes the "firing requirement for handguns," "malfunction" includes any failure to operate as designed including the failure of a pistol's slide to remain open after a manufacturer-approved magazine has been expended, provided that the handgun was designed by the manufacturer to remain open.

(2) If the manufacturer/importer markets and/or recommends that the handgun model is designed to handle multiple cartridges, the standard ammunition used during the firing test shall be the more powerful marketed/recommended cartridge. However, the DOJ-Certified Laboratory shall not use any standard ammunition known to be beyond the design limits of the handgun and/or known not to function in the handgun.

(3) If a pistol has multiple chambers the 600 rounds shall be evenly apportioned between the chambers.

(4) The DOJ-Certified Laboratory shall determine whether there is any crack or breakage of an operating part of the handgun that increases the risk of injury to the user, as set forth in subdivision

(a)(2) of Penal Code s 12127.

(5) Should a handgun fail the "firing requirements for handguns" test, three handguns of that make and model must be re-submitted for the firing test. Handguns that do not pass the "firing requirements for handguns" test may not be submitted for the "drop safety requirement for handguns" testing.

(f) The "drop safety requirement for handguns" is the last test to be undertaken by the DOJ-Certified Laboratory. The drop tests shall be conducted in the manner prescribed in Penal Code s 12128 and in accordance with the following:

(1) The drop height of 1m + 1cm - 0cm (39.4 in. + 0.4 in. - 0 in.) shall be measured from the lowermost portion of the handgun as situated in the drop fixture to the top surface of the required concrete slab. The required concrete slab shall rest upon a firm surface and the face of the slab shall be perpendicular to the direction of the drop. If a handgun has an exposed hammer, the hammer shall be fully cocked during each drop test. When dropped the handgun shall initially strike the face of the required concrete slab and then come to rest without interference.

(2) The primed cases used during the drop test shall be produced by the ammunition manufacturer of and made from the same cases and primers as the standard ammunition that is used during the firing test as set forth in ss **4059(e) and 4060(c)(2)** of these regulations.

(3) If a pistol has multiple chambers and/or firing pins, the tests shall be conducted as follows. For each of the drop tests a primed case will be placed in each chamber. If the hammer or firing pin alternates between chambers, the pistol will be dropped once for each hammer or firing pin position.

(4) Minimal damage, such as broken grips or sights, can and will occur during the course of the drop testing. Damage and/or breakage that affects the overall dimensions of the handgun shall be repaired prior to continuing the drop tests. After each of the first five drop tests the DOJ-Certified Laboratory shall determine whether the handgun has been rendered incapable of firing a primed case prior to conducting the next drop test. If so, the handgun model shall either be repaired, or the test shall be stopped and three new handguns must be submitted for testing beginning with the "firing requirement for handguns."

(5) After examining the primed case(s) for indentations after each drop test, each primed case shall be fired to determine whether the primer was functional. If not, the drop test shall be repeated with a new primed case(s). A new primed case(s) will be used for the next drop test.

(6) Should a handgun fail the "drop safety requirement for handguns," or be found incapable of firing a primed case, three new handguns of that make and model must be submitted for testing beginning with the "firing requirements for handguns" test.

(g) A DOJ representative may request and shall be provided with spent or unspent rounds of and/or the packaging for the standard ammunition that is being used for firing tests. A DOJ representative

may also request and shall be provided with the packaging for and/or used or unused primed cases that are being used for drop tests.

(h) The same three handguns that pass the "firing requirements for handguns" test must also pass the "drop safety requirement for handguns" before that make and model can be considered for certification.

Note: Authority cited: Sections 12126, 12127, 12128 and 12130, Penal Code. Reference: Sections 12125-12131.5, Penal Code.

4061. Test Reporting.

(a) If a handgun model is certified as having passed the required testing, the DOJ-Certified Laboratory shall submit to the DOJ a completed Compliance Test Report and one of the tested handguns in accordance with Penal Code s 12130. The Compliance Test Report shall be on Form FD 021 (Rev. 6-00) which shall require all of the information identified in subdivision (a) of s 4062 of these regulations, and be signed by the person authorized to sign on behalf of the DOJ-Certified Laboratory. The DOJ will allow DOJ-Certified Laboratories to develop and use automated formats for the Compliance Test Report provided the proposed format presents the information in the same order and with the same wording as Form FD 021 (Rev. 6-00).

(b) The Compliance Test Report shall be submitted by the DOJ-Certified Laboratory within ten (10) working days of the completion of the testing. Failure to submit the required Compliance Test Report to the DOJ within the time frame identified above shall not invalidate the results of the testing. However, the DOJ-Certified Laboratory may be subject to inspection by the DOJ to determine whether grounds exist to revoke the DOJ-Certification.

(c) Manufacturers/Importers are prohibited from placing any statement on the handgun itself, the labeling, and/or accompanying user information that in any way states, implies, and/or otherwise suggests that the model has been determined not to be unsafe until such time as the model has successfully completed testing at a DOJ-Certified Laboratory, and a letter of compliance for the model tested has been issued to the manufacturer by the DOJ. At that time, the manufacturer/importer may place the following statement in the required user information:

"The manufacturer/importer certifies that this model of handgun has been tested and has been determined not to be an unsafe handgun as defined in California Penal Code Section 12126."

Note: Authority cited: Section 12130, Penal Code. Reference: Sections 12127-12131.5, Penal Code. Authority cited: Section 12130, Penal Code. Reference: Sections 12127-12131.5, Penal Code.

4062. Required Records, Retention Periods, Reporting Changes.

(a) The DOJ-Certified Laboratory shall for a minimum of five (5) years from the date of the Compliance Test Report maintain sufficient records to support the results of any and all such reports.

The information required to be recorded, reported, and maintained is:

(1) The name and address of the DOJ-Certified Laboratory that conducted the test and the name of the person who should be contacted if there are any questions regarding the testing and/or the report.

(2) The name and address of the manufacturer/importer which submitted the handgun model for testing. If the DOJ submitted the model, this shall be noted in the records.

(3) Date, time, and location of the testing. This includes any off-site equipment and/or facilities that are used during any portion of the testing.

(4) A unique reference number/identifier issued by the DOJ-Certified Laboratory for the testing.

(5) The type (pistol or revolver), make, model, caliber, barrel length, construction material, and serial numbers of all handguns that were tested. This includes "replacement" handguns as allowed by subdivision (b) of Penal Code s 12127 and subdivision (f)(4) of s **4060 of these regulations. The serial number of the handgun which was submitted to the DOJ shall also be identified.**

(6) **The manufacturer, cartridge, caliber, bullet weight and type, and the lot number of the standard ammunition that was used during the firing test.**

(7) **The manufacturer of the case and primer for the primed cases that were used during the drop test.**

(8) **Whether the required safety device was present or any information supporting the preliminary determination regarding the required safety device.**

(9) **Statement confirming the presence of any chamber load indicator and/or magazine disconnect required pursuant to subdivisions (b), (c), and (d) of Penal Code s 12126 and subdivisions (c), (d) and (h) of s 4060 of these regulations.**

(10) The results of each phase of the following required testing: the initial 20 rounds; the entire 600 rounds; the normal firing position, barrel horizontal drop; the upside down, barrel horizontal drop; the on grip, barrel vertical drop; the on muzzle, barrel vertical drop; the on either side, barrel horizontal drop; and the exposed hammer/rear most point of the device or handgun drop.

(11) The date the Compliance Test Report was submitted to the DOJ.

(12) A certification signed under penalty of perjury that standard ammunition was used during the firing test and that, if applicable, it was the more powerful cartridge marketed/recommended by the manufacturer/importer.

(b) The following records shall also be maintained by all DOJ-Certified Laboratories:

(1) A listing of any and all off-site locations that have been reported to the DOJ, and are or may be

used by the DOJ-Certified Laboratory for handgun testing.

(2) A current agreement or contract for any 24 hour security guard system that is used to comply with subdivision (a)(1)(B) of s **4057 of these regulations**.

(3) A listing of all current employees who are directly involved in handgun testing as well as the COE number for those employees who possess a COE.

(4) Records relating to the current ownership of the laboratory.

(c) The DOJ-Certified Laboratory may record and maintain any other handgun testing records it deems necessary.

(d) The DOJ-Certified Laboratory shall report within 10 working days any changes:

(1) In the ownership, involvements, relationships, license prohibitions, and/or interests identified in s **4056 of these regulations** and ensure that any such change would not constitute grounds for denial of an Application for DOJ-Certification, Form FD 019 (Rev. 6-00).

(2) Involving: management personnel, handgun testing supervisor(s) and/or personnel, persons authorized to sign Compliance Test Reports, person(s) who hold COE(s); and/or the handgun testing equipment and/or facilities of the laboratory.

Note: Authority cited: Sections 12129 and 12130, Penal Code. Reference: Sections 12001.6, 12021 and 12125-12131.5, Penal Code.

4063. Off-Site Location.

(a) A DOJ-Certified Laboratory shall not be allowed to utilize any handgun testing equipment and/or facilities that are physically situated at a location other than the primary business address of the laboratory unless all of the following conditions are met:

(1) The off-site location is not more than 100 miles from the primary business address.

(2) The DOJ-Certified Laboratory provides the following information to the DOJ prior to beginning any testing at the off-site location: the name of the facility/owner, telephone number, physical address of the location; and the type of equipment and/or facilities to be used and/or the testing to be performed at each location.

(b) Notwithstanding subdivision (a) of this section, if more than one off-site location is needed for testing purposes, the applicant or DOJ-Certified Laboratory must submit a completed Request to Utilize an Additional Off-Site Location, Form FD 020 (Rev. 6-00) for each such location. As set forth in subdivision (b)(4) of s **4065 of these regulations**, the DOJ-Certified Laboratory shall pay

the actual reasonable costs incurred by the DOJ during an on-site inspection of the location.

(c) The DOJ reserves the right to prohibit a DOJ-Certified Laboratory from conducting handgun tests at an off-site location if the results of any such testing could not be rendered fairly, impartially, and independent of any manufacturer, importer or other entity which has any direct and/or indirect economic interest in the results of the testing.

Note: Authority cited: Section 12130, Penal Code. Reference: Sections 12127, 12128 and 12130, Penal Code.

4064. Inspections.

(a) At any time during regular business hours and/or when testing is being conducted, the DOJ-Certified Laboratory shall allow reasonable access by any authorized DOJ employee(s), upon presentation of proper identification. The DOJ employee(s) will inspect facilities and records relating to handgun testing and observe any handgun tests being performed to ensure compliance with any applicable federal, state, and/or local law(s) and these regulations.

(b) Within six months of the date of DOJ-Certification the DOJ will conduct a follow-up on-site compliance inspection of the DOJ-Certified Laboratory to observe actual handgun testing and inspect equipment and facilities. As set forth in subdivision (b)(3) of s **4065** of these regulations, the DOJ-Certified Laboratory shall pay the reasonable transportation costs incurred by the DOJ during this inspection.

(c) The DOJ-Certified Laboratory will be notified in writing of the results of any inspection conducted pursuant to this section within 15 days from the date of the completion of the inspection. The notification will include a list of any and all violations of any statute and/or these regulations and the action required to correct each violation.

(d) The corrective action(s) shall be completed within 15 days of the date of notification. An acknowledgment prepared by the DOJ to be signed by the owner, chief executive officer, or person with primary responsibility for the operation of the laboratory that they have been made aware of the violation(s), that the necessary corrective action(s) have been performed, and that all necessary action(s) will be taken to ensure that future violations do not occur. The acknowledgment shall be signed and returned to the DOJ within 15 days from the date of service of the notification unless the DOJ has determined that the violation requires immediate attention. If immediate attention is required, the DOJ-Certified Laboratory shall take the corrective action(s) within the time specified by the DOJ in the notification.

(e) The DOJ-Certified Laboratory shall submit to the DOJ a monthly schedule of the days on which it is planning to perform handgun testing. The schedule for each month shall be submitted to the DOJ five days before the beginning of the month being reported. The DOJ may contact the DOJ-Certified Laboratory telephonically for information regarding any additions/deletions to the

schedule. The DOJ will accept schedules submitted by electronic transmission.

Note: Authority cited: Section 12130, Penal Code. Reference: Sections 12126, 12127, 12128 and 12130, Penal Code.

ARTICLE 5. APPLICATION FEES

4065. Application Fees.

(a) Pursuant to subdivision (b) of Penal Code ss 12130 and 12131, the DOJ shall recover the full costs of laboratory certifications and renewals.

(b) Standard Fees:

(1) Initial Application for DOJ-Certification, Form FD 019 (Rev. 6-00), including the costs of the pre-certification on-site inspection (staff salaries/wages, travel, lodging) as set forth in subdivision (b) of s 4052 of these regulations: \$1,600

(2) The actual costs associated with the post-DOJ-Certification follow-up on-site compliance inspection(s) as set forth in subdivision (b) of s 4064 of these regulations, not to exceed \$1,500.

(3) Renewal Application for DOJ-Certification, Form FD 019 (Rev. 6-00), including the costs of one on-site inspection (staff salaries/wages, travel, lodging) during the two-year term of the certification, as set forth in s 4064 of these regulations: \$800

(4) The actual reasonable costs (staff salaries/wages, travel, lodging) incurred during the inspection of each additional off-site location, not to exceed the state per-diem in effect at the time of the inspection.

Note: Authority cited: Section 12130, Penal Code. Reference: Sections 12127, 12128 and 12130, Penal Code.

ARTICLE 6. DOJ-CERTIFICATION REVOCATION

4066. DOJ-Certification Revocation.

(a) A DOJ-Certification may be revoked. The following constitute grounds for revocation:

(1) Any act of gross negligence.

(2) Repeated acts of negligence.

(3) Any violation of these regulations and/or any applicable statute.

(4) Any of the grounds for denial stated in s 4053 of these regulations

(5) Refusal to participate in DOJ-initiated retesting or reinstatement testing as prescribed in ss 4073 and 4074 of these regulations.

(b) Any revocation action will be conducted in accordance with the Administrative Procedure Act, Chapter 5 (commencing with section 11500), Part 1, Division 3, Title 2 of the Government Code.

(c) Upon revocation the laboratory will be removed from the roster of DOJ-Certified Laboratories.

Note: Authority cited: Section 12130, Penal Code. Reference: Sections 12127, 12128 and 12130, Penal Code; and Chapter 5 (commencing with section 11500), Part 1, Division 3, Title 2 of the Government Code.

ARTICLE 7. DOJ-CERTIFICATION RENEWAL: DOJ-CERTIFICATION RENEWAL PROCEDURES; DOJ-CERTIFICATION AFTER EXPIRATION

4067. DOJ-Certification Renewal Procedures.

A DOJ-Certification must be renewed prior to expiration in order to remain valid. The following is the procedure for DOJ-Certification renewal:

(a) The DOJ will mail an application to each DOJ-Certified Laboratory 60 days prior to the expiration date of the DOJ-Certification.

(b) The DOJ-Certified Laboratory wishing to renew the DOJ-Certification shall submit to the DOJ an Application for DOJ-Certification, Form FD 019 (Rev. 6- 00), with the renewal fee set forth in subdivision (b)(3) of s 4065 of these regulations.

(c) Once these requirements are met and the application has been processed, the DOJ will send a renewed DOJ-Certification.

(d) If a laboratory fails to comply with these renewal requirements, the DOJ-Certification shall expire by operation of law at midnight on the expiration date stated on the DOJ-Certification.

Note: Authority cited: Section 12130, Penal Code. Reference: Sections 12001.6, 12021, 12026.1, 12071 and 12126-12131.5, Penal Code.

4068. DOJ-Certification After Expiration.

When a DOJ-Certification has expired and not been renewed prior to the stated expiration date, the

person, firm, or corporation shall make a new application to the DOJ on an Application for DOJ-Certification, Form FD 019 (Rev. 6-00), together with the initial application fee set forth in subdivision (b)(1) of s 4065 of these regulations.

Note: Authority cited: Section 12130, Penal Code. Reference: Sections 12125, 12127, 12128 and 12130, Penal Code.

ARTICLE 8. SERVICE OF NOTICES, ORDERS, AND COMMUNICATIONS

4069. Service of Notices, Orders, and Communications.

(a) Except as otherwise provided by law or in these regulations, notices, orders, and other communications may be sent by United States mail, electronic transmission, and/or common carrier to an applicant or DOJ-Certified Laboratory at the address of the applicant or DOJ-Certified Laboratory as shown on the application or DOJ-Certification.

(b) Notices and orders shall be deemed to have been served upon their deposit, first-class postage prepaid, in the United States mail, and the time specified in any such notice shall commence to run from the date of such mailing.

Note: Authority cited: Sections 12129-12131.5, Penal Code. Reference: Sections 12126-12133, Penal Code.

ARTICLE 9. ROSTER OF CERTIFIED HANDGUNS; ROSTER OF CERTIFIED HANDGUN LISTING RENEWAL PROCEDURES

4070. Roster of Certified Handguns.

(a) Within 10 days of the receipt of the Compliance Test Report, Form FD 021 (Rev. 6-00), and one prototype handgun, from the DOJ-Certified Laboratory; and the receipt of the initial annual listing fee from the manufacturer/importer, the DOJ will determine whether the handgun is not unsafe and may be sold in California. After the determination that the model may be listed, the DOJ will add the handgun model to the Roster of Certified Handguns. The listing will be valid for one year from the date the model was added to the Roster, and shall be renewed as set forth in s 4071 of these regulations.

(b) Within 10 days of the receipt of the initial annual listing fee and a request from a manufacturer/importer to have a handgun model added to the Roster pursuant to Penal Code s 12131.5, the DOJ will determine whether the handgun model may be listed without testing. After

the determination that the model may be listed, the DOJ will add the handgun model to the Roster. The listing will be valid for one year from the date the model was added to the Roster, and shall be renewed as set forth in s 4071 of these regulations.

(c) A handgun model may be removed from the Roster for any of the following reasons:

(1) If the annual maintenance fee is not paid as set forth in subdivision (b) of Penal Code s 12131.

(2) If it is determined that the handgun models submitted for testing were modified in any way from those that were sold after certification was granted.

(3) If it is determined that the handgun is in fact unsafe based upon further testing.

(d) A handgun model may remain on the Roster after a manufacturer/importer discontinues manufacturing/importing the model or goes out of business provided that all of the following requirements are met:

(1) Evidence is provided that the manufacturer/importer has either discontinued manufacturing/importing the handgun model or gone out of business.

(2) The manufacturer/importer is no longer offering the handgun model to licensed firearms dealers.

(3) Either a fully licensed wholesaler, distributor, or dealer submits a written request to continue the listing and agrees to pay the annual maintenance fee as set forth in s 4072 of these regulations. The request shall be submitted to the DOJ stating that all of the above conditions have been met.

(e) A manufacturer/importer or other responsible party may submit a written request to list a handgun model that was voluntarily discontinued or was removed for lack of payment of the annual maintenance fee. The written request must state that no modifications have been made to the model and be submitted to the DOJ together with the annual listing fee as set forth in s 4072 of these regulations. If approved, the listing will be valid for one year from the date the model was added to the Roster, and shall be renewed as set forth in s 4071 of these regulations.

Note: Authority cited: Sections 12131 and 12131.5, Penal Code. Reference: Sections 12125-12133, Penal Code.

4071. Roster of Certified Handgun Listing Renewal Procedures.

A handgun model listing on the Roster of Certified Handguns must be renewed prior to expiration in order to remain valid. The following is the procedure for renewal of a listing:

(a) The DOJ will mail a renewal notice to each manufacturer/importer or other responsible person 60 days prior to the expiration of the handgun model listing.

(b) The manufacturer/importer or other responsible person wishing to renew the listing shall submit to the DOJ a copy of the renewal notice with the annual maintenance fee set forth in s 4072.

(c) Once these requirements are met and the request has been processed, the DOJ will send a notification that the listing has been renewed.

(d) If the manufacturer/importer or other responsible person fails to comply with these renewal requirements, the handgun model listing shall expire by operation of law at midnight on the date of expiration of the listing and the model will be removed from the Roster.

Note: Authority cited: Sections 12131 and 12131.5, Penal Code. Reference: Sections 12125-12133, Penal Code.

ARTICLE 10. FEES FOR THE ROSTER OF CERTIFIED HANDGUNS

4072. Fees for the Roster of Certified Handguns.

(a) Pursuant to subdivision (b) of Penal Code s 12131, the DOJ shall recover the full costs of creating and maintaining the Roster of Certified Handguns by collecting fees from manufacturers/importers of or other parties responsible for handgun models that are listed on the Roster of Certified Handguns.

(b) Standard Fees:

- (1) Initial annual listing fee: \$200 for each model
- (2) Annual maintenance fee for listing: \$200 for each model

(c) Annual maintenance fees are non-refundable. There is no refund or rebate for discontinuation prior to completion of a full year's listing on the Roster.

Note: Authority cited: Sections 12131 and 12131.5, Penal Code. Reference: Sections 12126 and 12129-12131.5, Penal Code.

4073. Annual Retest of up to 5 Percent of Certified Handgun Models.

(a) Handguns may be selected for retesting randomly, or in instances where the DOJ has reason to believe, or the DOJ has received a substantiated written expressed concern, that a handgun may not be compliant with the law, the DOJ may independently choose a model for retesting. The DOJ will randomly select a laboratory to conduct retesting. The selected laboratory will be in good standing and will not have conducted the original test that resulted in the selected handgun's approval.

(b) All three handgun samples selected for retesting shall be identical to the model originally submitted to the DOJ for approval, including, but not limited to: caliber, finish, sights, magazine, and grips. The DOJ will pay all costs associated with the retest under s 4073.

(c) If a handgun model fails retesting, the DOJ shall remove the handgun model from the Roster of Certified Handguns within 48 hours of receipt and review of the Retest Compliance Test Report (on a form prescribed by the DOJ).

(1) If a handgun model selected for retesting fails, and that model was originally tested under Penal Code ss 12127 and 12128, all other handguns that were approved as "similar" under Penal Code s 12131.5 based on the results of that original test, will simultaneously be removed from the Roster.

(2) If a handgun model selected for retesting fails, and that model was originally approved as a "similar" under Penal Code s 12131.5, the handgun originally submitted for testing under Penal Code ss 12127 and 12128, as well as all other handguns that were approved as "similar" based on the original test, will simultaneously be removed from the Roster.

(d) Upon receipt and review of a Retest Compliance Test Report showing a handgun failing the testing procedure, a Notice of Removal will be sent by DOJ within 48 hours to the manufacturer or importer who originally submitted the handgun for testing or listing.

(e) Handguns removed from the Roster as a result of failed retesting will not be credited or refunded any fees, including, but not limited to, initial annual listing fees and annual maintenance fees.

Note: Authority cited: Section 12131, Penal Code. Reference: Section 12131, Penal Code.

4074. Reinstatement of Handguns Removed from the Roster of Certified Handguns.

(a) The DOJ will only recognize reinstatement testing requests made by a responsible party. The requestor will be responsible for the reinstatement testing costs and the annual maintenance fee as set forth in s 4072 of these regulations. Reinstatement testing costs must be paid prior to testing.

(b) Reinstatement testing will be conducted in accordance with s 4073 of these regulations. Reinstatement testing shall be conducted by the same laboratory that performed the original retest, using the same ammunition brand and cartridge, and test personnel, unless otherwise authorized by the DOJ.

(c) Upon the successful reinstatement of a handgun the DOJ may, on a case-by-case basis, reinstate "similar" handguns without retesting in accordance with Penal Code s 12131.5.

(d) If a handgun model has passed the required reinstatement testing, the DOJ-Certified Laboratory shall submit to the DOJ a completed Reinstatement Test Compliance Report (on a form prescribed by the DOJ) and one of the tested handguns within ten (10) working days of the completion of the testing. The Reinstatement Compliance Report shall require all of the information identified in

subdivision (a) of s 4062 of these regulations, and be signed by the person authorized to sign on behalf of the DOJ-Certified Laboratory. Failure to submit the required Reinstatement Compliance Test Report to the DOJ within the time frame above shall not invalidate the results. However, the DOJ-Certified Laboratory may be subject to inspection by the DOJ to determine whether grounds exist to revoke the DOJ-Certification.

(e) If the handgun model fails reinstatement testing, the DOJ-Certified Laboratory shall provide to the DOJ a Reinstatement Test Compliance Report (on a form prescribed by the DOJ) within ten (10) working days of the completion of the testing. Failure to submit the required Reinstatement Compliance Test Report to the DOJ within the time frame above shall not invalidate the results. However, the DOJ-Certified Laboratory may be subject to inspection by the DOJ to determine whether grounds exist to revoke the DOJ-Certification.

(f) Reinstatement testing fees are not refundable regardless of test results.

(g) Handguns reinstated to the Roster upon successful completion of the reinstatement process will be subject to renewal at the annual expiration date established prior to removal from the Roster.

Note: Authority cited: Section 12131, Penal Code. Reference: Section 12131, Penal Code.