

# DOJ Rulemaking - “Microstamping”

## Initial Statement of Reasons

### Sections 4047, 4050, 4053, 4057, 4058, 4063, 4065, 4066, 4067, 4068, and 4070 thru 4074

The only amendments made to these sections were replacing the symbol “§” with the word “section” and/or updating the form number and form revision date. These non-substantive amendments have no impact on the regulations or persons subject to the regulations.

### Section 4049 Definition of Key Terms

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

The amended regulations use a term (“FIN”) related to microstamping that requires further clarification in order to fully understand and implement regulations.

Specific purpose of the regulation:

The proposed amendment to the regulation will define “FIN” as “the firearm identification number comprised of a unique array of characters that identify the make, model and serial number of each pistol subject to the microstamping requirement for semiautomatic pistols set forth in subdivision (b)(7) of Penal Code section 12126 and which can be used to identify the pistol when it is traced through DOJ’s Automated Firearms System (AFS). The FIN shall consist of at least eight, but no more than 12, unique alpha and/or numeric characters that must begin with the manufacturer’s NCIC MAK code.”

Additional non-substantive amendments replace the symbol “§” with the word “section” and correctly alphabetize the terms defined.

Necessity:

Defining “FIN” is necessary for DOJ certified laboratories and firearm manufacturers/importers to have a clear understanding of the regulations.

### Section 4051 Application for DOJ-Certification

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

Penal Code section 12130 requires laboratories to be certified by DOJ in order to participate in the California handgun testing program. This regulation establishes an application process for laboratories seeking DOJ-Certification.

Specific purpose of the regulation:

Under the current regulation, a certified laboratory applying for renewal can check boxes indicating the information required on the application has not changed from that which was provided on their previous application. The proposed amendment will remove this provision. Additional non-substantive amendments replace the symbol “§” with the word “section” and update the form number and form revision date. These non-substantive amendments have no impact on the regulations or persons subject to the regulations.

Necessity:

This proposed amendment is necessary because on several occasions, a laboratory has inappropriately indicated there have been no changes. The Department believes it is necessary to have laboratories submit a full and complete application upon renewal to ensure the Department has current information regarding the laboratory.

**Section 4052 Pre-DOJ-Certification Requirements**

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

Penal Code section 12130 requires laboratories to be certified by DOJ in order to participate in the California handgun testing program. DOJ must determine whether an applicant laboratory has the facilities, equipment, and ability required to properly conduct handgun testing.

Specific purpose of the regulation:

The proposed amendment will specify the type of microscope that DOJ-Certified laboratories will be required to obtain and use for handgun testing.

An additional non-substantive amendment replaces the symbol “§” with the word “section.” This non-substantive amendment has no impact on the regulations or persons subject to the regulations.

Necessity:

Pursuant to Penal Code section 12126, there is a new “microstamping” requirement for semiautomatic pistols. DOJ-Certified laboratories will need additional equipment to test handguns for compliance with the new microstamping requirement. The microscopic system required by the proposed regulation will allow a microscopic array of characters to be viewed on expended ammunition casings in order to determine whether tested semiautomatic pistols comply with the microstamping requirement set forth in Penal Code section 12126. The required microscope is typical of those used in forensic and other laboratories for examination of opaque objects where magnifications of less than 65x is appropriate.

## **Section 4055 Appeal Process**

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

Pursuant to the Permit Reform Act of 1981 (Government Code sections 15374-15378), DOJ was required to specify an appeal process for an applicant to receive a refund of his or her application fees if the Department fails to complete processing of the application within the specified time standard.

Specific purpose of the regulation:

The proposed amendment would remove this regulation.

Necessity:

The statute (Government Code sections 15374-15378) that mandated this regulation was repealed by the legislature.

## **Section 4060 Testing Procedures**

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

Penal Code Section 12130 requires handguns sold in California to be tested to confirm they meet specific safety requirements. Pursuant to Penal Code section 12126, subdivision (b)(7) there will be a “microstamping” requirement for semiautomatic pistols tested by DOJ-Certified laboratories as of January 1, 2010, provided that the Department certifies that the technology is available to more than one manufacturer unencumbered by any patent restrictions.

Specific purpose of the regulation:

The proposed amendment will specify the procedures for microstamp testing. An additional non-substantive amendment replaces the symbol “§” with the word “section.” This non-substantive amendment has no impact on the regulations or persons subject to the regulations.

Necessity:

This test is necessary to determine whether a particular make and model of semiautomatic pistol complies with the statutory microstamping requirement.

## **Section 4061 Test Reporting**

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

Penal Code Section 12130 requires handguns sold in California to be tested to confirm they meet specific safety requirements. Pursuant to Penal Code section 12126, subdivision (b)(7) there will

be a “microstamping” requirement for semiautomatic pistols tested by DOJ-Certified laboratories as of January 1, 2010, provided that the Department certifies that the technology is available to more than one manufacturer unencumbered by any patent restrictions.

Specific purpose of the regulation:

The proposed amendment will specify what must be reported to DOJ by DOJ-Certified laboratories relative to the microstamp test results.

Additional non-substantive amendments replace the symbol “§” with the word “section” and update the form number and form revision date. These non-substantive amendments have no impact on the regulations or persons subject to the regulations.

Necessity:

This information must be reported and retained by DOJ as confirmation that a particular make and model of pistol complies with the microstamping requirement for new models of semiautomatic pistols set forth in Penal Code section 12126, subdivision (b)(7).

**Section 4062 Required Records, Retention Periods, Reporting Changes**

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

Penal Code Section 12130 requires handguns sold in California to be tested to confirm they meet specific safety requirements. Pursuant to Penal Code section 12126, subdivision (b)(7) there will be a “microstamping” requirement for semiautomatic pistols tested by DOJ-Certified laboratories as of January 1, 2010, provided that the Department certifies that the technology is available to more than one manufacturer unencumbered by any patent restrictions.

Specific purpose of the regulation:

The proposed amendment will specify what records must be retained by DOJ-Certified laboratories relating to test results for the microstamping requirement for semiautomatic pistols. Additional non-substantive amendments replace the symbol “§” with the word “section” and update the form number and form revision date. These non-substantive amendments have no impact on the regulations or persons subject to the regulations.

Necessity:

This information must be reported and retained by DOJ as confirmation that a particular make and model of pistol complies with the microstamping requirement for new models of semiautomatic pistols set forth in Penal Code section 12126, subdivision (b)(7).

**Section 4064 Inspections**

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

DOJ-Certified laboratories are required to comply with various laws and regulations relative to handgun testing. DOJ must periodically conduct inspections to ensure certified laboratories remain in compliance with the applicable laws and regulations.

Specific purpose of the regulation:

The proposed amendment will remove the requirement that DOJ-Certified laboratories submit a monthly schedule of their handgun tests.

An additional non-substantive amendment replaces the symbol “§” with the word “section.” This non-substantive amendment has no impact on the regulations or persons subject to the regulations.

Necessity:

The Department has determined that submission of the monthly schedules is an unnecessary burden to DOJ-Certified laboratories because the schedules are of little or no value to the Department in its oversight of these laboratories.

**Section 4075 Application for Approval of Alternative Method of Microstamping Technology**

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

Penal Code section 12126, subdivision (b)(7) requires the Attorney General to certify new methods of microstamping technology.

Specific purpose of the regulation:

The proposed regulation will specify the process by which a person or entity can apply for certification of an alternative method of microstamping technology.

Necessity:

This regulation is necessary so prospective applicants will know the specific requirements that must be met for an alternative method of microstamping to be certified by the Attorney General.

**The following determinations are applicable to all of the proposed regulations (amendments, deletions, and additions):**

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

“What Micro Serialized Firing Pins Can Add to Firearm Identification in Forensic Science: How Viable are Micro-Marked Firing Pin Impressions as Evidence?” by David Howitt, Ph.D., Frederic A. Tulleners, and Michael T. Beddow of the Forensic Science Graduate Group, University of California, Davis.

The Department relied upon the knowledge and experience of its Bureau of Firearms (gained from the implementation and on-going operation of the handgun testing program), and the scientific knowledge and experience of its Bureau of Forensic Services.

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

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

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

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

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

The Department finds that there is no alternative to the proposed regulation with less impact on small businesses, because the regulation is necessary to enact a statutory change. Therefore, no alternatives to the regulation were identified.