

**THIRD SUPPLEMENTAL STATEMENT OF REASONS****FORENSIC ALCOHOL LABORATORIES****CALIFORNIA CODE OF REGULATIONS, TITLE 17****3<sup>rd</sup> 15-Day Notice****SUMMARY OF PROPOSAL**

Senate Bill 1623, Chapter 337 (statutes of 2004), created section 100703 of the California Health and Safety Code, which removed the State Department of Public Health's (Department's) authority to license forensic alcohol testing laboratories. The legislation required the Department establish a review committee (the Forensic Alcohol Review Committee; FARC) to evaluate Group 8 (commencing with section 1215) of subchapter 1 of Chapter 2 of Division 1 of Title 17 of the California Code of Regulations.

FARC has the mandate to revise those regulations to ensure the competence of laboratories that perform forensic alcohol testing. The revisions to the regulations must ensure the proper performance of the employees in testing, analyzing, and reporting the results of the tests and ensure those laboratories and employees comply with applicable laws.

The purpose of this proposal is to amend the regulations governing the requirements laboratories are held to when performing forensic alcohol testing. Those laboratories provide key information used in prosecutions for driving under the influence of alcohol, particularly when there have been traffic accidents.

The amendments update the regulations to reflect changes in Health and Safety Code. The 1986 regulations are outdated and inconsistent with California law, current health advisories, and modern instrumentation and technology. Therefore, the regulations needed to be reviewed in their entirety, and re-written where applicable. This third 15-day notice and comment period provides further clean up.

**CHANGES:** Yellow highlights denote the changes from this third round of 15-day changes. Only comments regarding the yellow highlighted text will be considered "relevant" for purposes of this third 15-day notice-and-comment period.

## **DETAILED DISCUSSION OF EACH REGULATION**

### **Sections 1216.1(b)(3)(E) and 1220.1(a)(1)**

The committee agreed with a commenter from the second round of changes regarding changes to 1220.1(a)(1). This text was inadvertently put into the wrong section (section 1216.1(b)(3)(E), not section 1220.1(a)(1), making both sections incorrect. This is rectified now, so section 1220.1(a)(1) will now read, “The method shall be capable of the analysis of a reference sample of known alcohol concentration within accuracy and precision limits of plus or minus 5% of the value if the value is at 0.100% or higher. If the value is lower than 0.100%, the result must be within plus or minus 0.005.” Section 1216.1(b)(3)(E) has reverted back to its intended verbiage. The changes now reflect the subcommittee’s intent after the second round of public comment.

### **Section 1216.1(c)(1)**

The subcommittee agreed with a commenter from the last round that the language was confusing. Therefore the words “for each newly hired forensic alcohol analyst” have been removed.

### **Section 1217(a)**

Change without regulatory effect. A typo was corrected by deleting “100700 through 100775” and adding “1215 through 1222.1.”

### **1220.1(a)(1)**

See above.

### **Section 1220.2(a)(4)**

Change without regulatory effect. An “s” was added for grammatical correctness.

### **Section 1220.4**

The subcommittee agrees with a commenter from the last round and therefore added the words “the digit in” for clarity.