

FINAL STATEMENT OF REASONS

Public Hearing: The public hearing was held on October 24, 2006, in Sacramento.

UPDATE OF INITIAL STATEMENT OF REASONS

Information provided in the Initial Statement of Reasons is accurate and current. In accordance with Government Code, section 11345.2(b) – “In order to provide the public with an opportunity to review and comment upon an agency’s perceived need for a regulation, the APA requires that the agency describe the need for these regulations in the initial statement of reasons.” Information regarding the need is being provided in the “Additional Initial Statement of Reasons Information” section contained within this document, whereas it was inadvertently not included in the Initial Statement of Reasons at the time of submission.

In response to public comments and internal review the originally proposed text of the regulations has been amended. The adopted regulations differ from the regulations as noticed on September 8, 2006, as follows:

Table of Contents

The Department has made edits to the Table of Contents to assure that it is consistent with sections contained in Articles 1 through 9. The Department deems these changes as adding clarification and that they do not materially change the text of these regulations.

Chapter, Article and Section numbers have been edited due to notification that Chapter 17 could not accommodate the Department’s needs. Therefore, Chapter 18, Articles 1 through 9, Sections 999.100 through 999.223 were assigned and utilized. The changes are as follows:

Article 1 - section 100-102 – sections added and renumbered to 999.100-999.102

Article 2 - section 200 renumbered to 999.108

Article 3 - section 300 and 301 renumbered to 999.114 and 999.115

Article 4 - section 400 and 401 renumbered to 999.121 and 999.122

Article 5 - section 500-526 editorial change and renumbered to 999.128-999.154

Article 6 - section 600-614 renumbered to 999.165-999.179

Article 7 - section 700-707 editorial change and renumbered to 999.190-999.197

Article 8 - section 800-808 renumbered to 999.203-999.211

Article 9 - section 900-906 renumbered to 999.217-999.223

The Department has determined that the amendments consist of two types of editorial changes. For clarification purposes these types are; 1) Non-substantial changes that were for spelling, punctuation, capitalization and/or syntax correction that do not materially change the text of the regulations, but intend to ensure proper use of grammar. These changes are identified as “Editorial Change(s)”. 2) Substantial editorial changes that shall be made available to the public for comment, according to Government Code 11346.8. These editorial changes were made available to the public during November 18, 2006 - December 4, 2006 and/or April 9, 2007 – April 30, 2007 comment periods.

Article 1. Scope

Section 100 - (999.100) – No Change

Section 100(a) & (b) - (999.100(a) & (b)) – Editorial Change

Section 100(c) & (d) - (999.100(c) & (d)) – No Change

Section 100(e) - (999.100(e)) – This section was added to comply with the Electronic Signatures in Global and National Commerce Act (15 U.S.C. Sections 7001, et seq.) (E-SIGN Act) and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, Editorial Change

Section 101 - (999.101) – The text was edited to be consistent with existing statutes, for state agency privacy laws on the collection and management of personal information.

Section 102 - (999.102) – Government Code section 27393 provides the Attorney General with the authority to adopt regulations. Although the adoption is in consultation with interested parties, these regulations encompass several different areas for ensuring the effective and secure transmission of allowable documents. To the extent a regulation or Article is found unlawful, this regulation is necessary to preserve the overall regulatory intent. The alternative would be to provide that these regulations are so interdependent that if any part is struck down, there would be no regulatory control, which would effectively curtail the electronic delivery of documents under the law. Allowing for severability serves an important function to allow, to the extent possible, the continued lawful operation of certified systems while a struck regulation or Article is reworked. That choice is a policy decision of the Attorney General. The addition of this section was made after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, Editorial Change

Authority and Reference – The statutes have been edited to avoid over inclusive statutory references.

Article 2. Definitions

Section 200 - (999.108) – No Change

Section 200(a) & (a)(1) - (999.108(a) & (a)(1)) – An editorial change was made for consistency and clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 200(a)(2)-(4) - (999.108(a)(2)-(4)) – No Change

Section 200(a)(5)-(7) - (999.108(a)(5)-(7)) – An editorial change was made for consistency and clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 200(a)(8) - (999.108(a)(8)) - An editorial change was made for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 200(a)(9) - (999.108(a)(9)) – Editorial Change

Section 200(a)(10)-(13) - (999.108(a)(10)-(13)) – No Change

Section 200(a)(14) - (999.108(a)(14)) – Editorial Change

Section 200(a)(15) - (999.108(a)(15)) –The Department agrees with comment #15 of the 45 day public comments (September 8, 2006 – October 24, 2006), that a notary will not be sealing or stamping electronic records. Therefore, the text has been edited to reflect the function of a notary is to notarize a digital electronic record or digitized electronic record, and noticed to the public (April 9, 2007 – April 30, 2007).

Section 200(a)(16) - (999.108(a)(16)) – Editorial Change

Section 200(a)(17) & (18) - (999.108(a)(17) & (18)) - Editorial changes were made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 200(a)(19) & (20) renumbered to (200(a)(21) & (19)) - (999.108(a)(21) & (19)) – Renumbered to place in alphabetical order.

Section 200(a)(21) - (999.108(a)(20)) - Editorial changes were made for consistency and renumbered to place in alphabetical order after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 200(a)(22) – (999.108(a)(22)) – Editorial Change

Section 200(a)(23)-(30) - (999.108(a)(23)-(30)) – No Change

Section 200(a)(31) & (32) - (999.108(a)(31) & (32)) – Editorial Changes

Section 200(a)(33) - (999.108(a)(33)) – No Change

Section 200(a)(34) - (999.108(a)(34)) – This section has been edited to remove text that provided a listing of changes made to an established ERDS that is a Non-Substantive Modification. It is the Department’s belief that the list is more appropriately placed in Article 6, section 604. This change was noticed to the public (November 18, 2006 – December 4, 2006).

Section 200(a)(35) & (36) - (999.108(a)(35) & (36)) – No Change

Section 200(a)(37) - (999.108(a)(37)) - The definition of Public Entity was added, which describes the various parties that may be involved with the development, establishment, maintenance and oversight of an ERDS. This definition is necessary to clarify responsibility, authority, and restrictions, if any. This change was noticed to the public (April 9, 2007 – April 30, 2007)

Section 200(a)(37)-(40) - (999.108(a)(38)-(41)) – With the addition of definition (a)(37), these sections were renumbered accordingly and noticed to the public (April 9, 2007 – April 30, 2007).

Section 200(a)(41) & (42) - (999.108(a)(42) & (43)) - An editorial change was made for consistency. Also, with the addition of definition 999.108(a)(37), these sections were renumbered accordingly and noticed to the public (April 9, 2007 – April 30, 2007).

Section 200(a)(43) & (44) - (999.108(a)(44) & (45)) - With the addition of definition (a)(37), these sections were renumbered accordingly and noticed to the public (April 9, 2007 – April 30, 2007).

Section 200(a)(45) - (999.108(a)(46)) - Editorial Change Secondly, with the addition of definition (a)(37), this section was renumbered accordingly and noticed to the public (April 9, 2007 – April 30, 2007).

Section 200(a)(46) - (999.108(a)(47)) - With the addition of definition (a)(37), this section was renumbered accordingly and noticed to the public (April 9, 2007 – April 30, 2007).

Section 200(a)(47) - (999.108(a)(48)) – This section has been edited to remove text that provided a listing of changes made to an established ERDS that is a Substantive Modification. It is the Department’s belief that the list is more appropriately placed in Article 6, section 602. This change was noticed to the public (November 18, 2006 – December 4, 2006). Secondly, with the addition of definition (a)(37), this section was renumbered accordingly and noticed to the public (April 9, 2007 – April 30, 2007).

Section 200(a)(48) & (49) - (999.108(a)(49) & (50)) - With the addition of definition (a)(37), these sections were renumbered accordingly and noticed to the public (April 9, 2007 – April 30, 2007)

Section 200(a)(50) & (51) - (999.108(a)(51) & (52)) – Editorial changes were made for clarification and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, with the addition of definition (a)(37), these sections were renumbered accordingly and noticed to the public (April 9, 2007 – April 30, 2007).

Section 200(a)(52) - (999.108(a)(53)) - With the addition of definition (a)(37), this section was renumbered accordingly and noticed to the public (April 9, 2007 – April 30, 2007).

Authority and Reference - The statutes have been edited to avoid over inclusive statutory references.

Article 3. Fees

Section 300 - (999.114) – No Change

Section 300(a) – (999.114(a)) – An editorial change was made for clarification and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, text was added to be consistent with the intent of the law and noticed to the public (April 9, 2007 – April 30, 2007).

Section 300(a)(1) & (2) – (999.114(a)(1) & (2)) – No Change

Section 300(b) & (c) – (999.114(b) & (c)) – These sections were added for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 301, (a), (b), (b)(1)-(5) & (c) - (999.115, (a), (b), (b)(1)-(5) & (c)) – No Change

Section 301(d) - (999.115(d)) – This section was added for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Authority and Reference - The statutes have been edited to avoid over inclusive statutory references.

Article 4. Fingerprinting and Criminal Records Checks

Section 400 - (999.121) – No Change

Section 400(a) - (999.121(a)) - Editorial changes were made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 400(b) - (999.121(b)) – Per statutory requirements, an editorial change was made to clarify that a pending charge for “any” of the described crimes is justification for denial. The correction was made after the 15 day comment period and noticed to the public (April 9, 2007 – April 30, 2007).

Section 400(c) - (999.121(c)) – Editorial Change

Section 400(d) - (999.121(d)) – Editorial Change

Section 400(e) - (999.121(e)) – Editorial Change

Section 400(f) - (999.121(f)) – An editorial change was made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 400(g) - (999.121(g)) – No Change

Section 400(g)(1) & (2) - (999.121(g)(1)) – All information contained in 400(g)(2) was deleted and is included in 999.121(g)(1) and worded to add clarification and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, to comply with the California Code of Regulations (CCR), Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 400(3), (A) & (B) - (999.121(h), (h)(1) & (2)) – The outline format and an editorial change were made after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 401 - (999.122) – Editorial Change

Section 401(a) - (999.122(a)) – Editorial changes were made revising and clarifying the minimum fingerprinting requirements. The Department has minimum fingerprinting requirements to limit the type of roles serving a Type 1 ERDS or a Type 1 and 2 ERDS and deletes the fingerprinting requirement for Type 2 ERDS only. This change was made after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 401(a)(1)-(6) - (999.122(a)(1)-(6)) – An editorial change was made to show only those roles that would require fingerprinting. Information being deleted appears within these regulations in Article 2, Definitions, where each role is defined, which added clarification and eliminated redundancy. This change was made after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 401(a)(7) - (999.122(a)(7)) – No Change

Section 401(a)(8) - (999.122(a)(8)) – An editorial change was made to clarify only those roles that would require fingerprinting. Information being deleted appears within these regulations in Article 2, Definitions, where each role is defined, which added clarification and eliminated redundancy. This change was made after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 401(a)(9) - (999.122(a)(9)) – A role was added for clarification and consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Authority and Reference - The statutes have been edited to avoid over inclusive statutory references.

Article 5. Baseline Requirements and Technology Standards

Section 500 - (999.128) – No Change

Section 500(a) - (999.128(a)) – An editorial change was made for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 500(a)(1)-(3) - (999.128(a)(1)-(3)) – No Change

Section 501 - (999.129) – To comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the publication has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review. Also, an editorial change was made to ensure the opportunity for public participation in the decision to give regulatory effect to any future changes.

Section 502 - (999.130) - No Change

Section 502(a) - (999.130(a)) - Editorial Change

Section 502(a)(1) - (999.130(a)(1)) – No Change

Section 502(a)(2) & (b) - (999.130(a)(2) & (b)) – Editorial Change

Section 503 & (a) - (999.131 & (a)) – No Change

Section 503(b) - (999.131(b)) – Editorial Change

Section 503(c) - (999.131(c)) – Editorial Change

Section 504 & (a) - (999.132 & (a)) - No Change

Section 504(b) - (999.132(b)) - An editorial change was made for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 504(c)-509 – (999.132(c)–999.137) – No Change

Section 509(a) & (a)(1) – (999.137(a) & (a)(1)) – Editorial Change

Section 509(a)(2) & (b) – (999.137(a)(2) & (b)) – An editorial change was made for consistency and to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of publication has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 509(c) - (999.137(c)) – No Change

Section 509(d) - (999.137(d)) – An editorial change was made for consistency and to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the publication has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 509(e) & (f) - (999.137(e) & (f)) – No Change

Section 509(g) - (999.137(g)) – Editorial Change

Section 509(h) & (i) - (999.137(h) & (i)) – No Change

Section 510 - (999.138) – No Change

Section 510(a) - (999.138(a)) – Editorial Change

Section 510(a)(1) & (2) - (999.138(a)(1) & (2)) – No Change

Section 510(a)(3) - (999.138(a)(3)) – Editorial Change

Section 510(b) - (999.138(b)) – No Change

Section 510(c) - (999.138(c)) – An editorial change was made for clarification to ensure the security of an ERDS and to comply with on-going oversight. This change was made after the 15 day comment period and noticed to the public (April 9, 2007 – April 30, 2007).

Section 511 - (999.139) – No Change

Section 511(a) - (999.139(a)) – Editorial Change

Section 511(b) - (999.139(b)) – An editorial change was made for consistency and to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the publication has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 512 - (999.140) – No Change

Section 512(a) - (999.140(a)) – Editorial Change

Section 512(a)(1)-513 - (999.140(a)(1)-999.141) – No Change

Section 513(a) & (a)(1) - (999.141(a) & (a)(1)) – Editorial Change

Section 513(a)(2)-(b) - (999.141(a)(2)-(b)) – An editorial change was made for consistency and to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the publication has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 514 - (999.142) – No Change

Section 514(a) - (999.142(a)) – The text was edited to change the minimum security requirements to all ERDS that serve either Type 1 or Type 2 instruments. This change was made after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 514(a)(1) & (a)(1)(A) - (999.142(a)(1) & (a)(1)(A)) – No Change

Section 514(a)(1)(B) & (C) - (999.142(a)(1)(B) & (C)) – Editorial Change

Section 514(a)(1)(D) - (999.142(a)(1)(D)) – No Change

Section 514(a)(2)-(5) - (999.142(a)(2)-(5)) – No Change

Section 514(a)(6) - (999.142(a)(6)) - An editorial change was made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 514(a)(7) - (999.142(a)(7)) – No Change

Section 514(a)(8) - (999.142(a)(8)) - An editorial change was made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 514(a)(9) and 515 - (999.142(a)(9) and 999.143) – No Change

Section 515(a) - (999.143(a)) - An editorial change was made for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 515(a)(1) & (2) - (999.143(a)(1) & (2)) – No Change

Section 515(a)(3) - (999.143(a)(3)) - An editorial change was made for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 515(a)(3)(A)-(D) - (999.143(a)(3)(A)-(D)) – No Change

Section 515(a)(4) & (5) – (999.143(a)(4) & (5)) - Editorial changes were made for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 515(a)(6) - (999.143(a)(6)) – An editorial change was made changing “log” to “logged” after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, the Department agrees with comment #1 of the 15 day public comment period (November 18, 2006 – December 4, 2006), that the intent is not to control access based on logged transactions; therefore, the word “logged” was changed to “log” and noticed to the public (April 9, 2007 – April 30, 2007).

Section 515(a)(7) & (8) - (999.143(a)(7) & (8)) – No Change

Section 515(a)(8)(A) - (999.143(a)(8)(A)) – An editorial change was made for clarification and to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the publication has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 515(a)(8)(B) - (999.143(a)(8)(B)) – No Change

Section 515(a)(8)(C) - (999.143(a)(8)(C)) – This section was removed, due to redundancy, after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 515(a)(9) - (999.143(a)(9)) - An editorial change was made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 516 - (999.144) – No Change

Section 516(a) - (999.144(a)) – An editorial change was made for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 516(a)(1) - (999.144(a)(1)) – No Change

Section 516(a)(2) - (999.144(a)(2)) – Editorial Change

Section 516(a)(3) & (4) - (999.144(a)(3) & (4)) – An editorial change was made for consistency and to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the publication has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 516(a)(5) - (999.144(a)(5)) – An editorial change was made for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 516(a)(6) & (7) - (999.144(a)(6) & (7)) – No Change

Section 516(a)(7)(A)-(C) - (999.144(a)(7)(A)-(C)) – No Change

Section 516(a)(7)(D) - (999.144(a)(7)(D)) - An editorial change was made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 517 & (a) - (999.145 & (a)) – No Change

Section 517(b), (c) & (c)(1)-(5) - (999.145(b), (c) & (c)(1)-(5)) – These sections were removed, re-written and placed under sections 517(b), (b)(1)-(3), (c) & (c)(1)-(3) after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 517(b), (b)(1)-(3), (c) & (c)(1)-(3) - (999.145(b), (b)(1)-(3), (c) & (c)(1)-(3)) were added, whereas, the Department revised the minimum fingerprinting requirements to separate and delineate specific physical security requirements between Type 1 and Type 2 instruments rather than impose all of the same security requirements to Type 2 instruments. In addition, these sections describe physical security requirements and additional network security requirements to be met dependent upon the type of ERDS being established. This change was made after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 518, (a) & (b) - (999.146, (a) & (b)) – No Change

Section 518(c) - (999.146(c)) – An editorial change was made for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 518(d) - (999.146(d)) - Editorial Change

Section 518(d)(1) & (2) - (999.146(d)(1) & (2)) - No Change

Section 518(d)(3) - (999.146(d)(3)) – Editorial Changes

Section 518(d)(4) - (999.146(d)(4)) - An editorial change was made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 518(d)(5) & (6) - (999.146(d)(5) & (6)) – An editorial change was made due to this being a function of an ERDS that is an auditable event and not an incident. This change was noticed to the public (April 9, 2007 – April 30, 2007).

Section 518(d)(7)-(10) - (999.146(d)(7)-(10)) – No Change

Section 518(d)(11) - (999.146(d)(11)) – An editorial change was made for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 518(d)(12) - (999.146(d)(12)) – No Change

Section 518(d)(13) - (999.146(d)(13)) – Editorial Change

Section 518(d)(14) - (999.146(d)(14)) – An editorial change was made for clarification after the 15 day comment period and noticed to the public (April 9, 2007 – April 30, 2007).

Section 518(d)(15)-(18) - (999.146(d)(15)-(18)) – No Change

Section 518(d)(19) - (999.146(d)(19)) – An editorial change was made for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 518(d)(20) & (21) - (999.146(d)(20) & (21)) – No Change

Section 518(d)(22)-(24) - (999.146(d)(22)-(24)) - An editorial change was made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 518(d)(25) & (26) - (999.146(d)(25) & (26)) – No Change

Section 518(d)(27)-(29) - (999.146(d)(27)-(29)) – An editorial change was made for clarification after the 15 day comment period and noticed to the public (April 9, 2007 – April 30, 2007).

Section 518(d)(30)-(36) - (999.146(d)(30)-(36)) – No Change

Section 518(d)(37) - (999.146(d)(37)) - An editorial change was made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 518(d)(38) & (39) - (999.146(d)(38) & (39)) – No Change

Section 518(d)(40) - (999.146(d)(40)) - An editorial change was made for consistency and text was removed due to redundancy after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 518(d)(41)-(44) - (999.146(d)(41)-(44)) – No Change

Section 518(d)(45) & (46) - (999.146(d)(45) & (46)) – An editorial change was made for clarification after the 15 day comment period and noticed to the public (April 9, 2007 - April 30, 2007).

Section 518(d)(47)-(49) - (999.146(d)(47)-(49)) – No Change

Section 519 - (999.147) – No Change

Section 519(a) - (999.147(a)) - An editorial change was made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 519(b)-(b)(2) - (999.147(b)-(b)(2)) – No Change

Section 519(b)(3)-(6) - (999.147(b)(3)-(6)) - Editorial changes were made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 520-522 - (999.148-999.150) – No Change

Section 522(a) - (999.150(a)) – An editorial change was made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 522(a)(1) & (2) - (999.150(a)(1) & (2)) – No Change

Section 522(a)(3) - (999.150(a)(3)) - Editorial changes were made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 523 & 524 - (999.151-999.152) – No Change

Section 525 - (999.153) – An editorial change was made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 526 - (999.154) – No Change

Section 526(a) - (999.154(a)) - An editorial change was made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 526(b) - (999.154(b)) – No Change

Authority and Reference - The statutes have been edited to avoid over inclusive statutory references.

Article 6. Electronic Recording Delivery System Certification

Section 600 & (a) - (999.165 & (a)) – No Change

Section 600(b) - (999.165(b)) - An editorial change was made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 600(c) - (999.165(c)) – No Change

Section 600(d) - (999.165(d)) – Editorial Change

Section 600(e) - (999.165(e)) – No Change

Section 600(f) - (999.165(f)) - An editorial change was made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 600(g) - (999.165(g)) – This section has been edited to clarify the responsibilities of a County Recorder prior to entering into a contract with a Vendor of ERDS Software. The text, “to verify” was added and noticed to the public (April 9, 2007 – April 30, 2007).

Section 600(h) & (1) - (999.165(h) & (1)) – No Change

Section 600(h)(2) - (999.165(h)(2)) – Editorial changes were made for consistency with the requirements of the Application for System Certification and Application for Sub-County System Certification forms ERDS 0001A and 0001B, and to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. These changes were noticed to the public ((November 18, 2006 – December 4, 2006) and (April 9, 2007 – April 30, 2007)) along with the incorporated documents as part of the record for review.

Section 600(h)(3) - (999.165(h)(3)) – To comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 600(h)(4) - (999.165(h)(4)) - Editorial Change

Section 601 & (a) - (999.166 & (a)) – No Change

Section 601(b) - (999.166(b)) – An editorial change was made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, an editorial change was made after the 15 day comment period and noticed to the public (April 9, 2007 – April 30, 2007). This change was made to correctly state the function of an ERDS.

Section 601(c) - (999.166(c)) – This section was added for clarification to comply with the requirements of the law. An ERDS can not become operational prior to system certification. This change was made after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, Editorial Change

Section 601(c)(1) - (999.166(c)(1)) – No Change

Section 601(c)(1)(A) - (999.166(c)(1)(A)) – To comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 601(c)(1)(B) - (999.166(c)(1)(B)) - An editorial change was made after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). This change was made to clarify what shall be included in an approved county resolution, which is required for ERDS application submission.

Section 601(c)(1)(C) - (999.166(c)(1)(C)) – No Change

Section 601(c)(1)(D) - (999.166(c)(1)(D)) - The text has been edited, to be consistent with the addition of the definition (a)(37) in Article 2, “Public Entity”, and noticed to the public (April 9, 2007 – April 30, 2007).

Section 601(c)(1)(E) & (F) - (999.166(c)(1)(E) & (F)) – An editorial change was made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 601(c)(1)(G) - (999.166(c)(1)(G)) - An editorial change was made for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, an editorial change was made for consistency with the requirements of the Application for System Certification and Application for Sub-County System Certification forms ERDS 0001A and 0001B and was noticed to the public (April 9, 2007 – April 30, 2007).

Section 601(c)(1)(H) - (999.166(c)(1)(H)) - To comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 601(c)(2) - (999.166(c)(2)) – No Change

Section 601(c)(2)(A) - (999.166(c)(2)(A)) - To comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 601(c)(2)(B) & (C) - (999.166(c)(2)(B) & (C)) – No Change

Section 601(c)(2)(D) - (999.166(c)(2)(D)) – The text has been edited, to be consistent with the addition of the definition (a)(37) in Article 2, “Public Entity”, and noticed to the public (April 9, 2007 – April 30, 2007).

Section 601(c)(2)(E) & (F) - (999.166(c)(2)(E) & (F)) - Editorial changes were made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 601(c)(2)(G) - (999.166(c)(2)(G)) – An editorial change was made for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, an editorial change was made for consistency with the requirements of the Application for System Certification and Application for Sub-County System Certification forms ERDS 0001A and 0001B and noticed to the public (April 9, 2007 – April 30, 2007).

Section 601(c)(2)(H) - (999.166(c)(2)(H)) – No Change

Section 601(c)(2)(I) - (999.166(c)(2)(I)) - To comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 601(c)(3) - (999.166(c)(3)) – No Change

Section 601(c)(3)(A) - (999.166(c)(3)(A)) – Editorial Change Secondly, to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 601(c)(3)(B) - (999.166(c)(3)(B)) – No Change

Section 601(c)(3)(C) - (999.166(c)(3)(C)) - An editorial change was made after the 15 day comment period and noticed to the public (April 9, 2007 – April 30, 2007). This change was made for consistency with the requirements of the Application for System Certification and Application for Sub-County System Certification forms ERDS 0001A and 0001B.

Section 601(c)(3)(D) - (999.166(c)(3)(D)) - To comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 602 & (1)-(13) - (999.167 & (1)-(13)) - These sections were added. It is the Department's belief that the text of these sections, that were included as part of Article 2, Definition (a)(47), is more appropriately placed within this Article. Also, two additional Substantive Modification requirements were added to further clarify what constitutes a substantive modification to an ERDS. This change was made after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Note: Due to number eight being omitted, the outline format numbering on seven through fourteen is now renumbered to seven through thirteen. The Department does not deem this to be a substantive change; therefore, this change was not noticed to the public.

Section (602-612) - With the addition of sections, the outline format numbering on all subsequent section numbers was edited to reflect the correct sequence and noticed to the public ((November 18, 2006 – December 4, 2006) and (April 9, 2007 – April 30, 2007)).

Section 602 renumbered to (603) - (999.168) – No Change

Section 602(a) renumbered to (603(a)) - (999.168(a)) – An editorial change was made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text, and text has been added to be consistent with the ERDS form. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 602(b) renumbered to (603(b)) - (999.168(b)) – No Change

Section 602(b)(1) renumbered to (603(b)(1)) - (999.168(b)(1)) - To comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 602(b)(2) renumbered to (603(b)(2)) - (999.168(b)(2)) – No Change

Section 603(b)(3) - (999.168(b)(3)) – This section was added after the 15 day comment period and noticed to the public (April 9, 2007 – April 30, 2007). This change was made for consistency with the requirements of the Request for Approval of Substantive Modification(s) form ERDS 0013.

Section 602(b)(3) & (4) renumbered to (603(b)(3) & (4)) - (999.168(b)(4) & (5)) – An editorial change was made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, with the addition of section 603(b)(3) - (999.168(b)(3)), this section was renumbered accordingly and noticed to the public (April 9, 2007 – April 30, 2007).

Section 602(c) renumbered to (603(c)) - (999.168(c)) – Editorial Change

Section 603(c)(1) - (999.168(c)(1)) - This section was added after the 15 day comment period and noticed to the public (April 9, 2007 – April 30, 2007). This change was made for consistency with the requirements of the Request for Approval of Substantive Modification(s) form ERDS 0013; and to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 602(c)(1) renumbered to (603(c)(1)) - (999.168(c)(2)) – An editorial change was made and with the addition of section 603(c)(1) - (999.168(c)(1)), this section was renumbered accordingly and noticed to the public (April 9, 2007 – April 30, 2007).

Section 602(c)(2) renumbered to (603(c)(2)) - (999.168(c)(3)) - With the addition of section 603(c)(1) - (999.168(c)(1)), this section was renumbered accordingly and noticed to the public (April 9, 2007 – April 30, 2007).

Section 603(c)(4) - (999.168(c)(4)) - This section was added after the 15 day comment period and noticed to the public (April 9, 2007 – April 30, 2007). This change was made for consistency with the requirements of the Request for Approval of Substantive Modification(s) form ERDS 0013.

Section 602(c)(3) renumbered to (603(c)(5)) – (999.168(c)(5)) - With the addition of section 999.168(c)(4), this section was renumbered accordingly and noticed to the public (April 9, 2007 – April 30, 2007).

Section 602(c)(4) renumbered to (603(c)(4)) – (999.168(c)(6)) – With the addition of section 999.168(c)(4) this section was renumbered accordingly and noticed to the public (April 9, 2007 – April 30, 2007).

Section 602(c)(5) renumbered to (603(c)(5)) – (999.168(c)(7)) – With the addition of section 999.168(c)(4) this section was renumbered accordingly. Also, to comply with CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 602(c)(5)(A) renumbered to (603(c)(5)(A)) - (999.168(c)(7)(A)) - With the addition of section 999.168(c)(4) this section was renumbered accordingly and noticed to the public (April 9, 2007 – April 30, 2007).

Section 602(c)(5)(C) renumbered to (603(c)(5)(B)) - (999.168(c)(7)(B)) - With the addition of section 999.168(c)(4), this section was renumbered accordingly and editorial changes were made for consistency with the requirements of Application for System Certification and Application for Sub-County System Certification forms ERDS 0001A and 0001B. This change was noticed to the public ((November 18, 2006 – December 4, 2006) and (April 9, 2007 – April 30, 2007)).

Note: Due to a grammatical error the text was edited, the Department does not deem this to be a substantive change; therefore, this change was not noticed to the public.

Section 602(c)(5)(D) renumbered to (603(c)(5)(C)) - (999.168(c)(7)(C)) - With the addition of section 999.168(c)(4) this section was renumbered accordingly. Also, to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 604 & (1)-(7) - (999.169 & (1)-(7)) - These sections were added. It is the Department's belief that the text of these sections, that were included as part of Article 2, Definition (a)(34), are more appropriately placed within this Article. This change was made after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 603 renumbered to (605) - (999.170) – An editorial change was made for clarification and with the addition of sections 604 & (1)-(7), this section was renumbered accordingly. This change was made after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 604 renumbered to (606) - (999.171) – No Change

Section 604(a) renumbered to (606(a)) - (999.171(a)) – Editorial changes were made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 604(a)(1) renumbered to (606(a)(1)) – (999.171(a)(1)) – No Change

Section 604(a)(2) renumbered to (606(a)(2)) – (999.171(a)(2)) – Editorial changes were made for consistency after the 15 day comment period and noticed to the public (April 9, 2007 – April 30, 2007).

Section 604(b) renumbered to (606(b)) – (999.171(b)) - To comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 605 renumbered to (607) - (999.172) – No Change

Section 605(a) renumbered to (607(a)) - (999.172(a)) – Editorial Change Secondly, to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 605(a)(1) renumbered to (607(a)(1)) - (999.172(a)(1)) – No Change

Section 605(a)(2) renumbered to (607(a)(2)) - (999.172(a)(2)) – Editorial Change

Section 605(a)(3) renumbered to (607(a)(3)) - (999.172(a)(3)) – No Change

Section 605(b) renumbered to (607(b)) - (999.172(b)) - To comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 606 renumbered to (608) - (999.173) – No Change

Section 606(a) renumbered to (608(a)) - (999.173(a)) - To comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 606(b) renumbered to (608(b)) - (999.173(b)) – An editorial change was made for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 607 renumbered to (609) - (999.174) – No Change

Section 607(a) renumbered to (609(a)) - (999.174(a)) - To comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 608 renumbered to (610) - (999.175) – No Change

Section 608(a) renumbered to (610(a)) - (999.175(a)) – An editorial change was made to include the type of change that would require the County Recorder to notify the ERDS Program. This change was made for clarification and noticed to the public (April 9, 2007 – April 30, 2007).

Section 609 renumbered to (611) - (999.176) – No Change

Section 609(a) renumbered to (611(a)) - (999.176(a)) – Editorial Change Secondly, to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 610 renumbered to (612) - (999.177) – No Change

Section 610(a) renumbered to (612(a)) - (999.177(a)) - An editorial change was made for clarification after the 15 day comment period and noticed to the public (April 9, 2007 – April 30, 2007).

Section 610(a)(1) & (2) renumbered to (612(a)(1) & (2)) - (999.177(a)(1) & (2)) – No Change

Section 611 & (a) renumbered to (613 & (a)) - (999.178 & (a)) – No Change

Section 611(a)(1) renumbered to (613(a)(1)) - (999.178(a)(1)) - To comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 611(a)(2) & (3) renumbered to (613(a)(2) & (3)) - (999.178(a)(2) & (3)) – Editorial changes were made for consistency with the requirements of the Application for Withdrawal form ERDS 0010 and noticed to the public ((November 18, 2006 – December 4, 2006) and (April 9, 2007 – April 30, 2007)).

Section 613(a)(4) - (999.178(a)(4)) - This section was added for clarification and for consistency with the requirements of the Application for Withdrawal form ERDS 0010 and noticed to the public (April 9, 2007 – April 30, 2007).

Section 613(b) – (999.178(b)) - This section was added for clarification and for consistency with the requirements of the Application for Withdrawal form ERDS 0010 and noticed to the public (April 9, 2007 – April 30, 2007).

Section 611(b) renumbered to (613(b)) - (999.178(c)) – Editorial Change Secondly, with the addition of 999.178(b), this section was renumbered accordingly and noticed to the public (April 9, 2007 – April 30, 2007).

Section 612 renumbered to (614) - (999.179) – No Change

Section 612(a) renumbered to (614(a)) - (999.179(a)) - To comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Authority and Reference - The statutes have been edited to avoid over inclusive statutory references.

Article 7. Computer Security Auditor – Editorial Change

Section 700 - (999.190) – Editorial changes were made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 700(a) - (999.190(a)) – To be consistent with the statutory intent, this section was added to establish and clarify the requirement that an individual must first be approved by the ERDS Program to provide auditing services before entering into a contract with a County Recorder. This change was noticed to the public (November 18, 2006 – December 4, 2006).

Section 700(a) & (b) renumbered to (700(b) & (c)) - (999.190(b) & (c)) – With the addition of section 700(a), sections 700(a) & (b) were renumbered to (b) and (c). Also, an editorial change was made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 700(c)(1) – (999.190(c)(1)) - An editorial change was made for clarification and to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 700(c)(1)(A) - (999.190(c)(1)(A)) – An editorial change was made for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 700(c)(1)(A)(1)-(4) - (999.190(c)(1)(A)(1)-(4)) – No Change

Section 700(c)(2) – (999.190(c)(2)) – An editorial change was made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 700(c)(2)(A)-(B) - (999.190(c)(2)(A)-(B)) - To comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 700(c)(2)(C) & (D) – (999.190(c)(2)(C) & (D)) – Editorial Change Secondly, to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 700(c)(2)(E) - (999.190(c)(2)(E)) – An editorial change was made to correct “Systems and Audit” to “SysAdmin, Audit” and to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 700(c)(2)(F) - This section was removed, as it contained redundant information that is included in 700(c)(2)(E), after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006),

Section 700(c)(3) - (999.190(c)(3)) – An editorial change was made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 701 - (999.191) – No Change

Section 701(a) - (999.191(a)) – Editorial Change

Section 701(a)(1) - (999.191(a)(1)) – No Change

Section 701(a)(2) & (b) - (999.191(a)(2) & (b)) – An editorial change was made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 702 - (999.192) – No Change

Section 702(a) - (999.192(a)) – Editorial Change

Section 702(a)(1) - (999.192(a)(1)) – No Change

Section 702(a)(2) - (999.192(a)(2)) – Editorial Change

Section 702(a)(3) - (999.192(a)(3)) – No Change

Section 702(b) - (999.192(b)) – An editorial change was made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 703 - (999.193) – No Change

Section 703(a) & (b) - (999.193(a) & (b)) – Editorial changes were made for clarification and consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Secondly, to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 704, (a) & (a)(1) - (999.194, (a) & (a)(1)) – No Change

Section 704(a)(2) - (999.194(a)(2)) – Editorial Change

Section 705 - (999.195) – No Change

Section 705(a) - (999.195(a)) – The Department determined it necessary to edit the language to this section to reflect what appears on the Application for DOJ Computer Security Auditor Approval form ERDS 0002. Also, to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 705(b)-(f) - (999.195(b)-(f)) – These sections were added for clarification and consistency with the renewal standards. Also, to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 705(b) renumbered to (705(g)) - (999.195(g)) – An editorial change was made for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, with the addition of 999.195(b)-(f), this section was renumbered accordingly and noticed to the public (April 9, 2007 – April 30, 2007).

Section 705(c) renumbered to (705(h)) - (999.195(h)) - With the addition of 999.195(b)-(f), this section was renumbered accordingly after the 15 day comment period and noticed to the public (April 9, 2007 – April 30, 2007).

Section 706 - (999.196) – No Change

Section 706(a) & (b) - (999.196(a) & (b)) – An editorial change was made for consistency and to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 706(c) - (999.196(c)) – This section was added for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, the Department determined it necessary to edit the language to this section to reflect what appears on the Application of Withdrawal form ERDS 0010 and noticed to the public (April 9, 2007 – April 30, 2007).

Note: An editorial change was made to add the word “service”. The Department does not deem this to be a substantive change; therefore, this change was not noticed to the public.

Section 706(c) renumbered to (706(d)) - (999.196(d)) – An editorial change was made for consistency and with the addition 999.196(c) this section was renumbered accordingly and noticed to the public (November 18, 2006 – December 4, 2006).

Section 707 - (999.197) – No Change

Section 707(a) - (999.197(a)) – Editorial Change Secondly, to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Authority and Reference - The statutes have been edited to avoid over inclusive statutory references.

Article 8. Vendor of Electronic Recording Delivery System Software – Editorial Change

Section 800 - (999.203) – No Change

Section 800(a) & (b) - (999.203(a) & (b)) – Editorial Change

Section 800(c) - (999.203(c)) – No Change

Section 800(c)(1) - (999.203(c)(1)) – An editorial change was made for clarification and for consistency with the requirements of the Application for Vendor of ERDS Software Certification form ERDS 0003, after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, editorial changes were made for clarification, consistency and to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 800(c)(2) & (2)(A) - (999.203(c)(2) & (2)(A)) - To comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 800(c)(2)(B) - (999.203(c)(2)(B)) – An editorial change was made to correct “California Master Services Agreement” to “California Multiple Award Schedule” after the 15 day comment period and noticed to the public (April 9, 2007 – April 30, 2007).

Section 800(c)(3) - (999.203(c)(3)) – No Change

Section 800(c)(4) - (999.203(c)(4)) – An editorial change was made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 800(c)(5) - (999.203(c)(5)) – This section was added for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 801 & (a) - (999.204 & (a)) – No Change

Section 801(a)(1) - (999.204(a)(1)) – An editorial change was made for consistency and clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, an editorial change was made for consistency and to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 801(a)(2) - (999.204(a)(2)) - To comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 802 - (999.205) – No Change

Section 802(a) - (999.205(a)) – An editorial change was made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 802(a)(1) & (2) - (999.205(a)(1) & (2)) – No Change

Section 803 - (999.206) – No Change

Section 803(a) - (999.206(a)) – Editorial Change Secondly, to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 803(a)(1) & (2) - (999.206(a)(1) & (2)) – No Change

Section 803(a)(3) - (999.206(a)(3)) - An editorial change was made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 803(b) - (999.206(b)) – An editorial change was made for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 804 - (999.207) – No Change

Section 804(a) & (b) - (999.207(a) & (b)) – An editorial change was made for consistency and clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 805, (a) & (a)(1) - (999.208, (a) & (a)(1)) – No Change

Section 805(a)(2) - (999.208(a)(2)) – Editorial Change

Section 806 & (a) - (999.209 & (a)) – No Change

Section 806(a)(1) - (999.209(a)(1)) - To comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 806(a)(2) - (999.209(a)(2)) – An editorial change was made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 806(a)(3)-(B) - (999.209(a)(3)-(B)) – These sections were added for clarification and for consistency with the requirements of the Application for Vendor of ERDS Software Certification form ERDS 0003. Also, to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 806(b) & (c) - (999.209(b) & (c)) – An editorial change was made for clarification and consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 6, 2006).

Section 807 & (a) - (999.210 & (a)) – No Change

Section 807(a)(1) - (999.210(a)(1)) – An editorial change was made for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 807(a)(2) - (999.210(a)(2)) - An editorial change was made for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, an editorial change was made for consistency with the requirements of the Application for Withdrawal form ERDS 0010 and noticed to the public (April 9, 2007 – April 30, 2007).

Note: To comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text.

Section 807(a)(3) - (999.210(a)(3)) - This section was added for consistency and clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, editorial change.

Section 807(b) - (999.210(b)) - To comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 807(c) - (999.210(c)) – Editorial Change

Section 808 - (999.211) – No Change

Section 808(a) - (999.211(a)) - To comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Authority and Reference - The statutes have been edited to avoid over inclusive statutory references.

Article 9. Audits and Oversight

Section 900 & (a) - (999.217 & (a)) – No Change

Section 900(b)-(c)(2) - (999.217(b)-(c)(2)) – An editorial change was made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 900(d) - (999.217(d)) – Editorial Change Secondly, to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 900(d)(1)-(3) & (3)(A)-(G) - (999.217(d)(1)-(3) & (3)(A)-(G)) – No Change

Section 900(d)(3)(H) - (999.217(d)(3)(H)) – Editorial Change

Section 900(d)(3)(I) - (999.217(d)(3)(I)) – No Change

Section 900(d)(4) - (999.217(d)(4)) – Editorial Change

Section 900(d)(4)(A)-(C) - (999.217(d)(4)(A)-(C)) – No Change

Section 900(d)(4)(D) - (999.217(d)(4)(D)) - An editorial change was made for clarification and consistency after the 15 day comment period and noticed to the public (April 9, 2007 – April 30, 2007).

Section 900(d)(4)(E)-(I) - (999.217(d)(4)(E)-(I)) – No Change

Section 900(e) - (999.217(e)) – Editorial Change

Section 900(e)(1)-(3) - (999.217(e)(1)-(3)) – No Change

Section 900(e)(3)(A)-(G) - (999.217(e)(3)(A)-(G)) – No Change

Section 900(e)(3)(H) - (999.217(e)(3)(H)) – Editorial Change

Section 900(e)(3)(I) - (999.217(e)(3)(I)) – No Change

Section 900(e)(4) - (999.217(e)(4)) – Editorial Change

Section 900(e)(4)(A)-(C) - (999.217(e)(4)(A)-(C)) – No Change

Section 900(e)(4)(D) - (999.217(e)(4)(D)) - An editorial change was made for clarification and consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 900(e)(4)(E)-(K) - (999.217(e)(4)(E)-(K)) – No Change

Section 900(f) - (999.217(f)) - An editorial change was made for clarification and consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 900(f)(1) & (2) - (999.217(f)(1) & (2)) – Editorial Change

Section 900(f)(3) & (f)(3)(A)-(G) - (999.217(f)(3) & (f)(3)(A)-(G)) – No Change

Section 900(f)(3)(H) - (999.217(f)(3)(H)) – Editorial Change

Section 900(f)(3)(I) - (999.217(f)(3)(I)) – No Change

Section 900(f)(4) - (999.217(f)(4)) – Editorial Change

Section 900(f)(4)(A)-(C) - (999.217(f)(4)(A)-(C)) – No Change

Section 900(f)(4)(D) - (999.217(f)(4)(D)) - An editorial change was made for clarification and consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 900(f)(4)(E)-(K) - (999.217(f)(4)(E)-(K)) – No Change

Section 900(g) & (g)(1) - (999.217(g) & (g)(1)) - An editorial change was made for clarification and consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 900(g)(2) - (999.217(g)(2)) - An editorial change was made for clarification after the 15 day comment period and noticed to the public (April 9, 2007 – April 30, 2007).

Section 900(g)(2)(A)-(G) - (999.217(g)(2)(A)-(G)) – No Change

Section 900(g)(2)(H) - (999.217(g)(2)(H)) – Editorial Change

Section 900(g)(2)(I) - (999.217(g)(2)(I)) – No Change

Section 900(g)(3) - (999.217(g)(3)) – Editorial Change

Section 900(g)(3)(A)-(C) - (999.217(g)(3)(A)-(C)) – No Change

Section 900(g)(3)(D) - (999.217(g)(3)(D)) - An editorial change was made for clarification and consistency after the 15 day comment period and noticed to the public (April 9, 2007 – April 30, 2007).

Section 900(g)(3)(E)-(K) - (999.217(g)(3)(E)-(K)) – No Change

Section 900(g)(4) & (g)(4)(A) - (999.217(g)(4) & (g)(4)(A)) – No Change

Section 900(g)(4)(B) – (999.217(g)(4)(B)) – An editorial change was made for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 900(g)(4)(C) – (999.217(g)(4)(C)) – No Change

Section 901 - (999.218) – No Change

Section 901(a) - (999.218(a)) – Editorial Change

Section 901(a)(1) - (999.218(a)(1)) – No Change

Section 901(a)(2) & (3) - (999.218(a)(2) & (3)) – Editorial Change

Section 901(a)(4)-(6) - (999.218(a)(4)-(6)) – No Change

Section 901(a)(7) - (999.218(a)(7)) - This section was added for clarification and consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, an editorial change was made for clarification after the 15 day comment period and noticed to the public (April 9, 2007 – April 30, 2007).

Section 902, (a) & (b) - (999.219, (a) & (b)) – No Change

Section 902(c) - (999.219(c)) - An editorial change was made for clarification after the 15 day comment period and noticed to the public (April 9, 2007 – April 30, 2007).

Section 902(c)(1)-(3) - (999.219(c)(1)-(3)) – No Change

Section 902(c)(4) - (999.219(c)(4)) - An editorial change was made for consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, an editorial change was made for clarification and consistency after the 15 day comment period and noticed to the public (April 9, 2007 – April 30, 2007).

Section 902(c)(5) - (999.219(c)(5)) - An editorial change was made for clarification and consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, the text was edited for consistency with the addition of the definition “Public Entity” in Article 2, (a)(37). Also, to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 902(c)(6) - (999.219(c)(6)) - An editorial change was made for clarification and consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, an editorial change was made for clarification and consistency and to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 902(d) - (999.219(d)) – Editorial Change

Section 902(e) & (f) - (999.219(e) & (f)) – An editorial change was made to remove the reference to an ERDS form that does not exist after 15 day comment period and noticed to the public (April 9, 2007 – April 30, 2007).

Section 902(g) - (999.219(g)) - An editorial change was made for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 902(h) & (i) - (999.219(h) & (i)) - No Change

Section 902(i)(1) - (999.219(i)(1)) – An editorial change was made for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 902(i)(2) - (999.219(i)(2)) – No Change

Section 902(i)(3) - (999.219(i)(3)) – Editorial Change

Section 902(i)(4) & (5) - (999.219(i)(4) & (5)) – No Change

Section 903 – (999.220) - No Change

Section 903(a)-(c) - (999.220(a)-(c)) – An editorial change was made for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 903(d) – (999.220(d)) – An editorial change was made for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 903(e) - (999.220(e)) - An editorial change was made for consistency and clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 903(f) – (999.220(f)) – Editorial changes were made for consistency and clarification and noticed to the public ((November 18, 2006 – December 4, 2006) and (April 9, 2007 –April 30, 2007)).

Section 903(g) & (g)(1) - (999.220(g) & (g)(1)) – No Change

Section 903(g)(2) - (999.220(g)(2)) – An editorial change was made for clarification and consistency after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 903(g)(3) & 904 - (999.220(g)(3) & 999.221) – No Change

Section 904(a) - (999.221(a)) - An editorial change was made for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 904(a)(1) - (999.221(a)(1)) – Editorial Change

Section 904(a)(2)-(4) - (999.221(a)(2)-(4)) – No Change

Section 904(a)(5) - (999.221(a)(5)) – An editorial change was made for consistency and clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 904(a)(6) - (999.221(a)(6)) – An editorial change was made for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Section 904(a)(7)-906(a) - (999.221(a)(7)-999.223(a)) - No Change

Section 906(b)-(c) - (999.223(b)-(c)) - An editorial change was made for consistency and clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006).

Section 906(d) – (999.223(d)) - An editorial change was made for clarification after the 45 day comment period and noticed to the public (November 18, 2006 – December 4, 2006). Secondly, to comply with the CCR, Title 1, section 20, as incorporated by reference, the date of the ERDS form has been included within the text. This change was noticed to the public (April 9, 2007 – April 30, 2007) along with the incorporated documents as part of the record for review.

Authority and Reference - The statutes have been edited to avoid over inclusive statutory references.

ADDITIONAL INITIAL STATEMENT OF REASONS INFORMATION

In accordance with Government Code, section 11345.2(b) – “In order to provide the public with an opportunity to review and comment upon an agency’s perceived need for a regulation, the APA requires that the agency describe the need for these regulations in the initial statement of reasons.” The following information regarding the need is being provided, whereas it was inadvertently not included in the Initial Statement of Reasons at the time of submission.

Section 300 (199.114) - Vendor of ERDS Software Fees

These fees were set at the amounts specified for sufficient reimbursement of costs for Vendors seeking approval of software and other services as part of an ERDS. They are based on, but not limited to, the cost of all Attorney General’s office personnel and employee time at the billing rates used by the Department of Justice for budgeting purposes, costs of travel, printing costs, and all costs incurred in the Vendor seeking approval process. These fees do not exceed the reasonable cost of approving software, processing documentation or other services for Vendors.

Section 401 (199.122) - Role Based Fingerprinting Requirement

ERDS access is controlled by using a role-base access control system. A role is defined as a security mechanism, method, process or procedure that defines specific privileges dictating the level of access to an ERDS. The role base fingerprinting requirement is necessary to identify those convictions that would disqualify an individual from obtaining approval to perform in a role.

Section 502 (999.130) - Instrument Type

The two types of instruments, or types of documents, have been defined to meet the requirements of the Electronic Recording Delivery Act (ERDA) of 2004. This section clarifies the types, as well as, the fingerprint requirement based on the type of submission.

Section 503 (999.131) - Operating Procedures

The ERDS operating procedure requirement is needed to assure the continuing security and lawful operation of that system.

Section 504 (999.132) - System Implementation

This section contains specifications as to what type of system shall be implemented based on specifications to ensure that the integrity of information being transferred electronically, is being maintained at the highest level of security and meets the requirements of the ERDA.

Section 505 (999.133) - Payload Structure, Content and Usage

Each ERDS shall contain a payload structure to ensure the integrity of the data being transmitted via an ERDS.

Section 514 (99.142) - ERDS Role-Based Security Requirements

A role-based security requirement allows the County Recorder to define the minimum access required for specific roles and responsibilities within an ERDS. By establishing the minimum level of access needed to perform the duties of an assigned role within ERDS, confidentiality and integrity of the ERDS is assured.

Section 517 (999.145) - Physical Security

This section outlines the minimum physical security requirements to an ERDS to prevent unauthorized access or use of an ERDS server and to maintain the highest level of security, meeting the requirements of the law.

Section 518 (999.146) - Auditable Events, Incidents and Reporting

These requirements are necessary to monitor and regulate the effectiveness of security that will assure the system meets the requirements of the ERDA.

Section 522 (999.150) - Letter of Deposit

The Letter of Deposit is a mechanism in which to provide proof of deposit, to a County Recorder, for their ERDS source code at an approved escrow facility.

Section 600 (999.165) - Establishing an ERDS

These requirements are established for County Recorders to understand what is required of them in establishing an ERDS, to assure there is sufficient security, as well as, continuing security and lawful operation of an ERDS.

Section 601 (999.166) - Certification Application Procedure

It is necessary to go through the application process to regulate a county's ERDS operation and guarantee that a County Recorder understands their responsibilities to maintain the highest level of security, thus meeting the requirements of the ERDA.

Section 608 (999.174) - Change of Physical and/or Mailing Address and/or Contact Information for a County Recorder

The most current information is needed to maintain updated records within the ERDS Program for the continued oversight, as required by law, to protect the public interest, protect the integrity of public records, or to protect homeowners from financial harm.

Section 612 (999.177) - Request for Replacement of Certificate and/or Documents

This requirement has been established to ensure that an individual's right to privacy is enforced and that confidential information is protected from threat of potential risk in the indiscriminate collection, maintenance, and dissemination.

Section 613 (999.178) - Withdrawal of Certification

This process is essential to ensure that the County Recorder clearly understands that withdrawing renders the certificate invalid and a cease of operation/service is in effect as of the date noted on the withdrawal application. Also once withdrawn, initial steps for system certification are needed, if they wish ERDS participation in the future.

Section 803 (999.206) - Incomplete Application

These guidelines are needed to prevent pending an application for an extended period of time.

SUMMARY OF COMMENTS RECEIVED

Included, as an attachment, is a Response Table reflecting the submitter's comments and the Department's responses. For the following:

45-day comment period summary:

- E-mail submitted on behalf of the County Records Office, San Bernardino, CA (#1-4)
- Written comment submitted on behalf of Settleware Secure Services, Inc. (#5)
- E-mail submitted on behalf of the Sacramento County Clerk/Recorder, Sacramento, CA (#6-14)
- Letter submitted on behalf of First American Title Insurance Company (#15-19)
- Present at public hearing and extracted from official transcript on behalf of Alameda County Clerk/Recorder, Alameda, CA (#20)
- E-Mail submitted on behalf of CDB Consultancy LLC (#21)
- E-mail submitted on behalf of Property Records Industry Association (P.R.I.A.) (#22)
- E-mail submitted on behalf of the County Records Office, Salt Lake City, Utah (#23)

15-day comment period summary:

- E-mail submitted on behalf of the County Records Office, San Bernardino, CA (#1)
- E-mail submitted on behalf of the Sacramento County Clerk/Recorder, Sacramento, CA (#2-3)
- E-mail submitted on behalf of the County Records Office, Salt Lake City, Utah (#4)

Second 15-day comment period – No comments received.

ALTERNATIVES DETERMINATION

The Department has determined that no alternative would be more effective in carrying out the purpose for which these regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed regulations.

LOCAL MANDATE DETERMINATION

The proposed regulations do not impose any mandate on local agencies or school districts.

BUSINESS IMPACT

These proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses.

Department of Justice Responses to 45-Day Public Comments on
Proposed Regulations on Electronic Recording Delivery System
(September 8, 2006 – October 24, 2006)

	Comment	Department's Response
#1	<p>Submitted by Larry Walker – Auditor/Controller-Recorder, San Bernardino County and Patrick Honny - San Bernardino County Recorders Office</p> <p>JPA Consortium: A group of county recorders may unite to form a JPA, a consortium or other legal entity for the purpose of jointly building a system for ERDS. The draft regulations do not specifically address the possibility of such an entity. We recommend that an entity composed entirely of California counties or county recorders be authorized in the regulations relating to “multi-county” efforts, with the same rights and responsibilities.</p>	<p>Regulations Article 6, section 601 and subsections therein allow for a JPA Consortium. The Department disagrees with the comment. The JPA, as described by the commenter, meets the definition and purpose of a “Multi-County ERDS” as presented within the proposed regulations. It has been determined that the intention of the statute requires the Attorney General to certify a system for the delivery of specified digitized electronic records and digital electronic records. By specifying within these regulations that a county may unite to form a JPA, a consortium or other legal entity the Department of Justice steps beyond the boundaries of delivery into the County’s business dealings. A Multi-County ERDS allows the counties to join their efforts, however, how they achieve it becomes their business process.</p>
#2	<p>Submitted by Larry Walker – Auditor/Controller-Recorder, San Bernardino County and Patrick Honny - San Bernardino County Recorders Office</p> <p>Developer/Vendor definition: The proposed regulations require that any developer or vendor, including all personnel that may have access to the application during development, be fingerprinted and background checked. This requirement presents severe logistical issues when dealing with global development firms. We recommend that the definition of “secure access” be revisited to determine the need for this requirement in those instances where the vendor will only be developing the application and have no further system interaction. Perhaps the Attorney General could be specifically authorized to make a finding that a proposed ERDS development meets the legislative requirement for “Secure Access” in an</p>	<p>The Department disagrees with the commenter’s suggestion to revisit the definition of “secure access”. The Department has identified specific roles as critical to the security and integrity of the ERDS. These roles were based upon recommendations from the department’s IT Specialists, consultants and the Advisory Committee. Once secure access was defined, it met with the approval of the Advisory Committee, comprised of representatives from the real estate industry, District Attorney’s Association and the County Recorders. Who the County Recorder hires for development of the ERDS is a business decision and how they achieve it becomes their business process.</p>

Department of Justice Responses to 45-Day Public Comments on
Proposed Regulations on Electronic Recording Delivery System
(September 8, 2006 – October 24, 2006)

	Comment	Department's Response
	appropriate case where the applicant presents a security plan that meets the definition even without the extent of fingerprinting currently envisioned.	
#3	<p>Submitted by Larry Walker – Auditor/Controller-Recorder, San Bernardino County and Patrick Honny - San Bernardino County Recorders Office</p> <p>Centralized contracting and MOU management: The proposed regulations require that each county have a separate agreement with each submitter. We agree with the need for all submitters and counties to have contractual relationships as a basis for the ERDS relationship. However, in the centralized, “Multi-County construct, the need for a streamlined environment exists. The number of agreements could quickly become unmanageable. We recommend that the regulations allow for a centralized capability to allow for all submitters and all counties to agree to, or to “sign on” to a single MOU or agreement that allows for county-specific differences.</p>	<p>The Department disagrees with the comment. The Department does not feel that the proposed regulations restrict participating County Recorders and submitters from designing a streamlined environment amongst themselves, once all parties involved have met their requirements with respect to the relationship to the Department of Justice and the ERDS Program. Thus, a Multi-County construct is allowed per Regulations Article 6, section 601* and subsections therein. A Multi-County ERDS allows the counties to join their efforts, however, how they achieve it becomes their business process. Therefore, no editing is required.</p> <p>* Re-numbered to 999.166.</p>
#4	<p>Submitted by Larry Walker – Auditor/Controller-Recorder, San Bernardino County - and Patrick Honny - San Bernardino County Recorders Office</p> <p>Dispute and Interpretation resolution capability and process: The Attorney General has gone through a long and rigorous process in an effort to identify all possible issues relating to implementation of ERDS. Despite this effort, there will be occasions where a set of facts arises</p>	<p>The Department disagrees with editing the proposed regulations to include a formal process by which issues can be framed, and a decision rendered in a timely and authoritative manner. The ERDA authorizes the Attorney General to monitor each county's ERDS (Government Code (GC) sections 27392 and 27396). This envisions a process to request advice and counsel from the Attorney General's legal office should a subsequent dispute, requiring interpretation, cannot be resolved at the program level.</p>

Department of Justice Responses to 45-Day Public Comments on
Proposed Regulations on Electronic Recording Delivery System
(September 8, 2006 – October 24, 2006)

	Comment	Department's Response
	<p>which was not anticipated by the drafters, or where some other circumstance requires the interpretation of an issue involved in an ERDS application with regard to its consistency with the law and regulations. We suggest that the regulations specifically provide for a formal process by which issues can be framed, and a decision rendered in a timely and authoritative manner, so that all parties can move forward confident of the certainty of the decision.</p>	
#5	<p>Submitted by Rick Triola – Setteware Secure Services, Inc.: We do have a concern and are disappointed that the scope of e-Recording in the State of Ca of digital records is limited only to a few documents. There are many other interested parties that touch the real estate/mortgage transaction that will not be able to enjoy the benefits offered here today. (Consumers, escrow, lenders, notaries, etc.) The proposed guidelines offer the highest level of security available today, more than enough to allow for the e-Recording of higher liability records (deeds, etc.) in digital format and allow the Industry to move forward with a complete paperless and electronic real estate/mortgage transaction.</p>	<p>The Department disagrees with the comment. The ERDA set and limited the scope of participating entities and documents. The regulations address the statutory requirements of the ERDA which defines the specific document types that shall be submitted as digitized electronic records or digital electronic records. Therefore, no editing is required.</p>
#6	<p>Submitted by Craig Kramer/Clif Lawrence: Section: 200 Definitions (a) (1) & (5) Comment(s): Request Changes: The first sentences in both of these appear to be intended to be similar in construction, but they are not. Subsection 5 is clearer than subsection 1 (1) “Agent” means a representative and his/her employees who</p>	<p>The Department agrees that editing to these definitions is needed to clarify and to be consistent. The Department deems this change as adding clarification and that it does not materially change the text of the regulations. The following edits have been made to accommodate the comment:</p> <p>(1) “Agent” means a representative and his/her employees who are</p>

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	<p>are authorized to submit documents on behalf of an Authorized Submitter who has entered into a contract with a County Recorder to deliver, and, when applicable, return Type 1 and 2 instruments in a secure access role (excludes Type 2 instruments only) and/or Type 2 instruments via an ERDS. An Agent may not be.....</p> <p>(5) "Authorized Submitter" means a party and his/her employees that has entered into a contract with a County Recorder to deliver, and, when applicable, return Type 1 and 2 instruments in a secure access role (excludes Type 2 instruments only) and/or Type 2 instruments via an ERDS. An Authorized Submitter may not be.....</p>	<p>authorized to submit documents on behalf of an Authorized Submitter who has entered into a contract with a County Recorder, and, assigned a role by the County Recorder, to deliver, and, when applicable, return the submitted ERDS payloads via an ERDS. An Agent may not be . . .</p> <p>(5) "Authorized Submitter" means a party and his/her employees that has entered into a contract with a County Recorder, and, assigned a role by the County Recorder, to deliver, and, when applicable, return the submitted ERDS payloads via an ERDS. An Authorized Submitter may not be . . .</p>
#7	<p>Submitted by Craig Kramer/Clif Lawrence: Section: 200 Definitions (a) (34) Non-substantive Modification</p> <p>Comment(s): Please add to definition: “(8) Changes required to conform to updated Standards and Guidelines as required in Section 501.”</p>	<p>The Department agrees that changes to conform to updated Standards and Guidelines are considered a Non-substantive Modification. However, the Department disagrees with adding the commenter's proposed language. It is sufficiently addressed in modified Article 6, section 604*, which describes scenarios of updates and maintenance to an ERDS which would include conforming to the most current Standards and Guidelines. Therefore, the proposed language is not needed.</p> <p>* Re-numbered to 999.169.</p>
#8	<p>Submitted by Craig Kramer/Clif Lawrence: Section: 401 Role Based Fingerprinting Requirement (a)</p> <p>(1) Agent or representative and his/her employees who are</p>	<p>The Department agrees that editing this section is needed to clarify and to be consistent with edits made previously to the definitions of an Agent and Authorized Submitter. It is also the feeling of the Department that because "Agent" and "Authorized Submitter" have been defined, it is not necessary to restate those definitions here. The</p>

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<p>authorized to submit documents on behalf of an Authorized Submitter who has entered into a contract with a County Recorder to deliver, and, when applicable, return Type 1 and 2 instruments in a secure access role (excludes Type 2 instruments only) and/or Type 2 instruments via an ERDS. An Agent may not be.....</p> <p>(2) Authorized Submitter and his/her employees is a party that has entered into a contract with a County Recorder to deliver, and, when applicable, return Type 1 and 2 instruments in a secure access role (excludes Type 2 instruments only) and/or Type 2 instruments via an ERDS. An Authorized Submitter may not be.....</p>	<p>Department deems this change as adding clarification and that it does not materially change the text of the regulations. To accommodate both the commenter and the Department this section has been edited to read as:</p> <p>(1) Agent or representative and his/her employees who are authorized to submit documents on behalf of an Authorized Submitter.</p> <p>(2) Authorized Submitter and his/her employees is a party that has entered into a contract with a County Recorder.</p>
<p>#9 Submitted by Craig Kramer/Clif Lawrence: Section: 505 Payload Structure, Content and Usage (a)</p> <p>Comment(s): 505 currently states "At a minimum, the ERDS payload structure shall contain a component for all of the following:</p> <ul style="list-style-type: none"> (1) Uniform Index Information. (2) One or more digital electronic record or digitized electronic records. (3) Information about the electronic signature of a notary. <p>The above is in conflict with language in Sections 506, 507(a) and 200 (a)(49) which says "...an ERDS shall be capable of including uniform index information.</p> <p>Please change Section 505 to read as follows:</p> <p>... At a minimum, the ERDS payload structure shall</p>	<p>The Department disagrees with the comment and believes that the requirement, as stated, is reasonable as well as consistent with the statutory requirements.</p>

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	<p>contain one or more digital electronic records or digitized electronic records and be capable of including the following:</p> <ul style="list-style-type: none"> (1) Uniform Index Information (2) Information about the electronic signature of a notary. <p>NOTE: These changes to conform to language in Sections 506, 507(a) and 200(a)(49).</p>	
#10	<p>Submitted by Craig Kramer/Clif Lawrence: Section: 510 Security Requirements for Computer Workstations</p> <p>Comment(s): 510(a) Please insert commas around “if applicable” in 2nd sentence as follows:</p> <p>“As such, workstations used to submit, retrieve, or return, if applicable, ERDS payloads are protected...”</p>	<p>The Department agrees with the suggested comment and the text has been sufficiently modified in Article 5, section 510(a)*. The Department deems this change as adding clarification and that it does not materially change the text of the regulations.</p> <p>* Re-numbered to 999.138(a).</p>
#11	<p>Submitted by Craig Kramer/Clif Lawrence: Section: 518 Auditable Events, Incidents and Reporting (a)</p> <p>Comment(s): (40) Remove redundant third sentence</p>	<p>The Department agrees with the suggested comment and the text has been sufficiently modified in Article 5, section 518(40)*. The Department deems this change as adding clarification and that it does not materially change the text of the regulations.</p> <p>* Re-numbered to 999.146(40).</p>

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#12	<p>Submitted by Craig Kramer/Clif Lawrence: Section: 602 Substantive Modification(s) Application Procedure</p> <p>Comment(s): A new paragraph refers to “provisional activation” which is not defined elsewhere (including Section 200).</p> <p>Section: 900 Security Audits (f)</p>	<p>The Department disagrees with adding definitions for “provisional activation”, “provisional basis” and “provisional implementation”. The Department has determined that further clarification is not needed and the intent of the phrases, as used, is clear in the text of Article 6, section 602* and Article 9, section 900(f)**.</p> <p>* Re-numbered to 999.167. ** Re-numbered to 999.217(f).</p>
#13	<p>Comment(s): “provisional basis” and “provisional implementation” are not defined elsewhere (including Section 200).</p>	
#14	<p>Submitted by Craig Kramer/Jim Person: Section: 510 Security requirements for Computer Workstation</p> <p>Comment(s): I recommend re-wording item (a-3) to say “Perimeter Firewall protection or host based Firewall configured to restrict inbound and outbound connections.” Many counties enjoy the security of perimeter-based Firewalls that provide excellent security and host-based Firewall products can present manageability and interoperability issues.</p>	<p>The Department disagrees with the comment. This section pertains to computer workstation security, therefore, the term “host based firewall” is appropriately used.</p>
#15	<p>Submitted by Keith Pearson, Esq. – First American Title Insurance Company:</p>	<p>The Department agrees with the comment. The definition has been changed to reflect the comment submitted. The Department deems this change as adding clarification and subsequently noticed the</p>

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	<p>Sec. 200 (a) (15) should be changed to “Electronic Signature of the Notary” means a field, or set of fields, containing information about the electronic signature of the notary who notarized a digital electronic record or digitized electronic record. The notary will not be sealing or stamping electronic records.</p>	<p>public.</p>
#16	<p>Submitted by Keith Pearson, Esq. – First American Title Insurance Company:</p> <p>Sec. 200 (a) (20) - The definition term should be “ERDS Payload Structure” so that it merges with the language where this defined term is used.</p>	<p>The Department disagrees with the comment. An ERDS Payload is a structured method of communication for an ERDS. The payload will encompass both structure and content and depending on how the term is used, is suitable to multiple contexts. When the term “ERDS Payload” is used, an inference to the structure needed for communication can be assumed, and therefore does not warrant a new term or a change in current terminology.</p>
#17	<p>Submitted by Keith Pearson, Esq. – First American Title Insurance Company:</p> <p>Sec. 200 (a)(34) should be changed to start “Non-Substantive.....”</p>	<p>The Department agrees with the comment. The definition has been changed to reflect the comment submitted. The Department deems this change as adding clarification and that it does not materially change the text of the regulations.</p>
#18	<p>Submitted by Keith Pearson, Esq. – First American Title Insurance Company:</p> <p>Sec. 502 (a) treats instruments affecting a right, title, or interest in real property (Type 1 Documents) differently from instruments of reconveyance, substitution of trustee, or assignment of deeds of trust (Type 2 Documents). I respectfully suggest that both types of documents should be treated the same since both can be and have been used to</p>	<p>The Department disagrees with the comment. The regulations address the statutory requirements of the ERDA which defines the specific document types that shall be submitted as digitized electronic records or digital electronic records. As stated in GC section 27397.5 (a), “a county recorder may include in the county’s electronic recording delivery system a secure method for accepting for recording a digital or digitized electronic record that is an instrument of reconveyance, substitution of trustee, or assignment of deeds of trust (Type 2 Documents).” Furthermore, GC sections, 27397.5 (c) and (d)(1),</p>

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	<p>commit real estate frauds. I respectfully suggest that both Type 1 and Type 2 documents require submitters to be fingerprinted, and both be allowed to be delivered as digitized OR digital electronic records.</p>	<p>specifically states that the types of records described in GC section 27397.5 (a), an instrument of reconveyance, substitution of trustee, or assignment of deeds of trust (Type 2 Documents), shall not meet the same requirements as instruments affecting a right, title, or interest in real property (Type 1 Documents) if the County Recorder and the Attorney General certifies that the method of submission allowed under the system will not permit an Authorized Submitter or its employees and agents, or any third party, to modify, manipulate, insert, or delete information in the public record, maintained by the County Recorder, or information in electronic records submitted. The Department feels that the Baseline Requirements and Technology Standards that have been established have met those requirements.</p>
<p>#19</p>	<p>Submitted by Keith Pearson, Esq. – First American Title Insurance Company:</p> <p>Section 518 (d) treats Type 1 and Type 2 documents differently. I respectfully suggest that they be treated the same.</p>	<p>The Department disagrees with the comment. The regulations address the statutory requirements of the ERDA which defines the specific document types that shall be submitted as digitized electronic records or digital electronic records. As stated in GC section 27397.5 (a), “a county recorder may include in the county’s electronic recording delivery system a secure method for accepting for recording a digital or digitized electronic record that is an instrument of reconveyance, substitution of trustee, or assignment of deeds of trust (Type 2 Documents).” Furthermore, GC sections, 27397.5 (c) and (d)(1), specifically states that the types of records described in GC section 27397.5 (a), an instrument of reconveyance, substitution of trustee, or assignment of deeds of trust (Type 2 Documents), shall not meet the same requirements as instruments affecting a right, title, or interest in real property (Type 1 Documents) if the County Recorder and the Attorney General certifies that the method of submission allowed</p>

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		<p>under the system will not permit an Authorized Submitter or its employees and agents, or any third party, to modify, manipulate, insert, or delete information in the public record, maintained by the County Recorder, or information in electronic records submitted. The Department feels that the Baseline Requirements and Technology Standards that have been established have met those requirements.</p>
#20	<p>Presented at Public Hearing and extracted from official transcript – Frederick Garcia – Assistant County Clerk / Recorder – Alameda County</p> <p>Currently, many if not all of the county recorders are doing some sort of government-to-government recording with either state or local agencies. The documents are being submitted in a number of different ways. And so we are just asking for you to revisit the ERDS regulations and procedures and their applicability to these types of recordings. Again, these documents are being submitted in a number of ways and many of these other agencies, state and local agencies are not necessarily funded to do these upgrades to their systems.</p>	<p>The Department disagrees with the comment. The regulations do not alter the fundamental nature of the document types being delivered to the County Recorder. In order to comply with the ERDA, documents were classified as Type 1 or Type 2 to differentiate the types of security applicable to each class of documents. Participation in the ERDS Program is strictly voluntary with no fiscal impact to non-participating counties. Furthermore, government-to-government recording is a business issue outside of the ERDA, thus not impacted by the regulations.</p>
#21	<p>Submitted by Carmelo D. Bramante, Yuriy Dzambasow, David E. Ewan and John L. Jones – CDB Consultancy LLC</p> <ul style="list-style-type: none"> • Section 106 (13) of E-SIGN defines “transaction” as “an action or set of actions relating to the conduct of business, consumer, or 	<p>The Department disagrees with these comments. Consistent with the Opinion of the Attorney General, 85 Ops.Cal.Atty.Gen., 181 (2002), at pp. 187-190, E-SIGN does not have a preemptive effect on the regulations.</p> <p>Furthermore, as provided in Section 7004 of U.S.C. Title 15 (ESIGN), the regulations are consistent with Section 7001 of U.S.C. Title 15. They also do not deny the legal effect, validity, or enforceability of a</p>

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<p>commercial affairs between two or more persons, including any of the following types of conduct-...(B) the sale, lease, exchange, or <i>other disposition of any interest in real property</i>, or any combination thereof.” (Emphasis added). Thus, by its own terms, the ERDA positions itself as conflicting with ESIGN Section 101 which preempts any “statute, regulation, or other rule of law... with respect to any transaction in or affecting interstate or foreign commerce” and establishes parity between paper transactions and their electronic equivalents.</p> <ul style="list-style-type: none"> • Thus, the ERDA would be preempted by ESIGN if it conflicts with any of the provisions of ESIGN. • Moreover, since the regulations contemplate only specific technologies in implementing the regulatory scheme (see discussion below), the regulations do not comply with the provisions of Section 102(2) (2) (a) (ii) because they afford greater legal status through the use of specific technology or specifications for performing the functions of storing, generating, receiving, communicating, and authenticating the electronic records covered therein. • ESIGN recognizes that state agencies may have authority under any valid state law to issue orders or 	<p>transaction solely because it is in electronic form and do not add to the requirements of section 7001. All electronically recorded documents will have the same legal effect as hard copy fillings. The Department finds that the regulations, moreover, are substantially justified to ensure the integrity and security of transmitted documents. Additionally, the methods used to carry out those purposes are: substantially equivalent to the requirements imposed on records that are not electronic records; will not impose unreasonable costs on the acceptance and use of electronic records and will result in savings to the implementing County Recorders; and the methods selected to carry out these purposes to not require or accord greater legal status or effect to the implementation or application of a specific technology or technical specification for performing the functions of creating, storing, generating, receiving, communicating or authenticating electronic records or electronic signatures.</p> <p>A State may also specify performance standards to assure accuracy, record integrity, and accessibility of records that are required to be retained.</p> <p>The Department further finds that the performance standards in the regulations, serve an important governmental interest in ensuring the integrity and security of transmitted documents, and the performance standards are substantially related to the achievement of those objectives.</p>

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guidance regarding the interaction of a state law and ESIGN. However, the regulatory scheme is still preempted by ESIGN, and ESIGN itself provides necessary guidance on the ability of regulators to interpret authority under any statute. The limitations to regulatory interpretation are contained in ESIGN Section 104(b). Specifically, state agencies are preempted under Section 101 from adopting any regulation, order, or guidance unless:

- The regulation, order, or guidance is consistent with Section 101, and it does not add to the requirements of Section 101, and the agency finds that there is substantial justification for issuing the regulation, order, or guidance, and

- The methods selected to carry out the regulation are substantially equivalent to the requirements imposed on records that are not electronic records, and will not impose unreasonable costs on the acceptance and use of electronic records, and the method selected does not require or accord greater legal status or effect to the implementation or application of a specific technology or technology application. (Emphasis added.)

It is in this area that the proposed regulations under ERDA truly run afoul of ESIGN.

- Additionally, taken as a whole , the ERDA and

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	<p>the proposed regulations are not consistent with ESIGN as required by Section 104(b)(2)(A) and 104(b)(2)(B), and do not contain the findings necessary pursuant to Section 104(b)(2)(C). To be valid regulations under Section 104(b)(2)(C), the issuing agency must find that there is substantial justification for the regulations; that the requirements imposed on the use of electronic media under the regulations are substantially equivalent to those imposed on non-electronic records; that the requirements will not impose unreasonable costs on the acceptance and use of electronic records; and that the regulations do not require (or accord greater legal status or effect to) the use of any specific technology. None of the mandatory findings or reasoning required by ESIGN appears in either the proposed regulations or the ERDA.</p>	
#22	<p>Submitted by Mark A. Monacelli, President – Property Records Industry Association (P.R.I.A)</p> <ul style="list-style-type: none"> Because the security contemplated by the proposed regulations is so strict, and the California ERDS program is voluntary, we fear that an insufficient number of potential users of the ERDS will ever avail themselves of the benefits the ERDS has to offer. We also note that, due to the exceedingly rigorous security standards embraced in the 	<p>The Department disagrees with the comments. To meet the intent of the ERDA, the minimum standards and guidelines established within these regulations are based off information security "best practices" as defined in the Federal Information Processing Standards (FIPS) put forth by the National Institute Standards and Technology (NIST), designed to offer a layered security approach and will not preclude those outside of California from utilizing the features of the ERDS. Furthermore, the regulations do not prohibit the use of XML data exchange standards. The ERDS payload structure allows for</p>

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	<p>regulations, the regulations may serve to preclude those outside of the State of California from utilizing the features of the ERDS system because they cannot comply with the regulatory requirements.</p> <ul style="list-style-type: none"> • In this regard we urge the State of California to consider specific language requiring ERDS vendors to build their systems based on the current published version of the PRIA eRecording XML standards. The version 2.4.1 release presents these standards in XML DTD format as well as a zero-delta schema format. • We believe Section 505(c) of the proposed regulations would be more effective if it included a recommendation similar to the language appearing in URPERA. 	<p>standardized communication regardless of the data format used.</p>
<p>#23</p>	<p>Submitted by Gary Ott – Salt Lake County Recorder As a County Recorder that has been e-recording since 1999 I would like to suggest that if California has adopted UETA and E-Sign, E-Recording is already authorized in your state. All standards that apply to paper documents apply to electronic documents however payments for recording in the E-World must be arranged in advance Payment methods such as draw-down accounts must be in place before Recording happens. This contractual agreement limits</p>	<p>The Department disagrees with the comments. This comment entails payment methods which are outside of the scope of ERDA.</p>

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	E-Recording to trusted trading partners, all others will record in the tried and true paper world by coming into the Recorder's Office. Electronic Notaries are also addressed in UETA. E-Recording does not have to be complex to work and the benefits are many.	

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#1	<p>Submitted by Patrick Honny - San Bernardino County Recorders Office</p> <p>The following appears: "The ERDS server shall run ERDS applications software, store ERDS payloads, authenticate ERDS credentials, and control ERDS access, based on assigned roles and log logged ERDS transactions."</p> <p>I believe that the previous version is correct. The ERDS server needs to control access, based on assigned roles, and log transactions.</p> <p>I do not believe that the intent is to control access based on logged transactions.</p>	<p>Regulations Article 5, section 515</p> <p>The Department agrees with the comment and has modified the text in Article 5, section 515 and subsequently noticed the public.</p>
#2	<p>Submitted by Craig Kramer/Clif Lawrence/Jim Person – Sacramento County Recorders Office</p> <p>Uniform Indexing and Definitions: Section 505 is in conflict with language in Sections 506, 507(a) and 200 (a)(49).</p> <p>Sections 506, 507 and 200(a)(4) say “..an ERDS <i>shall be capable of including</i>...(e.g. uniform index information).</p> <p>However, 505 currently states “At a minimum, the ERDS payload structure shall contain a component for all of the following:</p>	<p>Regulations Article 5, section 505, 506, 507 (a), and 200 (a)(49)</p> <p>These comments were previously submitted during the 45 day comment period. See #9 on the 45 day comment period response table. The previous department response states “The Department disagrees with the comment and believes that the requirement, as stated, is reasonable as well as consistent with the statutory requirements”.</p>

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	<p>(1) Uniform Index Information.</p> <p>(2) One or more digital electronic record or digitized electronic records.</p> <p>(3) Information about the electronic signature of a notary.</p> <p>Please change Section 505 to read as follows:</p> <p>“... At a minimum, the ERDS payload structure shall contain one or more digital electronic records or digitized electronic records and be capable of including the following:</p> <p style="padding-left: 40px;">(1) Uniform Index Information</p> <p style="padding-left: 40px;">(2) Information about the electronic signature of a notary.</p> <p>NOTE: These changes to 505 would conform to language in Sections 506, 507(a) and 200(a)(49).</p>	
#3	<p>Security requirements for Computer Workstation: I recommend re-wording item (a-3) to say “Perimeter Firewall protection or host based Firewall configured to restrict inbound and outbound connections.” Many counties enjoy the security of perimeter-based Firewalls that provide excellent security and host-based Firewall products can present manageability and interoperability</p>	<p>Regulations Article 5, section 510</p> <p>These comments were previously submitted during the 45 day comment period. See #14 on the 45 day comment period response table. The previous department response states “The Department disagrees with the comment. This section pertains to computer workstation security, therefore, the term “host based firewall” is</p>

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	issues	appropriately used.
#4	<p>Submitted by Gary Ott – Salt Lake County Recorder</p> <p>General Comment: It is my understanding that all fifty states have adopted the Uniform Electronic Transaction Act, UETA, and having done so have acknowledged that electronic documents and transactions have the same legal standing as paper documents.</p> <p>Nationally thousands of electronic documents are recorded every day. Is there a chance of fraudulent documents being recorder? Yes, however in my opinion the risk is less that that of a paper document. The standard for recording is the original paper document with wet ink signature and notary. I would ask you to ask yourself “what do I know” when I look at a paper document submitted for recording. You assume that you are looking at an original document if you see a wet ink notary and signature however if you did not personally witness the signing and notarization you have no idea who actually held the pen or the notary stamp. Unlike the paper model, electronic documents are never submitted by strangers, electronic documents must be submitted by “Trusted Trading Partners”. All submitters of electronic documents must establish a working business agreement with the Recorder’s Office, a method of payment must be in place to complete a transaction. Bad people will always do bad things and I expect to see the occasional bad actor in the e-recording world however never to the extent seen in</p>	<p>This comment relates to the “recording” business, which does not pertain to these regulations which is the delivery system.</p>

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	<p>the paper world.</p> <p>In short California is charting new territory. Electronic transactions happen every day and it is important that California does not create an overly complex environment for E-commerce.</p>	