

CALIFORNIA DEPARTMENT OF JUSTICE

**TITLE 11. LAW
DIVISION 5. FIREARMS REGULATIONS
CHAPTER 2. CENTRALIZED LIST OF FIREARMS DEALERS**

FINAL STATEMENT OF REASONS

UPDATE OF INITIAL STATEMENT OF REASONS

Information in the Initial Statement of Reasons has been corrected as described below.

CORRECTIONS AND NON-SUBSTANTIAL EDITS

A “non-substantial change” is one that clarifies “without materially altering the requirements, rights, responsibilities, conditions or prescriptions contained in the original text.” (Cal. Code Regs., tit. 1, § 40.) The following minor additional issues were noted since publication of the Notice of Proposed Rulemaking and Initial Statement of Reasons:

- Section 4017, subdivision (g): a comma is deleted after “Penal Code section 16575” as it is not in the current version of the California Code of Regulations.
- Section 4018, subdivision (a): deleting “BOF 4080” and adding “a form prescribed by DOJ.” This change was made to eliminate the specific reference to a form’s name and number, and for consistency and clarity throughout the regulations. The name and date of a form is only required if DOJ is incorporating a form in the regulation by reference.
- Section 4018, subdivision (a): deleting “effective July 1, 2024” as the date has already passed, and the date is not on the form that will be used by applicants to apply for initial placement on the Centralized List.
- Section 4018, subdivision (b)(1): deleting “form to each licensee: a Centralized List of Firearms Dealers and Dealer Inspection Program Annual Renewal Fee Transmittal and Certification Notice (BOF/CL-0004)” and “a Centralized List of Firearms Dealers and Dealer Inspection Program Annual Renewal Fee Transmittal and Certification (BOF/CL-0012),” and adding “to each licensee” and “an annual renewal fee transmittal and certification notice and an annual renewal fee transmittal and certification on forms prescribed by DOJ.” These changes were made to eliminate specific references to the forms’ names and numbers, and for consistency and clarity throughout the regulations. The name and date of a form is only required if DOJ is incorporating a form in the regulation by reference.
- Section 4018, subdivision (b)(2): deleting references to “BOF/CL-0012” and replacing them with “annual renewal fee transmittal and certification.” These changes were made to eliminate specific references to the form’s name and number, and for consistency and clarity throughout the regulations.
- Section 4018, subdivision (b)(2): adding the phrase “and a certification of possessing a valid certificate of registration issued pursuant to Section 36036 of the Revenue and Taxation Code.” This change was made to avoid inconsistency between the regulations

and Penal Code section 26700, subdivision (c), which requires a licensee to possess a valid certificate of registration.

- Section 4018, subdivision (b)(2): deleting the phrase “the form and,” and adding “it,” “together with,” and “with DOJ.” These changes were made for grammatical and clarity purposes.
- Section 4018, subdivision (b)(2): deleting the phrase “premise is” and replacing it with “premises are” for grammatical purposes and to mirror the language in Penal Code section 26806, subdivision (a).
- Section 4018, subdivision (b)(3): deleting references to “BOF/CL-0012” and replacing them with “annual renewal fee transmittal and certification.” These changes were made to eliminate specific references to the form’s name and number, and for consistency and clarity throughout the regulations.
- Section 4018, subdivision (b)(4): deleting the reference to “BOF/CL-0012” and replacing it with “annual renewal fee transmittal and certification.” This change was made to eliminate a specific reference to the form’s name and number, and for consistency and clarity throughout the regulations.
- Section 4018, subdivision (b)(6): deleting references to “BOF/CL-0012” and replacing them with “annual renewal fee transmittal and certification.” These changes were made to eliminate specific references to the form’s name and number, and for consistency and clarity throughout the regulations.
- Section 4021, subdivision (a): underlining the phrase “the term starts” to make clear it is newly proposed language.
- Initial Statement of Reasons: The following sentence in the problem statement: “Effective January 1, 2024, SB 1384 requires licensees to install a digital video and audio surveillance system outside their business, including permanently mounted interior and exterior cameras that: record 24 hours a day; record audio inside the premise; and has a visible timestamp with the date and time” is amended to say “Effective January 1, 2024, SB 1384 requires licensees to install a digital video and audio surveillance system on their business premises, including permanently mounted cameras that: record 24 hours a day; record audio inside the premise; and has a visible timestamp with the date and time. This modification does not materially alter the proposed regulations.

SUMMARY OF COMMENTS AND DEPARTMENT RESPONSES

Comment: Upon reviewing the email on proposed rule making for what was senate bill 1384 I have found significant error in the “initial Statement of reasons”. Under the section “problem Statement” it’s states: Effective January 1, 2024, SB 1384 requires licensees to install a digital video and audio surveillance system outside their business. There is no requirement listed or required in the text of SB 1384 which was signed into law to film and store surveillance the exterior or outside of the business premises. Section 26806(a) lists the requirements for monitoring of the business premises. No part of this section, it’s subsections or any part of this Penal code require the licensee to film, record or maintain surveillance of the exterior/outside of the premises. (1-1.)

Response: To the extent this comment objects to language in the Initial Statement of Reasons, the language has been corrected in the Final Statement of Reasons as a non-substantial change to the proposed regulations.

Comment: Gunsmiths, manufacturers and other licensees who do not deal with the general public or whose business does not depend on the retail sale of firearms should be exempt from the law. (10-1.)

Response: No change has been made in response to this comment. The video and audio surveillance requirements mandated by SB 1384 became effective January 1, 2024. The proposed regulations implement Penal Code section 26806, subdivision (d), concerning certification to the Department that a licensee has a video and audio surveillance system in working order. Penal Code section 26806 does not make exceptions for licensees who do not interact with the general public or licensees whose businesses do not depend on the retail sale of firearms.

Comment: Regarding the proposed changes under SB 1384, I hereby request an exception be made under the proposed audio recording requirements. My Centralized listing is registered at my Law Firm's office. The main purpose of my CFD is to insure the proper transfers of firearms pursuant to Probate Estates. Please note that although we have 24-7 video monitoring of the main areas of the business, audio recording is strictly prohibited by the California State Bar rules of ethics. The Exception I request is that audio recording not be required in a law office setting where it is prohibited by existing law. (14-1.)

Response: No change has been made in response to this comment. The video and audio surveillance requirements mandated by SB 1384 became effective January 1, 2024. The proposed regulations implement Penal Code section 26806, subdivision (d), concerning certification to the Department that a licensee has a video and audio surveillance system in working order. It does not address the specific surveillance requirements in Penal Code section 26806. Penal Code section 26806 also does not make any exceptions for surveillance systems in law office settings.

Comment: Where can I apply for California Department and Fee Administration (CDTFA)? And anything else we need to renew our status on the centralized list. (15-1.)

Response: No change has been made in response to this comment. The comment does not provide sufficient specificity for the Department to make any modifications to the text.

Comment: what is a "valid certificate of registration " ? (16-1.)

Response: No change has been made in response to this comment. The comment does not provide sufficient specificity for the Department to make any modifications to the text.

The proposed regulation updates the process applicants must follow to apply for placement on the Centralized List. Assembly Bill (AB) 28 (stats. 2023, ch. 231) amended Penal Code Section 26705, subdivision (b), to update the seller permit requirement by replacing "Board of

Equalization” with “California Department of Tax and Fee Administration.” AB 28 also added a new requirement for placement on the Centralized List. Commencing July 1, 2024, an applicant must provide a valid certificate of registration issued pursuant to Revenue and Taxation Code section 36036.

Comment: What are the consequences for CA firearm dealers who were late to be compliant to the new code? (19-1.)

Response: No change has been made in response to this comment. The comment does not provide sufficient specificity for the Department to make any modifications to the text. Penal Code section 26800, subdivision (b) authorizes the Department to assess civil fines for dealer violations of firearm laws, and to adopt regulations setting fine amounts. Also, under the proposed regulations, failure to annually certify that a surveillance system is in proper working order will result in removal from the Centralized List.

Comment: Who and how does one certify is there an affidavit, does the Atf come to certify, does local LE certify, does it cost me money to certify? (20-2.)

Response: No change has been made in response to this comment. The process for licensees to certify they have a digital video and audio surveillance system in working order is outlined in proposed section 4018, subdivision (b)(2). Licensees shall complete and file with the Department a Centralized List of Firearms Dealers and Dealer Inspection Program Annual Renewal Fee Transmittal and Certification (form BOF/CL-0012). The form requires licensees to certify, under penalty of perjury, that the business premise is monitored by a digital video and audio surveillance system pursuant to Penal Code section 26806 and that the system is in proper working order.

The proposed regulations also do not impose any new costs on licensees. The initial application fee for prospective licensees and annual renewal fee for licensees are not changed in the regulations.

Summary: General opposition to SB 1384 and Penal Code section 26806 (2-1, 4-1, 5-1, 11-1).

Response: No change has been made in response to these comments. The comments do not provide sufficient specificity for the Department to make any modifications to the text. The comments appear to object to the video and audio surveillance requirements outlined in Penal Code section 26806, subdivisions (a), (b), and (c). The proposed regulations implement Penal Code section 26806, subdivision (d), concerning certification to the Department that a licensee has a video and audio surveillance system in working order.

Summary: Opposition to SB 1384 on the grounds that the statute is unconstitutional (3-1, 6-1, 8-1, 11-1, 13-1, 17-1)

Response: No change has been made in response to these comments. The Department determines that these comments object to any implementation of the underlying statute, not to the specific regulations proposed.

Summary: Commenters expressed concern regarding the costs licensees will incur to comply with Penal Code section 26806 (7-1, 12-1, 17-2, 20-1)

Response: No change has been made in response to these comments. The comments express concern about SB 1384, which went into effect on January 1, 2024. The proposed regulations are not addressed. The proposed regulations also do not impose any new costs on licensees. The initial application fee for prospective licensees and annual renewal fee for licensees are not changed in the regulations.

Summary: General opposition to the regulations (9-1, 18-1, 20-3).

Response: No change has been made in response to these comments. The comments do not provide sufficient specificity for the Department to make any modifications to the text.

LOCAL MANDATE DETERMINATION

The proposed regulation does not impose any mandate on local agencies or school districts.

ALTERNATIVES DETERMINATIONS

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The proposed regulation requires licensees to provide necessary information on forms prescribed by the Department. Prescribing forms is the easiest way to make sure that licensees provide all required information, including certifying they are complying with state law by having a digital video and audio surveillance system in proper working order. This is the most efficient way to ensure the licensees provide all required information. Licensees are already required to fill out a form to annually renew their placement on the Department's Centralized List of Firearms Dealers.

ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

The Department determines that these proposed regulations do not have an adverse impact on small businesses.

DOCUMENTS INCORPORATED BY REFERENCE

None.

NON-DUPLICATION

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