

FINAL STATEMENT OF REASONS

1) The Update to the Initial Statement of Reasons

The department made non-substantive changes to the text of the regulations as follows:

- A non-substantive amendment is made to the heading of the Order to Adopt to remove reference to “Title 1” and replace with the correct citation of “Chapter 1.”
- Subsection (a)(1) contains non-substantive amendments to update references to “business records” and “original business records” to “original paper business records.” All references to business records in subsection (a) are in the context of being original business records.
- Subsections (a)(2) and (a)(2)(A) contain several non-substantive amendments to update current references to “original business record” to “original paper business record.” The amended regulation is structured in a manner that all business records referenced in subsection (a) are in the context of being original paper business records. The amendments will ensure references to original paper business records are consistent throughout subsection (a) and its subsections.
- Subsection (a)(2) contains a non-substantive amendment to remove a citation to subdivision (a). Subdivision (a) is already referenced in the same sentence. Removing the second reference to subdivision (a) does not change the requirements of the rule.
- Subsection (a)(2) contains a non-substantive amendment to clarify the reference to Section 272.02(b) by adding reference to Title 13, California Code of Regulations.
- Subsections (a)(2) and (a)(2)(A) contain non-substantive amendments to change the current citation to subdivision (b) to subdivision (b)(1) through (b)(5). The amendment will provide a better reference to electronic record requirements by directing the reader to the five requirements contained in subdivisions (b)(1) through (b)(5).
- Subsection (b)(2) contains a non-substantive amendment to change the word “document” to “electronic record” and subsection (b)(4) contains a non-substantive amendment to update a reference to “business record” to “electronic record.” The amended regulation is structured in a manner that all the records reference in subsection (b) are in the context of being in an electronic format. The amendments will ensure references to electronic records are consistent.
- Subsection (d) contains a non-substantive amendment to update current the reference to “business records” to “original paper business records.” The amended regulation is structured in a manner that all business records referenced in subsection (d) are in the context of being paper business records and will ensure consistency throughout the regulation.

- Subsections (a)(1) and (b)(4) contain a non-substantive amendment to add a missing apostrophe to amend the word “days” to days’.”

The changes identified here are non-substantive as they only provide clarification without materially altering the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text.

2) Imposition of Mandate on Local Agencies or School Districts

The department’s regulatory action amending Section 272.02 in Article 4.2, Chapter 1, Division 1, of 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) Summary of Comments Received and Department Response

The proposal was noticed on October 27, 2023, and made available to the public from October 27, 2023 through December 11, 2023. The department received one written comment during the 45-day comment period.

Peter Woodson, Regional Controller

Enterprise Car Sales

Comment: Mr. Woodson noted the positive impact associated with the proposed rule. Mr. Woodson requested that Section 272.02 be further amended to remove the requirement that the offsite storage location be in the state of California. He indicates that being allowed to utilize offsite storage locations would simplify their storage process.

Department’s Response: Dealers who retain paper documents for the first 90 days are required to maintain those records at the dealer’s principal place of business or branch location. Once the 90-day requirement has been met, the dealer can retain paper documents at an offsite location within California. Section 272.02(a)(1) requires that paper documents be available and retrievable for department inspection upon three business days’ notice. The department reasons that a dealer who stores paper documents outside of California may not be able to provide the department with those records within three business days’ notice. The department specified in its initial statement of reasons that this action would benefit dealers by allowing them greater control over their document storage practices. Dealers who maintain electronic records will not be impacted by the requirement that paper documents be retained within California.

4) Determination of Alternatives

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 provisions of law. This rule represents the most effective means by which a vehicle dealer can create and retain documents electronically, yet still allow the department access to those records, if needed.