

INITIAL STATEMENT OF REASONS

Summary of the Proposed Regulations

The California Department of Public Health (Department) proposes to adopt sections 1551, 1553, 1555, 1557, 1559, 1561, 1563, 1565, 1567, 1569, 1571, 1573, 1575, 1577, 1579, 1581, 1583, 1585, 1587, and 1589, amend sections 1275, 1276, 1300, 1325, 1353, 1365, 1371, 1373, and 1375, and to repeal sections 1256, 1306, 1307, and 1328 in Chapter 3 of Division 101 of Title 17 of the California Code of Regulations (CCR). The primary purpose of these changes is to set forth the requirements and application process for qualifying cities¹ to establish a city-run Local Health Department (LHD) and obtain state aid for local health administration and departmental public health funding. This proposal is intended to protect the health of the people of California by ensuring that state public health funding is allocated to LHDs that meet the minimum standards and qualifications for a modern health department. These regulations will set forth the step-by-step process that new LHDs must follow to establish their eligibility for state aid for local health administration and departmental program funding. The Department further proposes to update and modernize elements of existing regulations affecting county and city health departments by eliminating outdated requirements and language.

Policy Statement Overview:

Problem Statement:

Due to the burdens placed on county health departments during the COVID-19 pandemic, several California cities have expressed concern about their county health

¹ Under Health and Safety Code Section 101185(c), cities with populations of 50,000 or more have a right to form their own local health department.

department's ability to meet their community's needs. Several cities have explored the possibility of forming their own city-run local health departments (LHDs) as provided for under Health and Safety Code section 101185(c). As of this writing, the City of West Covina in Los Angeles County is actively working to develop its own LHD.

While current regulations discuss requirements for fully established LHDs, no similar regulatory guidance exists for cities wishing to establish a new LHD. Current regulations also lack a process for cities to establish eligibility to apply for state aid for local health administration and departmental public health funding. To ensure Department oversight of new LHDs and provide cities with a path to establishing and funding LHDs that meet current public health standards, the Department proposes the creation of an official application process for the creation of city-run LHDs with specific requirements and timelines.

Additionally, portions of the current regulations for city and county health departments are outdated and do not reflect how modern public health services are provided. The Department proposes to incorporate by reference elements of the Public Health Accreditation Board (PHAB) "Standards & Measures for Initial Accreditation, Version 2022," which represents the industry standard for local public health service, and to update existing regulations to meet current, modern public health practices and standards.

Objectives (Goals):

- Update current regulations to reflect modern industry standards.
- Eliminate requirements that no longer apply to modern practices for local health administration.
- Create a process to establish eligibility for qualifying cities to apply for state aid for local health administration and departmental public health funding for new LHDs.
- Uphold the Department's responsibility to protect the health and safety of Californians by ensuring the creation of LHDs capable of meeting modern public health standards and accreditation.
- Incorporate by reference elements of the Public Health Accreditation Board (PHAB) "Standards & Measures for Initial Accreditation, Version 2022," which represents the industry standard for local public health service.

Benefits:

- Cities wishing to form their own LHD will have clear processes and procedures to follow to apply for state aid for local health administration and departmental public health funding.
- An application process will allow the Department oversight over the creation of new LHDs, ensuring that they incorporate the latest standards and practices in health equity, emergency preparedness, epidemiology, and other services not previously required.

- Incorporation of elements of the PHAB “Standards & Measures for Initial Accreditation, Version 2022,” will ensure standardization of common industry standards across several regulatory provisions.

Background

Health and Safety Code section 101185(c), provides cities the right to form a new LHD if they have a population of 50,000 or more. However, existing regulations do not provide a specific process or detail specific requirements governing the formation of a city-run LHD. Currently, there is no process for the Department to review, approve, or deny a city’s eligibility to apply for and receive state aid for local health administration and departmental program funding. Without clear processes in place, the Department cannot ensure that newly formed LHDs conform to current local health administration standards that would qualify them to receive state or departmental funds.

Interest in Forming City-Run LHDs after COVID-19

In the wake of the COVID-19 pandemic several California cities have expressed concerns about their county health department’s ability to meet their community’s needs. During and after the COVID-19 emergency, several cities took the following exploratory steps towards forming a new LHD:

- On February 23, 2021, the city council of West Covina, in Los Angeles County, voted 4-1 to separate from the Los Angeles County Department of Public Health and to create their own LHD. West Covina has hired a health officer, consultants who are building environmental health services, and consultants to develop a community

health assessment and emergency preparedness plans. West Covina has a public-facing [Health Department webpage](#) with information regarding their development of a new LHD at the following web address: <www.westcovina.org/departments/west-covina-health-department> (accessed October 16, 2023).

- On November 21, 2021, the San Gabriel Valley Tribune published an article titled: [“West Covina’s Attempt to Create Their Own Health Department is Picking up Steam.”](#) <www.sgvtribune.com/2021/11/01/west-covinas-attempt-to-create-own-health-department-is-picking-up-steam/> (Accessed on October 16, 2023.)
- On February 15, 2022, the Santa Ana city council, located in Orange County met, and received a report from their hired consultant, Healthcare Management Associates, on the status of a feasibility study to create a new city LHD.
- On March 14, 2022, the Voice of Orange County published the article: [“How Would Santa Ana’s Own Health Department Work?”](#) <voiceofoc.org/2022/03/how-would-santa-anas-own-public-health-department-work/> (Accessed October 16, 2023.)
- On April 1, 2022, the Los Angeles City Council discussed creating their own LHD and instructed staff to further explore the possibilities.
- On April 12, 2022, the Beverly Hills City Council met and received a report from their staff to create a new LHD and were instructed to continue the research.
- On April 26, 2022, the Torrance City Council met and received a staff report researching the creation of new city LHD and were instructed by the council to continue the research. During the Torrance meeting the city staff shared that Beverly Hills, Glendale, Whittier, and Santa Clarita were also considering creating a city LHD.

- As of October 1, 2023, only West Covina has continued to build an LHD. All the cities who previously expressed interest in building an LHD decided to observe the West Covina process and await the release of the CDPH regulations package. (See “Engagement with Partners and Stakeholders” section below.)

Risks in a Transition from County LHD to City LHD

While the COVID-19 pandemic renewed community focus on the importance of LHDs and their ability to direct programs and services to at-risk populations, the creation of a new city health department comes with the risk of interrupting existing services. After considering this risk, the Department has determined that regulations are needed to ensure that any new LHD established by a city will be formed in accordance with existing laws designed to protect public health and safety, and that any transfer of services from a county to a city health department is properly staffed and funded to maintain continuity of operations and care.

The nature of local public health service is one of immediacy and urgency with great impact on the populace. This necessitates a careful and seamless transition of public health services and funding. To ensure that the formation of a new LHD provides the continuity, the modern high-quality public health services, and the funding required to guard against loss of life, this transition must be reviewed and approved or denied by the Department through an application process. Without a process to establish eligibility to apply for state aid for local health administration and departmental program funding, a city risks forming an LHD that lacks both proper funding and the capacity to meet the

needs of the public previously served by the county health department. This could negatively impact the health of the community and cause harm or loss of life that could have been avoided if the LHD had been formed under the Department's supervision.

Historical Factors

California has no clear historical precedent to guide modern cities or the Department in the creation of a new LHD. Today, three cities maintain separate health departments²: the Berkeley Public Health Department, the City of Pasadena Public Health Department, and the Long Beach Department of Health and Human Service. But what little documentation is available to recount how those cities created their health departments would not be helpful in the modern context. Local administration of public health has changed substantially in the decades since those incumbent city health departments were launched. Accordingly, the LHDs in Berkeley, Long Beach, and Pasadena provide no guidance on how the Department should evaluate the creation of a new LHD applying modern standards and measures.

In the present day, as California cities like West Covina proceed towards the creation of city-run health departments, existing regulations must be amended. The Department may establish the minimum standards and requirements that LHDs must follow to establish eligibility for state aid for local health administration and departmental public health funding. (Health and Safety Code section 101260.) Without this, the Department cannot monitor the eligibility process in a manner that provides for the continued health,

² This number does not include the City and County of San Francisco, which merged into a unified local government in 1856 during the redistricting process to create San Mateo County.

safety, and wellbeing of local populations. California faces the potential risk of new and inexperienced LHDs forming without state direction and guidance. These new LHDs could decide to operate with limited capacity and without support from the county health departments in which they sit, causing a major disruption of public health services. This would frustrate and complicate the state's efforts to modernize public health services and improve health equity and emergency preparedness in communities hit hardest by the COVID-19 public health emergency.

The current absence of regulations leaves the Department without regulatory authority over the eligibility to apply for public health funding to ensure that the provision of public health services is continuous and meets statutory requirements. The lack of guiding regulations creates the risk of a future patchwork of uncoordinated LHDs, which could exacerbate long-standing inequities and create new public health crises. The legal ramifications of potential lawsuits from residents contesting the cessation of the public health services they rely on, deserve, and have legal right to, cannot be ignored.

Continuing a path of non-regulation also poses a risk of unnecessary conflicts between cities and their counties, resulting in wasteful lawsuits to compel or to enjoin the creation of a new LHD. Additionally, the Department cannot overlook the risk of a potential exodus of a major metropolitan area, representing the majority or even majority-minority populations of a county, which could impact the health for county residents outside of that city. That scenario could result in a drastic split in the allocation of funding, dividing already limited funds into smaller amounts that no longer deliver at the scale to be effective for their intended purposes.

The Department finds that these facts demonstrate, with substantial evidence, that without these amended regulations the future of locally administered public health services and programs are at risk. This regulatory action is narrowly tailored so that cities can immediately begin the process of establishing eligibility to apply for state aid for local health administration and departmental public health funding without suspension or delay in the public health services offered to the people within their municipalities.

Engagement with Partners and Stakeholders

The Department met with the California Conference of Local Health Officers (CCLHO) and County Health Executives of California (CHEAC) to discuss the new LHD process. The Department created a workgroup of CCLHO and CHEAC members to gain input on how a new LHD should establish eligibility to apply for state aid for local health administration and what an application process should look like. The Department interviewed the leadership of all three city health departments (Long Beach Department of Health and Human Services, City of Pasadena Public Health Department, and Berkeley Public Health Division) and the leadership of the two county health departments where they reside (Alameda County Public Health Department and Los Angeles County Department of Public Health). In addition, the Department meets regularly with the leadership of West Covina and Los Angeles County Department of Public Health staff to understand the challenges of creating a new LHD. The

Department used lessons learned from these discussions in the development of the regulations package. This is the list of meetings in 2021, 2022, and 2023:

- June 3, 2021, CHEAC executive committee (EC)
- June 8, 2021, West Covina and LA County staff and West Covina mayor
- June 9, 2021, CCLHO EC
- June 28, 2021, Alameda County public health
- July 7, 2021, Pasadena public health
- July 8, 2021, Long Beach public health
- July 15, 2021, Berkeley public health
- July 29, 2021, CCLHO EC
- August 5, 2021, CHEAC EC
- August 6, 2021, Local health officers focus group
- August 12, 2021, West Covina and LA County staff
- August 31, 2021, West Covina staff
- September 1, 2021, West Covina and LA County staff
- September 22, 2021, West Covina and LA County staff
- October 13, 2021, West Covina and LA County staff
- October 27, 2021, CCLHO EC
- November 3, 2021, West Covina and LA County staff
- November 4, 2021, CHEAC EC
- November 22, 2021, West Covina and LA County staff
- December 2, 2021, CCLHO board of directors
- December 2, 2021, CHEAC general membership meeting

- December 22, 2021, West Covina and LA County staff
- January 19, 2022, West Covina and LA County staff
- March 16, 2022, West Covina and LA County staff
- April 6, 2022, West Covina and LA County staff
- April 27, 2022, West Covina and LA County staff
- May 11, 2022, CCLHO EC
- May 25, 2022, West Covina and LA County staff
- June 2, 2022, CHEAC EC
- June 29, 2022, West Covina and LA County staff
- July 27, 2022, West Covina and LA County staff
- August 8, 2022, Beverly Hill staff
- August 24, 2022, West Covina and LA County staff
- September 21, 2022, West Covina and LA County staff
- October 19, 2022, West Covina and LA County staff
- November 9, 2022, CCLHO EC
- November 9, 2022, West Covina and LA County staff
- November 30, 2022, West Covina and LA County staff
- January 4, 2023, West Covina and LA County staff
- January 11, 2023, CCLHO EC
- April 12, 2023, West Covina and LA County staff
- April 26, 2023, CCLHO EC
- May 10, 2023, West Covina and LA County staff
- June 7, 2023, West Covina and LA County staff

- July 26, 2023, West Covina and LA County staff
- August 23, 2023, West Covina and LA County staff

**Evaluation as to Whether the Proposed Regulation is Inconsistent or
Incompatible with Existing State and Federal Regulations**

The Department has reviewed existing state and federal regulations and concludes that the proposed regulations are compatible with existing state and federal regulations.

Detailed Discussion of Each Regulation

The Department proposes to amend, repeal, and adopt the following sections to implement the regulations needed to address the formation of city health departments, as follows:

Repeal Section 1256. Provisional Approval of Health Departments

This section is repealed to reduce confusion in the new LHD application process because the section is no longer relevant to modern public health practice. The provisional approval process described in this section terminated on June 30, 1948, and could be renewed annually, which has not occurred in many years. The new LHD application process has an initial provisional approval stage which could be confusing for applicants to see an extremely outdated, irrelevant section 1256 which also describes a provisional approval process.

Amend Section 1275. Duties and Functions

This proposed amendment corrects the name of the Department and corrects the cited Health and Safety Code authority, which was changed, effective January 1, 1996. This proposed amendment is necessary to ensure that there is no confusion as to the proper rules, regulations and laws that govern or impact LHDs for any newly created LHD, or city proposing to create a new LHD.

Amend Section 1276. Basic Services

This proposed amendment is necessary to update the regulation and its respective subsections (a) through (m) to reflect the present-day services that LHDs should be providing, and to remove the services and language that are no longer consistent with the services provided by local health departments.

Several subsections under 1276 include amendments to add language regarding “policy development and implementation.” These amendments are necessary because policy development and implementation has become a core responsibility of modern public health practice for LHDs. The historical practice typically relied on LHDs to gather and publish information without developing or supporting public health policy, but that approach proved to be less effective. The Public Health Accreditation Board (PHAB) “Standards & Measures for Initial Accreditation, Version 2022” includes policy development and support as a foundational public health service. CDPH programs frequently include this as a required contract deliverable for LHDs to receive funding.

The amendments to add “policy development and implementation” responsibilities throughout Section 1276 reflect the modern standard.

Subsection (a): No changes necessary.

Subsection (b): Adds health policy development and implementation to the health education programs that LHDs are to provide and clarifies “department” as being an LHD. LHDs need to develop their local health policies in a manner that reflect the unique needs of the communities served within the jurisdiction. The language for policy development and implementation is added to reflect current LHD practices and clarify this modern responsibility.

Subsection (c): The term “venereal disease” has not been used in many years and no LHD currently operates a venereal disease program. This term has been updated to reflect the use of “sexually transmitted infections,” which is the modern term to refer to this category of health issues. According to the CDC, “disease” refers to development of symptoms in a patient, whereas “infection” refers to the virus, bacteria, fungus, or parasite that has been transmitted from one person to another.

Subsection (d): Updates language to require LHDs to develop and implement not just the services included within this regulation but also the policies that advance them. Additionally, child health is expanded to include adolescent health under those policies

and services. The language for policy development and implementation is added to reflect current LHD practices and clarify this modern responsibility.

Subsection (e): This subsection has been modified to reflect modern environmental health practices, removing outdated language. This will reduce confusion for new LHDs in understanding what services they are required to provide. The proposed amendments also update the correct name of the Department.

Subsection (f): Updates the language of “shall” to “must,” and clarifies the language within subsection (f)(1).

Subsection (g): Healthy nutrition is foundational to healthy communities. Nutrition services in modern LHDs involve much more than educational services. Nutrition policy development and implementation is added to this subsection as this strengthens local nutrition services and has a greater positive impact on the nutritional health of the communities served by the LHD.

Subsection (h): Many people suffer from chronic diseases. Modern LHDs create local chronic disease policies that improve the quality of life for people with chronic diseases and policies that prevent chronic diseases. The language for policy development and implementation is added to reflect current LHD practices and clarify this modern responsibility.

Subsection (i): Social factors such as housing, education, and employment play a vital role in the health of communities as LHDs strive to improve the social factors that impact health. The language for policy development and implementation is added to reflect current LHD practices and clarify this modern responsibility.

Subsection (j): This subsection refers to occupational health services, which are no longer the standard of practice for modern LHDs. In many counties and cities occupational health is managed through the human resources department and often, local health care systems offer occupational health services to the community. Some LHDs do offer occupational health services to public health staff, for example with mask fit testing. Removing this reference will reduce confusion for new LHDs in understanding what services they are required to provide. Regardless of the regulations text, LHDs must follow Cal/OSHA standards just like all California employers. Accordingly, the Department proposes a repeal of this subsection.

Subsection (k): The amendments to this subsection eliminate verbiage to improve clarity for the reader.

Subsection (l): This proposed regulation was out of date and no longer observed by LHDs in the aggregate. The amended language has been simplified to align with existing practices.

Subsection (m): Creating and maintaining vital records is a core LHD function and is not currently defined in the California Code of Regulations. Vital records services are a required service for new LHDs. Adding the vital records definition will give applicants clarity as to the vital records services they should provide.

Amend Section 1300. Local Health Officer

Section 1300 plays a vital role in the Department's ability to regulate LHDs and help California communities protect public health. The Department proposes to amend the standards set forth for local health officers serving a city, county, or city and county pursuant to the Department's rights to establish standards of education and experience for professional and technical personnel employed in LHDs, as provided by Health and Safety Code section 100295.

The Department further proposes to clarify and make specific that a local health officer may serve a city, county, or city and county jointly, depending on how the local government is organized. Note that, as provided by Health and Safety Code section 101005, a minimum requirement was established for county health officers, while omitting any reference to city health officers. As the Health and Safety Code does not set forth statutory requirements for city health officers, it falls to the purview of the Department as provided in Health and Safety Code section 100295 to clarify that the same requirements apply to all local health officers. To protect public health in every California community regardless of how it is organized, the requirements for city health officers must be equivalent to those for county health officers. There is no functional,

practical, or legal difference between these roles, and the Department has a responsibility to fill the gap in the statutes with regulatory language to clarify that issue. The additional reference of “a local health officer appointed by a city, county, or city and county jointly,” adds specificity that was previously missing from the regulation and clarifies that a health officer may be appointed by any of these municipalities.

The Department further proposes with input from the California Conference of Local Health Officers (CCLHO) new licensing, training, and experience requirements will be added to the local health officer regulations. Newly approved LHDs must have qualified health officers to protect the health and safety of the people they serve and to ensure a successful LHD start-up. The requirements will apply to new health officers appointed after January 1, 2026, in order to give incumbent LHDs ample time to identify potential candidates who will satisfy the new standards and make appropriate appointment decisions. Existing local health officers appointed on or before January 1, 2026, will be exempt from the new requirements to provide continuity of service for their jurisdictions.

Due to the technical and knowledge-based nature of the health officer role, a license to practice medicine and surgery is necessary rather than the mere eligibility to hold a license required under the current regulations. The master’s degree or specialization and work experience requirements ensure that new LHD health officers will be able to fully implement the tasks and responsibilities of their office. The proposed regulation text allows LHDs broad discretion in evaluating what qualifies as “three or more years of full-time paid experience in public health” during the hiring and appointment process to

serve the needs of their jurisdiction. With the ability to amend the regulation to include further specificity on the standards of education and experience, the above amendments are fully in line with the Department's historical and statutory authority and mission to protect the health of all California communities.

Repeal Section 1306. Occupational Health Trained Staff

New LHD applicants need to follow modern regulations. Occupational health services requirements for LHDs are outdated and no longer relevant because health departments do not provide such services to county or city employees, only to their own public health staff. The Department also proposes above that these services be removed from Section 1276. Basic Services, and therefore this definition is no longer applicable. This proposed repeal is necessary to ensure that there is no confusion as to the proper rules, regulations, and laws that govern or impact LHDs for any newly created LHD or city proposing to create an LHD.

Repeal Section 1307. Occupational Health Sanitarian

New LHD applicants need to follow modern regulations. Occupational health services requirements for LHDs are outdated and no longer relevant because health departments do not provide such services to county or city employees, only to their own public health staff. The Department also proposes above that these services be removed from Section 1276. Basic Services, and therefore this definition is no longer applicable. This proposed repeal is necessary to ensure that there is no confusion as to

the proper rules, regulations, and laws that govern or impact LHDs for any newly created LHD or city proposing to create an LHD.

Amend Section 1325. Use of Funds

This proposed amendment corrects the cited Health and Safety Code authority, which was changed, effective January 1, 1996. This proposed amendment is necessary to ensure that there is no confusion as to the proper rules, regulations and laws that govern incumbent LHDs or an applicant city proposing to create an LHD. The proposed amendment also updates terminology regarding people with disabilities to reflect modern language standards and extends coverage to children and adolescents to reflect modern standards of practice.

Repeal Section 1328. Budget and Program

The Department proposes a repeal of this section because LHDs have not been required to submit an annual budget for decades. LHDs have multiple contracts with the Department which are program-specific and have rigorous oversight and budget reporting requirements. During the application process described below, new city LHDs will have an annual reporting requirement for three years after full approval, as described in section 1579. The Department has a responsibility to monitor the status of a new fully approved LHD. CCLHO was informed of the three-years-long reporting requirement. The Department has determined that a three-year reporting time frame is long enough to ensure the sustainability of the new LHD and short enough as to not create a reporting burden for the new LHD. For comparison, the PHAB process requires

that all accredited health departments submit an annual report for all five years of accreditation. For incumbent LHDs, however, the outdated requirements of this section merit repeal.

Amend Section 1353. Environmental Health Services and Programs

The proposed amendment updates the regulation with modern terminology, removing the outdated terms “sanitation” and “health district board” and amending additional language to maintain consistency with Sections 1276(e) and 1371. The amended language will provide necessary clarity to the new LHDs by noting that environmental health services and programs may also be provided to the jurisdiction under a contract with a state or local agency. The proposed amendments also update the correct name of the Department.

Amend Section 1365. Powers and Duties of the County Health Officer

This proposed amendment corrects the cited Health and Safety Code authority, which was changed, effective January 1, 1996. This proposed amendment is necessary to ensure that there is no confusion as to the proper rules, regulations and laws that govern or impact LHDs for any newly created LHD or city proposing to create an LHD.

Amend Section 1371. Basic Program

The proposed amendments to this regulation are necessary because the requirements are outdated and no longer observed by LHDs in the aggregate. The amended language has been simplified to restrict basic program alignment to existing practices

and those that may be required by local laws or agreements. The proposed amendments also update the correct name of the Department.

Amend Section 1373. Annual Program Plans

This proposed amendment is necessary to enhance clarity and prevent confusion. Existing environmental programs need to submit program plans when moving within a county. This is a related but distinct process compared to the application process that new LHDs would go through after the proposed regulations in Subchapter 4 become effective. The proposed amendments also update the correct name of the Department.

Amend Section 1375. State Financial Aid

This proposed amendment corrects the cited Health and Safety Code authority, which was changed, effective January 1, 1996. This proposed amendment is necessary to ensure that there is no confusion as to the proper rules, regulations and laws that govern or impact LHDs for any newly created LHD or city proposing to create an LHD. The Department also proposes to repeal “district” and amend “city” to enhance clarity and reflect the modern practice that cities may form a new LHD while health districts have been phased out. Reference to “sanitation” will also be removed as an outdated term.

Specific Text Adoptions

The specific adoptions to the regulatory text to accommodate this policy change include the addition of a new “Subchapter 4 – Local Health Department Application” and Articles

1 through 7 contained therein, to Chapter 3, Division 101, Title 17, California Code of Regulations, as follows:

Adopt Article 1. Definitions.

Adopt Section 1551. Definitions

To establish the requirements of its new LHD application process, the Department proposes to adopt the following definitions:

Adopt “Department” to mean the California Department of Public Health (CDPH). This definition is necessary because many LHDs are referred to as “departments” and applicants need to understand that the term as used in these regulations refers to CDPH, not an LHD.

Adopt “Local health department applicant” or “applicant” to mean a local government entity applying to gain eligibility for state aid for local health administration and departmental public health funding. This definition is necessary to establish which entities may initiate the Department’s LHD application process.

Adopt “Local health department application process” or “application process” to mean the four-step process an applicant must complete to become eligible for state aid for local health administration and departmental public health funding. This definition is necessary to establish a structure for this new process created under Subchapter 4.

Adopt “Regular funding application” to mean the third step of the LHD application process during which the applicant must provide specific information and documentation establishing their eligibility for state aid for local health administration and departmental public health funding. This definition is necessary to establish and make specific the requirements of the proposed application process.

Adopt “Regular funding approval” to mean the last step of the LHD application process during which the Department approves the regular funding application and grants eligibility to apply for state aid for local health administration and departmental public health funding. This definition is necessary to establish and make specific the requirements of the proposed application process. The definition is necessary provide additional clarity by distinguishing the term “temporary funding approval” (which occurs at the beginning of the LHD application process) from “regular funding approval” (which occurs at the end).

Adopt “State aid for local health administration” to mean the public health funding described in described in Health and Safety Code Division 101, Part 3, Chapter 3, commencing with Section 101175. This type of funding is allocated on a per capita basis to LHDs based on their current population as determined by the US Census Bureau. This definition is necessary for the comprehension of the regulated population.

Adopt “Temporary funding application” to mean the first stage of the LHD application process during which the applicant must submit specific information and documentation

demonstrating their qualifications for forming a new LHD and establishing their eligibility to receive state aid for local health administration and departmental public health funding. This definition is necessary to establish and make specific the requirements of the proposed application process.

Adopt “Temporary funding approval” to mean the second step in the LHD application process, during which the Department approves the applicant’s temporary funding application, and the Department grants eligibility to apply for state aid for local health administration and departmental public health funding. This definition is necessary to establish and make specific the requirements of the proposed application process. The definition is necessary provide additional clarity by distinguishing the term “temporary funding approval” (which occurs at the beginning of the LHD application process) from “regular funding approval” (which occurs at the end).

Adopt Article 2. Requirements for New Local Health Department Applicants.

Adopt Section 1553. Requirements for State Aid for Local Health Administration and CDPH Public Health Funds

This regulation is necessary to provide the Department with the regulatory authority to administer and guide the process by which cities (applicants) that meet the requirements will become eligible to apply for public health funding through CDPH. The Department has a vested interest and responsibility to ensure the continued safety and wellbeing of the people of the state of California. This interest and responsibility extend to ensuring that any new LHD is created responsibly to serve the public’s best interest

in accordance with the Department's new LHD application process. This section is necessary to establish that the application process is mandatory for an applicant to establish and maintain eligibility to apply for state aid for local health administration.

Subsection (a): Sets forth the requirement that any applicant forming an LHD must comply with the requirements of the Department's LHD application process outlined in Subchapter 4. This requirement does not limit or curtail a city's right to form an LHD as set forth in Health and Safety Code section 101185(c). Instead, this subsection ensures that the Department will have regulatory oversight regarding the eligibility to apply for the funding of a new LHD. This requirement is necessary so the Department may oversee and ensure that new LHDs meet existing standards established in the Health and Safety Code and California Code of Regulations in order to be eligible to apply for public health funding through CDPH.

Subsection (b): Establishes that any applicant intending to form their own LHD will not be eligible to apply for public health funding through CDPH, pursuant to the limits described within the LHD application process, until fulfilling the requirements of, and receiving the Department's approval for, either temporary funding approval or regular funding approval. This requirement is necessary to ensure that new LHDs go through the Department's LHD application process if they wish to receive state funding.

Adopt Section 1555. Notice of Substantive Changes to Application.

This section is necessary for the Department to track substantive changes to information provided by the new LHD throughout the application process. The Department anticipates that over the course of a years-long application process some applicants may need to update information provided in the original application materials.

The Department has determined that notice requirement should apply to changes that are “substantive” in the sense of “involving matters of major or practical importance to all concerned” under the first definition provided by Merriam-Webster’s online dictionary. Specifying “substantive changes” (rather than “any changes”) under this requirement is intended to clarify for the regulated community that they need not provide updates for trivial information.

The Department has determined that the applicant should have thirty (30) calendar days to provide notice in writing, which ensures that the application review team is up to date without placing an onerous reporting burden on the applicant. A longer time frame to provide notice would delay the Department’s ability to complete the application process in a timely fashion. The consequence of failing to provide comply with the notice requirement will be the commencement of a denial, suspension or revocation process under section 1585 to ensure that the applicants are incentivized to keep the Department apprised of any substantive changes and that the information provided in the application is correct, accurate, and up to date.

Adopt Section 1557. Public Health Laboratory Services.

This section is necessary for the Department to ensure that an applicant understands that only certain types of laboratories have the capacity to provide public health laboratory services. The appropriate type of laboratory needed for an LHD to operate is limited to holders of a certificate of approval governed by California Code of Regulations Title 17, Section 1076. Clinical laboratories lack the capacity to process certain types of samples in an infectious disease outbreak response, whereas certified public health laboratories have a greater capacity to address the public health challenges that a LHD is likely to encounter. The Department needs applicants to ensure that public health laboratory services are only provided by the correct types of facilities that possess the proper certification.

Adopt Article 3. Temporary Funding Application.

Adopt Section 1559. Requirements for Temporary Funding

Starting with Article 3, Section 1559, several subsections in the application process incorporate by reference elements from the Public Health Accreditation Board (PHAB) “Standards & Measures for Initial Accreditation, Version 2022,” which represents the industry standard for local public health service. The purpose of each incorporation by reference is to ensure that a new LHD meets these specific standards and measures throughout the application process. This serves the Department’s goals and objectives discussed above and ensures that potential applicants are on notice for adherence to these portions of the PHAB “Standards & Measures for Initial Accreditation, Version 2022” at the outset when evaluating whether to pursue the application process. The

Department does not intend to incorporate by reference the entire PHAB “Standards & Measures for Initial Accreditation, Version 2022” because that would place an onerous burden beyond the capacity of most applicants. Instead, the Department intends to selectively incorporate the most important standards and measures that would best serve LHD applicants and the residents within their jurisdiction.

Subsection (a): This subsection and its component subsections (1) through (9) set forth the requirements applicants must meet to establish eligibility to apply for public health funding through CDPH. This ensures that any new LHD has the capacity to meet minimum public health standards for the period of up to twenty-four (24) months of temporary funding. Furthermore, this subsection is necessary to ensure:

(1) that any funding from the Department to an applicant is provided to an LHD that can and will use the funds in a lawful manner.

(2) that the public health services such funding supports will make good use of the Department’s limited resources as best meets the needs of the new LHD’s population.

(3) that the applicant is committed to building a fully operational LHD and has engaged the community in the planning process before submitting the application.

Subsection (a)(1): This subsection sets forth the requirement for applicants to provide to the Department a letter stating the reasoning for pursuing the LHD application process. This ensures that the applicant has thought through the concerns that affect the applicant’s population. It also serves as a measure of transparency and public

accountability for the LHD to state on the record its reasons for pursuing the process under Subchapter 4.

Subsection (a)(2): The minimum population requirement applies to all incumbent LHDs and applicants pursuant to Health and Safety Code Section 101185(c). This subsection is necessary as proof to the Department that the applicant has satisfied the minimum population requirement.

Subsection (a)(3): This requirement calls for the applicant to provide evidence that its jurisdiction is providing certain basic services like fire, police, emergency, and waste management. This requirement is necessary because a jurisdiction lacking these basic services is not yet capable of managing public health funds, taking on the complexities of running an LHD, or managing and providing public health services.

Subsection (a)(4): The requirements of this proposed regulation, and its component subsections (a)(4)(A) through (a)(4)(E), are necessary because a feasibility study will help applicants that want to form their own LHD to address the challenges of creating a new LHD. This section will require applicants to provide the legal, logistical, political, and financial proof that the applicant could successfully build, develop, and run a new LHD. Such feasibility studies will save applicants both time and money, while also increasing their own awareness as to the issues their LHD will have to overcome during the development phase before the application is submitted. The Department is requiring a feasibility study dated not more than 90 days before the submission of the application

to ensure that the study is current and accurate. Subsections (A) through (E) provide additional clarity for the elements the feasibility study is to include or address.

Subsection (a)(4)(A) is a summary of existing local laws and regulations that the applicant must navigate during the application process. This is necessary to avoid costly lawsuits and delays. This application component serves as proof to the Department that the applicant knows the laws and regulations they will need to follow.

Subsection (a)(4)(B) is a summary of local laws and regulations that the applicant anticipates it will need to enact to support the new LHD in the future. This application component serves as proof to the Department that the applicant is aware of the legal and regulatory landscape in which the LHD will operate.

Subsection (a)(4)(C) is a report summarizing the community support for and opposition to the creation of a new LHD. This application component serves as proof that the applicant has engaged the public and received input from the people who would be impacted by the formation of a new LHD. This component affords the applicant flexibility in the methodology used to gather information about the public support and opposition tailored to fit that community.

Subsection (a)(4)(D) is a report summarizing how forming a new LHD will benefit the affected population. This application component serves as proof that the applicant is pursuing the application process for the purpose of advancing the Department's health

equity goals and improving health outcomes in their own jurisdiction. Applicants can refer to guidance found in the PHAB “Standards & Measures for Initial Accreditation, Version 2022.”

Subsection (a)(4)(E) is necessary for the applicant to demonstrate to the Department that it has planned for sustaining the fiscal burden of running a LHD, regardless of how much funding it receives from the Department. This application component serves as proof that the applicant has anticipated that LHDs require multiple funding streams to operate, and that state aid for local health administration and CDPH public health program funds are not sufficient to cover the total cost of a fully operational LHD.

Subsection (a)(5): A key function of LHDs is to provide public health services and programs, and new LHDs will likely not be able to launch all possible public health services simultaneously. This subsection and its component subsections (A) through (D) are also necessary, in its entirety, because the information allows the Department to determine the feasibility and capability of whether the applicant could successfully provide their proposed public health services.

Subsection (a)(5)(A) ensures that applicants consider and plan their timeline for providing public health services as well as the staff and physical locations that will be needed to be established.

Subsection (a)(5)(B) requires the applicant to provide a budget of expenditures and funding sources. This requirement will allow the Department to evaluate whether the applicant has realistic expectations regarding the resources needed to create and maintain a fully operational local health department. This is necessary as the funding sources for public health programs and services in California as well as their fiscal calendars are varied. To establish public health services, funding sources must be available, and applicants must show knowledge and awareness of how and when such programs established within their LHDs will receive the monies necessary for their function.

Subsection (a)(5)(C) requires the applicant to provide a list of staff positions the applicant plans to hire. This information is necessary for the applicant to demonstrate competency and understanding of the services they are creating. Additionally, this proposed regulation is necessary to ensure that for all public health services the applicant intends to provide, the applicant will have adequate staff. Due to the complexities of hiring, training, and retaining staff, it is necessary for the Department to ensure such necessary staff are identified.

Subsection (a)(5)(D): For those public health services an LHD is required by statute to perform to receive funding from the Department, this subsection is necessary as it is in the Department's interest to be aware of any such public service programs the new LHD plans to contract for. The Department's approval is necessary to ensure such contracted services meet the requirements of Title 17, Division 1, Chapter 3 – Local

Health Services. This ensures continuity of public health services and provides clarity as to any services the applicant will rely on from either the county health department in which it is located, any neighboring health department, or private third-party provider.

Subsection (a)(6): This requirement identifies a public health emergency operations plan (EOP) as a necessary component of the application process as defined in the PHAB “Standards & Measures for Initial Accreditation, Version 2022.” An EOP is a critical planning tool for LHDs to respond to emergencies during disasters and other emergency events. The EOP, its implementation, and maintenance must meet the requirements set by the Department’s Emergency Preparedness Office (EPO) and the Centers for Disease Control and Prevention (CDC). Applicants must have an EOP in place before approval so that even if an emergency occurs immediately after the approval process, the applicant’s new LHD is equipped and ready to address the emergency.

Subsection (a)(7): This requirement calls for a community health assessment (CHA), as defined in the PHAB “Standards & Measures for Initial Accreditation, Version 2022.” The CHA is necessary to establish an LHD’s eligibility to apply for state aid for local health administration and departmental public health funding because it helps the LHD’s planning process. A CHA enables a city to understand the public health issues their communities face by describing the health of the population, identifying areas for health improvement, evaluating contributing factors that impact health, and creating an inventory of community assets and resources that can be mobilized to improve

population health. A successful CHA ensures applicants understand the most important public health issues in their jurisdiction. Successful LHDs understand the needs of the communities they're serving. Involving community organizations and leaders with the CHA helps build partnerships between the LHD and the greater community, improve services over time, and ensure that the CHA accurately reflects the reality of the new LHD's jurisdictional boundaries and populations. This proposed regulation is necessary as the CHA demonstrates an applicant's ability to understand and meet the needs of their community.

Subsection (a)(8): This requirement identifies a community health improvement plan (CHIP) as a necessary component of the application process, as defined in the PHAB "Standards & Measures for Initial Accreditation, Version 2022." The CHIP is a long-term systematic plan to address issues identified in the CHA. The CHIP describes how the new LHD and community it serves will work together to improve the health of the local population. This is necessary to ensure that as soon as the applicant is approved to begin operation, they have a clear directive and understanding of community goals.

Subsection (a)(9): This requirement calls for a report to outline the process by which the new LHD will adhere to ethical practice and foster transparency and accountability. This requirement is necessary to ensure the creation of an LHD which adheres to ethical practices defined in the PHAB "Standards & Measures for Initial Accreditation, Version 2022." A successful LHD will have a plan for a process to ensure that the

organization can support sound governance and decision-making which continues beyond the founding period and into the future.

Adopt Section 1561. Required Site Visits

This section is necessary to establish required site visits consistent with industry standards outlined in the PHAB “Standards & Measures for Initial Accreditation, Version 2022.” The applicants must understand that eligibility for departmental public health funding is contingent on the LHD granting access to the facilities, key staff, elected officials, and community partners. Subsection (a)(1) requires that the applicant provides the Department with proper contacts for the LHD staff responsible for coordinating the required site visits. Subsection (a)(2) requires that the applicant provides the Department with location information for where the site visits will be conducted. Subsection (a)(3) requires that the applicant arrange for physical access to the Department on the dates of the scheduled site visits.

Adopt Article 4. Temporary Funding Approval.

Adopt Section 1563. Powers and Limitations of Approved Applicants.

This section is necessary to make clear that the applicant may only use funds disbursed by the Department in a manner approved in the application.

Subsection (a) establishes that the applicant is not permitted to provide programs or services with funding from the Department until they have received temporary funding

approval from the Department. This ensures that departmental public health funding is only used for purposes approved by the Department.

Subsection (b) establishes that once the Department has granted temporary funding approval, the applicant LHD is eligible to apply for state aid for local health administration and departmental public health funding. This is necessary to establish the powers and limitations of an approved applicant.

Subsection (c) establishes that only the programs and services specifically approved in the temporary funding application may receive departmental public health funding. This is necessary to prevent diversion of departmental public health funding to non-approved programs and services.

Adopt Section 1565. Timeline to Provide Minimum Services.

This section is necessary to establish the minimum required services that an applicant must provide within the twelve (12) months of receiving temporary funding approval. All applicants must provide the essential services of an LHD, like communicable disease control, emergency preparedness, environmental health, public health laboratory services. The services required for all applicants are fundamental to a successful LHD and provide proof to the Department that the applicant can scale up services over the period of temporary funding approval.

Subsection (a) establishes that each applicant must select three additional services from a list of options at their discretion. The list of optional services is drawn from existing regulations. Allowing an applicant the option of selecting from a list of services that will eventually be required gives the LHD an opportunity to gradually build up a fully operational health department. The applicants have discretion to focus their optional services on the needs of the community and the capacity of the staff in the first year of operation.

Subsection (b) establishes that each applicant must submit a progress report to the Department on the status of the programs and services provided to comply with this section. This checkpoint in the application process will give the Department additional visibility into the applicant's progress midway through the temporary funding application period. This subsection also includes consequences for non-compliance by referring the application to the denial, suspension, or revocation process under section 1585 if the required services and progress report are not provided within the timeframe.

Adopt Section 1567. Documentation of Environmental Health Services.

This section is necessary to establish that an applicant may provide environmental health services directly or through another service provider. Environmental health services are a fundamental function of an LHD. Every county in California must already provide this service by law, and this requirement allows the applicant to continue that arrangement with the county by providing documentation that environmental services will continue without interruption. The Department opted to tie this service to the twelve

(12) month interval rather than the twenty-four (24) month interval after receiving temporary funding approval to ensure that an applicant would prioritize this requirement within the first year of operation. This section also includes consequences for non-compliance by referring the application to the denial, suspension, or revocation process under section 1585 if the required documentation of services is not provided within the timeframe.

Adopt Section 1569. Timeline to Provide Required Services.

This section is necessary to make clear to applicants when they are expected to meet all the requirements of Title 17 California Code of Regulations section 1276. The Department selected a time frame of twenty-four (24) months after receiving temporary funding approval as an adequate amount of time for an applicant to scale up services and have required staffing in place. There are currently no guidelines for the creation of a new LHD, and as noted above, no new LHDs have been created in California in over a century. A longer timeframe, such as forty-eight (48) months, would create unreasonable risks to the health of the community living under a partially formed LHD. A shorter timeframe, such as six (6) months, would be impractical for an LHD to operate safely. Applicants that require additional time to comply with this requirement may develop services and prepare for compliance with section 1276 before initiating the application process. The temporary funding approval period expires automatically at the end of the 24-month timeframe. The Department will not extend the temporary funding approval timeframe unless the LHD is impacted by one of the scenarios under section 1587 ("Factors Outside the Control of the Applicant"). This section also includes

consequences for non-compliance by referring the application to the denial, suspension, or revocation process under section 1585 if the required services are not provided within the timeframe.

Adopt Article 5. Regular Funding Application.

Adopt Section 1571. Timeline to Submit Regular Funding Application.

This section is necessary to make clear to applicants when they are expected to submit the regular funding application. Sections 1569 and 1571 both share the same timeframe of twenty-four (24) months after receiving temporary funding approval because the regular funding application should be linked to the provision of required services.

Applicants may submit the regular funding application before the deadline if they already meet all the requirements. The Department does not intend for a new LHD to experience a gap between providing required services and advancing in the application process from the temporary funding to regular funding stages. The Department estimates that the process of recruiting, hiring, and training staff, obtaining office space, contracting, securing funding, and ultimately meeting all the new LHD application requirements should take about two years. A longer or shorter timeframe would pose the same public health risks to the community as discussed above under Section 1569. The temporary funding approval period expires automatically at the end of the 24-month timeframe. The Department will not extend the temporary funding approval timeframe unless the LHD is impacted by one of the scenarios under section 1587 (“Factors Outside the Control of the Applicant”). This section also includes consequences for non-compliance by referring the application to the denial, suspension, or revocation process

under section 1585 if the required application documents not provided within the timeframe.

Adopt Section 1573. Requirements for Regular Funding.

The regular funding application is essentially an update on everything described in the temporary funding application. This section is necessary to update the Department on the new LHD's progress. Each component of the regular funding application provides necessary detail on the LHD's ability to provide required services and expand its capacity to meet the public health needs of that community.

Subsection (a)(1) requires a status update on the elements previously required under the temporary funding application. The Department expects a new LHD to provide credentials and resumes of the newly hired staff to ensure that the applicant has hired qualified people who meet the requirements embodied in other regulations. This report provides the LHD with an opportunity to summarize any changes that occurred during the temporary funding application process, which should also have been reported under Section 1555. The report also gives the Department an opportunity to evaluate the progress of programs and services that the applicant promised to provide in the temporary funding application.

Subsection (a)(2) requires the applicant to provide a workforce development plan which comports with the industry standards described in the PHAB "Standards & Measures for Initial Accreditation, Version 2022." Operating a successful LHD requires leadership to

plan for the ongoing obligation to hire and train staff. This element of the PHAB is incorporated by reference to ensure that the LHD understands what is expected for a workforce development plan that meets the public health needs of the community. City governments typically already comply with federal and state laws regarding hiring and training staff, and the PHAB standards enhance the applicant's understanding of what is expected for a successful and qualified LHD workforce.

Subsection (a)(3) requires the applicant to provide a quality improvement plan which comports with the industry standards described in the PHAB "Standards & Measures for Initial Accreditation, Version 2022." A public health quality improvement and performance management plan ensures the applicant's new LHD is effectively and efficiently improving the health of the population through monitoring the performance of public health processes, programs, interventions, and other activities, as defined by the PHAB.

Subsection (a)(4) requires the applicant to provide an organizational strategic plan which comports with the industry standards described in the PHAB "Standards & Measures for Initial Accreditation, Version 2022." This document is necessary to provide a mission and direction for an applicant's new LHD, over an extended period, including organizational goals, strategies, and objectives, as defined by the PHAB. A successful LHD must plan for the future, and this requirement ensures that the Department can evaluate their plan for success. The requirements of (a)(3) and (a)(4) require a city

government's leadership and human resources staff to familiarize themselves with the PHAB standards for accreditation.

Adopt Section 1575. Required Site Visits.

This section is necessary to establish required site visits consistent with industry standards outlined in the PHAB "Standards & Measures for Initial Accreditation, Version 2022." The applicants must understand that eligibility for departmental public health funding is contingent on the LHD granting access to the facilities, key staff, elected officials, and community partners. Subsection (a)(1) requires that the applicant provides the Department with proper contacts for the LHD staff responsible for coordinating the required site visits. Subsection (a)(2) requires that the applicant provides the Department with location information for where the site visits will be conducted. Subsection (a)(3) requires that the applicant arrange for physical access to the Department on the dates of the scheduled site visits.

Adopt Article 6. Regular Funding Approval.

Adopt Section 1577. Timeline to Provide Required Services.

This section is necessary to clarify the timeline for when applicants must provide two foundational public health services. Epidemiology and health equity services are essential for a successful LHD. The twenty-four (24) month time frame aligns with the other elements of the application process. The Department intends to afford LHD applicants adequate time to initiate some state level funding to pay for these services because not every funding cycle will align with the timing of when the LHD is rolling out

these services. A longer time frame would risk delaying these essential services. The required services must begin within twenty-four (24) months, and they are a prerequisite to obtaining regular funding approval from the Department. The Department will not extend the required services timeframe unless the LHD is impacted by one of the scenarios under section 1587 (“Factors Outside the Control of the Applicant”). This section also includes consequences for non-compliance by referring the application to the denial, suspension, or revocation process under section 1585 if the required services are not provided within the timeframe.

Adopt Section 1579. Annual Reporting Requirement.

This section is necessary for the Department to audit and monitor the progress and development of an applicant’s LHD in the initial rollout period of services. The annual reporting requirement is intended to provide the applicant an opportunity to update the Department on the programs and services planned in the application documents. These requirements are necessary for the Department to audit the applicant’s performance as an LHD to ensure that they are meeting the minimum requirements of these regulations and that they can perform the essential duties of an LHD. The Department opted for a three-year reporting period to balance the Department’s need to gather information about the new LHD while avoiding an onerous ongoing reporting requirement. For comparison, existing LHDs are not required to report to the Department on an annual basis. However, LHDs that are PHAB accredited must provide annual reports for a period of five years to PHAB to maintain accreditation.

Subsection (a)(1) requires an update on the status of all programs and services and staff positions described in the application documents. This is necessary for the Department to track which elements of the LHDs plan have been implemented in the first three years of service.

Subsection (a)(2) requires an update on the status of any actions taken by the applicant to implement changes or recommendations identified by the strategic plan, the community health assessment, or the community health improvement plan. This is necessary for the applicant to demonstrate to the Department that they are taking steps to meet the identified public health needs in their community.

Subsection (a)(3) requires an update on the status of any actions taken by the applicant to implement changes or recommendations identified by the public health quality improvement plan or performance improvement plan. This is necessary for the applicant to demonstrate to the Department that they are taking steps to meet the identified internal improvements for the LHD's staff and leadership.

Subsection (a)(4) requires an update on the status of health equity and health disparities in the applicant's jurisdiction identified in the temporary funding application and the regular funding application. This is necessary for the applicant to demonstrate to the Department that they are taking steps to monitor and address health inequities within the jurisdiction.

Subsection (a)(5) requires a copy of the budget of the applicant's local health department for the current fiscal year. This is necessary for the applicant to demonstrate to the Department that they are planning for the fiscal needs of their jurisdiction while accounting for the alignment of various public health funding cycles.

Adopt Section 1581. Compliance Requirements for Approved Applicants.

This section is necessary to ensure that an LHD applicant that has received regular funding approval will comply with the requirements of Title 17 California Code of Regulations Division 1, Chapter 3, Subchapter 1 just like every other incumbent LHD. By this stage in the application process, the new LHD should be fully operational and meeting the statutory and regulatory requirements that apply to all LHDs. The applicant LHDs must still comply with a three-year-long period of annual reporting to ensure that the Department is up to date on the status of all programs and services previously reported in the application process. The Department opted for a three-year reporting period to balance the Department's need to gather information about the new LHD while avoiding an onerous ongoing reporting requirement. For comparison, the PHAB annual reporting requirement is five years. Subsection (b) includes consequences for non-compliance by referring the application to the denial, suspension, or revocation process under section 1585 if the applicant does not comply with all the requirements within the three (3) year post-regular funding approval timeframe.

Adopt Article 7. Application Denial, Suspension, and Revocation.

Adopt Section 1583. Grounds for Automatic Application Denial.

This section is necessary to clarify to applicants that submitting an incomplete application or late application will result in automatic application denial as a matter of law. The Department will not, however, overlook force majeure-type factors outside the control of the applicant that may impact the application process, as discussed below under Section 1587.

Adopt Section 1585. Grounds for Application Denial, Suspension, or Revocation; Formal Hearings.

This section is necessary to clarify to applicants that failure to comply with the requirements of the application process may result in application denial as well as denial, suspension, or revocation of funding eligibility granted by the Department. Applicants must understand that the Department will enforce the application process, and the funding eligibility is contingent on compliance with the requirements described above. This regulation is necessary to specify the criteria upon which the Department will revoke eligibility to apply for state aid for local health administration and departmental public health funds. Subsections (a)(1) through (a)(3) are necessary to clarify that the Department reserves the right to take enforcement actions for failing to follow the specified procedures and timelines found throughout the applicant process. Subsection (b) is necessary to clarify that when the Department takes an action against an applicant for failure to comply with the application process, the applicant may pursue the regular formal hearing process already provided by statute. The Department

selected “within thirty (30) calendar days of service of the Department’s decision” as an adequate time frame for the applicant to provide a written request for a formal hearing.

Adopt Section 1587. Factors Outside the Control of the Applicant.

This section is necessary to establish that the Department may grant relief to applicants that are impacted by force majeure-type events during the application process.

California communities can endure wildfires, earthquakes, civil unrest, and many other disruptions that cannot be anticipated. The Department does not intend to deny applicants impacted by extraordinary events beyond their control. “Factors outside the control of the applicant” is defined to clarify under what circumstances the Department will consider those factors outside an applicant’s control when determining whether relief from deadlines under Subchapter 4 can be justified. The Department’s definition is intended to capture events that are truly outside the control of an applicant. These circumstances include natural disasters and severe weather as well as other factors such as war and civil unrest. The elements of the definition of “factors outside the control of the health care facility” are based upon basic force majeure provisions found commonly in contract law. Under the doctrine of non-delegable duties, parties are responsible for the actions of their workforce and their business associates. This section is necessary to clarify to applicants that the Department will not take action to deny an application if a force majeure situation arises during the application process.

Adopt Section 1589. Timeline to Accept Applications.

This section is necessary to clarify the timeline for when the Department will begin accepting applications from cities that want to form a new LHD. The six-month delay is necessary to allow the Department to have adequate staffing in place to evaluate applications.

Identification of Documents Upon Which Department is Relying

PHAB “Standards & Measures for Initial Accreditation, Version 2022.”

<phaboard.org/wp-content/uploads/Standards-Measures-Initial-Accreditation-Version-2022.pdf> (Accessed on October 16, 2023.)

Local Mandate Determination

The Department has determined that the proposed regulations do not impose a mandate on local agencies or school districts that requires state reimbursement. No city is required to pursue the new LHD application process, and all the counties in California already provide local public health services to those cities. The new LHD application process is not mandatory for any city, and any applicant city that chooses to pursue the process may do so at their discretion.

Statement of Alternatives Considered

The Department must determine that no reasonable alternative considered by the Department or has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is

proposed or would be less burdensome to affected private persons than the proposed regulatory action or would be more cost effective to affected private persons. Should the Department decide not to formally amend, repeal, and adopt these regulations then California is facing the reality of seeing new and inexperienced LHDs forming without public health funding from CDPH, state direction and guidance. These new LHDs could decide to operate with limited capacity and without support from the county health departments in which they sit, causing a major disruption of public health services. The Department considered the alternative of not creating an application process. However, this would not afford the Department an opportunity to grant or deny eligibility to apply for state aid for local health administration and departmental public health funding.

Statement of Significant Adverse Economic Impact on Business

The Department has determined that the proposed regulation will have no effect on small businesses in California as the associated costs will only occur for city governments who decide to create their own LHD. City governments serving populations greater than 50,000 have the statutory authority to create their own LHD. These regulations create an application process to determine that a new city LHD meets statutory requirements to receive public health funding from the Department. The transition of public health services from a county LHD to a new city LHD is determined to not have any new or additional costs to small businesses.

Economic Impact Assessment

The Department has determined that the proposed regulations would not have a significant statewide adverse economic impact directly affecting businesses, and individuals, including the ability of California businesses to compete with businesses in other states. The proposed regulations will not significantly affect:

- The creation or elimination of jobs within the state.
- The creation of new business or the elimination of existing businesses within the state.
- The expansion of businesses currently doing business within the state.

The proposed regulations will benefit the health and welfare of California residents by ensuring that new city LHDs meet statutory and code of regulation requirements to protect the health and safety of people in the city's jurisdiction.

Creating or Elimination of Jobs Within the State of California

In accordance with Government Code Section 11346.3(b), CDPH has made an initial determination that there is no impact on California businesses because of filing these regulations because these regulations only apply to city governments who choose to create their own new LHD.

Creation of New or Elimination of Existing Businesses Within the State of California

The adoption of the proposed regulations will not result in the creation of new businesses nor elimination of existing businesses in the State of California. This

determination has been made because these regulations are specific to city governments creating a new LHD who wish to access public health funding, which will not have an impact on the creation or elimination of existing businesses in California.

Expansion of Businesses Within the State of California

The adoption of the proposed regulations will not result in the expansion of businesses in the State of California as the impacts are limited to city governments creating a new LHD who wish to access public health funding.

Benefits of the Regulations to the health and welfare of California residents, worker safety, and the state's environment

The proposed regulations will benefit the health and welfare of California residents by ensuring that new city LHDs meet statutory and code of regulation requirements to protect the health and safety of people in the city's jurisdiction.

Benefits Anticipated from Regulatory Action

The benefits anticipated by the proposed regulations, including to the extent applicable, ensure that only qualified new city local health departments will be eligible for public health funding through CDPH, nonmonetary benefits such as the protection of public health and safety, worker safety, or the environment, the promotion of health equity, an increase in emergency services response, and the increase in openness and transparency in business and government.

Specific Technologies or Equipment

This regulation does not mandate the use of new, specific technologies or equipment.