

FINAL STATEMENT OF REASONS

1) The Update to the Initial Statement of Reasons

The following changes were made to the originally proposed text:

Section 225.00. Definitions.

Subsection (a) is amended to renumber the definition of “accountable inventory” from subsection (d). The definition is unchanged but the renumber to subsection (a) will allow the definitions to be presented in alphabetical order.

The definition of “BPA” is renumbered from subsection (a) to subsection (b) and the definition is unchanged.

Subsections (b) and (c) are renumbered to subsections (c) and (d), respectively.

Subsection (g) is amended to renumber the definition of “change in legal structure” from subsection (i). The definition is unchanged but the renumber to subsection (g) will allow the definitions to be presented in alphabetical order.

The definition of “controlled inventory” is renumbered to subsection (h). The definition is unchanged.

The definition of “first-line business partner” is renumbered to subsection (i). The definition is unchanged.

The definition of “interface” is renumbered to subsection (j). The definition is unchanged.

Subsection (k) is amended to renumber the definition of “list of actions” from subsection (q) to subsection (k). The definition is unchanged.

The definition of “miscellaneous original” is renumbered to subsection (l). The definition is unchanged.

The definitions of “owner” and “permanent fleet registration,” originally proposed for renumbering to subsections (l) and (m), respectively, are now renumbered to subsections (m) and (n), respectively. The definitions are unchanged.

The definition of “robbery” is renumbered from subsection (n) to subsection (o). The definition is unchanged.

The definition of “security stop” is renumbered from subsection (o) to subsection (p). A non-substantive grammatical change was made to the definition.

The definition of “trespass” is renumbered from subsection (p) to subsection (q). The definition is unchanged.

Section 225.03. Application Requirements for all Business Partners.

Subsection (c) is amended to incorporate by reference the Business Partner Automation Program Information Security Pre-Implementation Checklist First-Line Business Partner and First -Line Service Provider form, EXEC 5555A, with a revision date of New 11/2002, and the Business Partner Automation Program Information Security Pre-Implementation Checklist Second-Line Business Partner form, EXEC 5555B, with a revision date of New 11/2002. The form is unchanged, however, in the current version of the regulation it does not state that the form is incorporated by reference. However, the form was previously filed with the Secretary of State with OAL File Number 2009-0410-02SR. The text is being corrected to clarify that the form is incorporated by reference.

Section 225.18. Cause for Refusal to Enter into a Contract and/or Issue a Permit.

Subsection (d)(12) is amended to incorporate by reference the forms EXEC 5555A and EXEC 5555B. Subsections (d)(12) and (d)(13) have both been amended to add the revision date for each form. Neither form has been amended.

Section 225.35. Renewal.

Section 225.35 establishes acceptable times for the submission of a BPA permit renewal, however, does not explain the department's procedures for processing applications received early, on time, or late. The revisions to Section 225.35 will establish the department's processes for all renewal applications.

Subsection (b) is amended to specify that renewal applications received more than 90 days before the expiration date on the BPA permit will not be accepted. The originally proposed amendments make clear that renewal applications shall be received no more than 90 days and no less than 30 days before the expiration of the current permit. However, there was no indication of the department's actions for applications received more than 90 days before the expiration date. Subsection (b) clarifies that those applications will not be accepted.

Subsection (c) is adopted to establish procedures for applications received on time and applications received, what the department would consider, late. For applications received on time, or between 90 days and 30 days before the expiration of the current permit, the department will process those applications as required.

Subsection (c) is also adopted to make clear that applicates received late, or from 29 days to the day before the expiration of the current permit, the department will be processed, but due to the shortened time, the processing of the application may not occur prior to the expiration date of the current permit. This will result in the business partner losing access to the BPA program, including interface with the department, until the renewal is processed. This provision is adopted to further stress the importance of submitting application within the

acceptable margins, those being between 90 days and 30 days of the permit expiring.

Subsections (d) and (e) are adopted to include text that is currently included in subsection (b) of the regulation as written. Subsection (b) requires applications received after the expiration date on the BPA permit will be required to submit an original application under the provisions of Section 225.03. Subsection (e) is adopted to make clear that a BPA partner may not process transactions without a valid BPA permit.

Section 225.39. Business Partner Responsibilities.

Subsection (a)(1) is amended to make a clarifying edit to remove the term "regulations pursuant thereto" and replace with "the provisions of this Article." Subsection (a)(1) currently requires a first-line service provider to ensure the second-line business partner is adhering to the terms and conditions of the second-line business partner's permit. The conditions of the permit are all found in Article 3.6. This amendment will clarify that there are no regulations related to a second-line service provider that are outside of Article 3.6.

Section 335.41. Security Stop.

Subsection (a) establishes the notification requirements when a business partner experiences a break-in, robbery, unauthorized physical trespass, or a loss of inventory. Subsection (a) also provides that the BPA Administrator will place a security stop on the BPA's access to the BPA program and interface. As originally proposed, subsection (a) indicated the BPA Administrator "may" place a Security Stop on the record. The text was modified to clarify that the Administrator "shall" place a security stop. Because even the smallest breach will require an assessment of the extent to which the department's properties were breached, the department will place this security stop until such a time as the security stop can be cleared, as specified in subsection (a)(3).

Subsection (a)(1) was originally adopted to establish the list of actions process that will allow the business partner to complete to regain access to processing transactions. As originally proposed, a list of actions could include other actions deemed necessary by the BPA Administrator. Because this provision could be construed as being subjective, the department determined it necessary to revise this section to make clear the list of actions may include other actions necessary to remedy the breach.

Section 225.60. Retention of Business Records.

As originally proposed, Section 225.60 clarified in subsection (a) that first-line business partners and first-line service providers are required to comply with the three year record retention requirements for business records, while subsection (b) required second-line business partners to retain their business records for at

least four years. However, subsection (b) also allowed for second-line business partners to retain their business records in an electronic format. The department ultimately determined that allowing for the storage of business records electronically could also benefit first-line business partners and first-line service providers.

The department modified Section 225.60 by amending subsection (a) to establish that all business partners shall maintain business records related to the BPA program.

Subsection (b) is amended to require first-line business partners and first-line service providers to retain their records but also allows all or part of the records to be kept in an electronic format. Allowing for the electronic storing of records is a feature that has resulted in other department programs, such as vehicle dealers, realizing many benefits including reduced storage space and the easier retrieval of stored documents. The department anticipates business partners will be able to enjoy the same benefits.

Subsection (b) also requires first-line business partners and first-line service providers who continue to store record in paper format, are required to retain those paper records at the approve site location. This requirement is necessary to ensure the partner can retrieve documents when requested by the department.

Subsection (c) is amended and relates solely to second-line business partners and is modified to require paper records to be stored at the second-line business partner's approved site location. This provision is necessary to ensure the partner can retrieve documents when requested by the department. Subsection (c) is also modified to make clear that the second-line business partner is still required to comply with the four-year record retention requirements, even if they choose to have the first-line service provider store records on their behalf. Subsection (c)(1) reasserts that, if a second-line business partner chooses to have the first-line service provider to store their records, it is still the responsibility of the second-line business partner to ensure the records are available for inspection for the four year retention period. Subsection (c)(2) makes clear that, if the second-line business partner retrieves the documents from the first-line service provider, the second-line business partner is required to retain the records for the remainder of the four years. Subsections (c)(1) and (c)(2) were originally proposed as part of subsection (b) but are separated into smaller subsections to avoid confusion. This clarification is also necessary because first-line service providers have different record retention requirements and, because the first-line service provider is holding the records, the records must be held for four years because they belong to the second-line business partner and not the first-line service provider.

Subsection (c)(2)(A), formerly subsection (b)(1), is amended to remove two references to the word “immediately” as that word could be subjective. Instead, subsection (c)(2)(A) requires a second-line business partner who is ceasing business, to notify their first-line service provider within 24 hours and requires the first-line service provider to return the business partner’s records, inventory, and customer transactions to the department within 48 hours of when the records, inventory, and customer transactions were provided to the first-line service provider. This modification will ensure all business partners are working under the same time frames.

Subsection (b), originally proposed for renumbering to subsection (c), is now renumbered to subsection (d). The requirements contained in that subsection are unchanged.

Subsection (c), originally proposed for renumbering to subsection (d), is now renumbered to subsection (e). An additional modification is also made to clarify that paper records are required to be retained at the approved site location, to ensure consistency with the requirements of subsection (b), as they relate to first-line business partners and first-line service providers, and subsection (c), as they relate to second-line business partners.

Subsection (d), originally proposed for renumbering to subsection (d), is now renumbered to subsection (f). The requirements contained in that subsection are unchanged.

Section 225.73. Issuance, Refusal, Suspension, Revocation, Compromise Settlement Agreements, and Automatic Cancellation of a BPA Permit.

The originally proposed text adopted subsection (k) specifying the department may, after notice and hearing, suspend or revoke a BPA permit of a first-line service provider who fails to comply with the terms and conditions of a contractual agreement entered into pursuant to Vehicle Code section 1685, subsections (a) and (b)(1). Subsection (k) is now being proposed for repeal due to lack of necessity.

In its Initial Statement of Reasons, the department provided the rationale the issuance of a BPA permit correlates to the provider having a valid contract with the department and that a breach of that contract renders the contract invalid. As currently written, subsection (a) allows the department to suspend or revoke a BPA permit, after notice and hearing, when a partner fails to comply with several specified regulations, including the BPA contract. Because a provider’s failure to comply with the terms and conditions of the contract would constitute a breach of the contract, subsection (k) is duplicative of the existing text in subsection (a) and is not necessary.

2) Imposition of Mandate on Local Agencies or School Districts

The department's regulatory action adopting Section 225.41 and amending Sections 225.00, 225.03, 225.09, 225.12, 225.15, 225.18, 225.35, 225.36, 225.39, 225.42, 225.45, 225.48, 225.54, 225.60, 225.63, 225.69, 225.72, and 225.73 in Article 3.6, Chapter 1, Division 1, Title 13, does not impose any mandate on local agencies or school districts and imposes (1) no cost or savings to any state agency, (2) no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, (3) no other discretionary cost or savings to local agencies, and (4) no cost or savings in federal funding to the state. No studies or data were relied upon to make this determination.

3) Local Mandate Determination

The department's regulatory action adopting Section 225.41 and amending Sections 225.00, 225.03, 225.09, 225.12, 225.15, 225.18, 225.35, 225.36, 225.39, 225.42, 225.45, 225.48, 225.54, 225.60, 225.63, 225.69, 225.72, and 225.73 in Article 3.6, Chapter 1, Division 1, Title 13 of the California Code of Regulations does not impose any mandate on local agencies or school districts.

4) Summary of Comments Received during the 45-Day Comment Period and Department Response

The proposal was noticed on March 14, 2025, and made available to the public from March 14, 2025 through April 28, 2025. The department received no written comments during the 45-day comment period.

5) Summary of Comments Received during the 15-Day Comment Period and Department Response

The department modified its originally proposed regulatory text and made the modifications available to the public from August 28, 2025 through September 12, 2025. The department received no written comments during the 15-day comment period.

6) Determination of Alternatives

The department is responsible for ensuring the security of our customers information. The amended regulations establish a process that requires business partners to have more accountability when those records are breached. This process is the most effective as it will require the business partner to play an active role in the remediation of any breach by working with the department in a more collaborative manner. All the changes in the regulation represent the most effective means by which to protect customer data.

The department has determined 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 effective as 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.