

**TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS  
DIVISION 33. BUREAU OF AUTOMOTIVE REPAIR**

**FINAL STATEMENT OF REASONS**

**Subject Matter of Proposed Regulations:** Citation and Remedial Training Programs for Automotive Repair Dealers

**Sections Affected:** Article 11.1, sections 3394.25, 3394.26, and 3394.27; Article 11.2, sections 3394.40, 3394.41, 3394.42, 3394.43, 3394.44, 3394.45, and 3394.46; Article 11.3 sections 3394.50, 3394.51, 3394.52, 3394.53, 3394.54, and 3394.55; and Article 12.5, sections 3395.7, 3395.8, 3395.9, and 3395.10.

**Updated Information**

The Informative Digest and Initial Statement of Reasons are included in the rulemaking file and incorporated as though set forth herein.

Please note the following format changes to the Proposed Text and Initial Statement of Reasons:

**Proposed Language (As Originally Published)**

On page 11 of 16, the first line shows two (4)s. This duplication was removed in the Order of Adoption.

**Initial Statement of Reasons**

On page 1 of 52, second paragraph under **Background and Statement of the Problem:** there is a bulleted “l.” This bullet should not show.

On page 37 of 52, there is an extra space between the second line beginning “certification. This subdivision . . .” and the third line “[t]he withdrawal . . .” This space should not show.

On page 40 of 52, the fifth paragraph beginning “(b) Subdivision (b)(2), . . .” should be underlined.

On page 46 of 52, under **Subdivision (f)**, “(a) Subdivision (f)(1)” and “(b) Subdivision (f)(1)” should be underlined.

The Bureau of Automotive Repair (Bureau) noticed the rulemaking on October 7, 2022, with a forty-five (45) day comment period ending on November 21, 2022. The Bureau received 11 comments during the 45-day comment period.

## **First Modified Text Changes**

The Bureau prepared modified text. On January 6, 2023, the Bureau issued a 15-day notice of availability of modified text containing the amendments discussed below. This comment period closed on January 23, 2023, and the Bureau did not receive any comments during this period. The Bureau responds to all comments below.

### **Section 3394.51**

1. Addition in subdivision (b) of “issue a citation,” deletion of “assess a fine,” replacement of “if” with “of,” and replacement of “is” with “if.”

The Bureau amended the language to clarify that when the Bureau identifies a violation of the Automotive Repair Act, the Bureau will use the factors of aggravation and mitigation criteria listed within this section to determine whether to issue a citation and a fine amount if applicable.

The Bureau also amended the section for consistency with the insertion and deletion of text.

### **Section 3394.53**

2. Creation of new subdivision (a) and addition of “Prior to [OAL insert earliest quarterly effective date on or after July 1, 2023], a cited person may contest the citation by requesting an administrative hearing. The request must be made in writing, within thirty days (30) days of receipt of the citation, to the Bureau chief or the Bureau chief’s designee. The hearing shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.”

The Bureau added this text to clarify that for any person receiving a citation prior to July 1, 2023, a different procedure for contesting a citation applies.

3. Renumbering of subdivisions in section 3394.53 from “(a)” to “(b),” addition in subdivision (b) of “On or after [OAL insert earliest quarterly effective date on or after July 1, 2023],” amendment of capital “A” to an lower case “a”, addition of “by,” replacement of “request” with “requesting,” and amendment of referenced subdivisions from “(b)” to “(c)” and “(f)” to “(h).”

The Bureau renumbered the subdivision based on the addition of the new subdivision (a).

The Bureau added this text to clarify that for any person receiving a citation after July 1, 2023, the informal conference procedure authorized by AB 471 applies.

The Bureau uncapitalized “A” based on the addition of the aforementioned language.

The Bureau added the word “by” and changed the tense of “request” for consistency. The Bureau renumbered the reference to subdivisions (b)-(f) based on the creation of a new subdivision (a).

4. Renumbering of subdivision (b) to (c).

The Bureau renumbered this subdivision based on the insertion of a new subdivision (a).

5. Renumbering of subdivision (c) to (d), deletion of “Bureau chief, or their designee,” addition of “panel specified in section 3394.54,” addition of “unless the panel cannot be established by the Bureau chief as specified in section 3394.54. If a panel cannot be established, the informal conference shall be held by the Bureau chief or their designee as specified in section 3394.54,” deletion of “hearing” and addition of “conference.”

The Bureau renumbered the subdivision based on the addition of a new subdivision (a).

The Bureau deleted “Bureau chief, or their designee” and replaced it with “panel specified in the section 3394.54” to clarify the panel is the primary review mechanism of contested citations. The Bureau chief or designee does not hold the informal citation review conference unless a panel cannot be established by the Bureau chief.

The Bureau added “unless the panel cannot be established by the Bureau chief as specified in section 3394.54. If a panel cannot be established, the informal conference shall be held by the Bureau chief or their designee as specified in section 3394.54” to clarify that although the panel is the primary review mechanism of contested citations, if a panel cannot be created pursuant to section 3394.54(a), the informal citation review will default to the Bureau chief or designee pursuant to section 3394.54(d).

The Bureau replaced “hearing” with “conference” to clarify the informal citation review proceeding is a conference, not a hearing.

6. Addition of new subdivision (e) of “If the informal citation review conference is conducted by a panel, the panel shall make a recommendation to the Bureau chief or their designee by majority vote whether to affirm, modify, or dismiss the citation, including any fine to be levied, order of abatement, or order of correction issued. The Bureau chief or their designee shall consider the recommendation of the panel in making their decision as set forth in subdivision (f).”

The Bureau added this new subdivision to clarify the informal citation review panel’s function is to make a recommendation to the Bureau chief or the designee whether to affirm, modify, or dismiss the citation, as well as recommendations regarding the fine amount, if any, as well as any corrective action. Additionally, the added language clarifies the Bureau chief or designee shall consider the panel’s recommendation when rendering a decision pursuant to 3394.53(f).

7. Renumbering of subdivision (d) to (f), addition of “after,” deletion of “when,” and deletion of “at the conclusion of the informal citation review conference.”

The Bureau renumbered the subdivision based on the addition of the new subdivisions (a) and (e).

The Bureau replaced “when” with “after” to clarify the Bureau Chief or designee may only make their decision after the informal citation review conference.

The Bureau deleted “at the conclusion of the informal citation review conference” because it was redundant based on the addition of “when.”

8. Renumbering of subdivision (e) to (g).

The Bureau renumbered the subdivision based on the addition of new subdivisions (a) and (e).

9. Renumbering of subdivision (e) to (g).

The Bureau renumbered the subdivision based on the addition of new subdivisions (a) and (e).

**Section 3394.54**

10. Deletion of “rendering a decision” in subdivision (a) and addition of “making a recommendation.”

The Bureau amended the language to clarify the informal citation review conference panel makes a recommendation to the Bureau Chief or designee. The panel does not render a decision on the contested citation.

11. Addition in subdivision (b) of “in compliance with section 3394.53,” addition of “unless a panel cannot be established as described in this section,” addition of “If a panel is established pursuant to this section,” and capitalization of “the.”

The Bureau added “in compliance with section 3394.53” to clarify the time frame and process requirements for requesting an information citation review conference.

The Bureau added “unless a panel cannot be established as described in this section” to clarify the Bureau chief will notify the cited person of the panel members unless Bureau chief is unable to establish a panel. The Bureau cannot inform the cited person of the panel composition if a panel cannot be established.

The Bureau added “If a panel is established pursuant to this section” to clarify that only upon establishment of a panel can a cited person object to the appointment of any panel member.

12. Addition in subdivision (d) of “However, if at any time a panel cannot be established to conduct the informal citation review conference for the reasons set forth in subdivisions (e) or (h), the Bureau chief or their designee shall conduct the conference and the Bureau chief or their designee shall send written notice of: (1) the inability to establish a panel, (2) the factual basis for determining that a panel cannot be established within the timeframes required to hold the informal conference in section 3394.53; and, (3) the informal conference will be held by the Bureau chief or their designee. Such written notice shall be provided at least 14 days before the date set for the informal citation review conference.”

The Bureau added this language to clarify what will occur if a panel cannot be established. This process is necessary to inform the cited person who will conduct the conference and inform the cited person when they can expect to receive it.

13. Addition in subdivision (f) of “unless the Bureau chief is unable to appoint a new panel as specified in this section.”

The Bureau added this language to clarify if the Bureau chief or designee is unable to appoint a new panel or panel member for the scenarios detailed in this section, the Bureau chief or designee shall conduct the informal citation review conference pursuant to 3394.54(d).

14. Deletion in subdivision (a) of section 3394.55 of “that has become effective.”

The Bureau deleted this language so as not to suggest there is a condition to citations being required to be posted on the internet pursuant to Business and Professions Code (BPC) section 27.

15. Deletion in subdivision 3395.8(a)(5) of “, including:

- (A) A criminal conviction for a serious felony under Penal Code section 1192.7;  
(B) A criminal conviction that qualifies as a registerable offense under Penal Code section 290, subdivision (d)(2) or (3);  
(C) A criminal conviction that occurred within the seven years preceding the application date;  
(D) A criminal conviction for which the applicant is presently incarcerated; or,  
(E) Any conviction for which the applicant was released from incarceration within the preceding seven years.”

Since the Bureau is permitted to require applicants to disclose criminal conviction history on an application for licensure pursuant to BPC section 480(f)(1), the Bureau chose to simplify this section by deleting redundant subdivisions.

16. Deletion in subdivision 3395.8(a)(6) of “any of the following” and “pursuant to this subdivision:

(A) Convictions dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code, or a comparable dismissal or expungement;

(B) Convictions for which the person has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code;

(C) Convictions for which the person has been granted clemency or a pardon by a state or federal executive;

(D) An arrest that resulted in a disposition other than a conviction including an infraction or citation;

(E) Convictions that were adjudicated in the juvenile court; or,

(F) Convictions”

The Bureau deleted these subdivisions because BPC section 480(f)(1) permits the Bureau to ask about these convictions. The Bureau does not require disclosure of convictions for Health and Safety Code sections 11357(b), (c), (d), (e), or section 11360(b) because pursuant to Health & Safety Code section 11361.7(c), any person arrested or convicted for an offense specified in section 11361.5(a) or (b) may, two years from the date of such a conviction, or from the date of the arrest if there was no conviction, indicate in response to any question concerning his prior criminal record that he was not arrested or convicted for such offense.

### **Second Modified Text Changes**

The Bureau prepared modified text. On April 24, 2023, the Bureau issued a 15-day notice of availability of modified text containing the amendments discussed below. This comment period closed on May 9, 2023, and the Bureau did not receive any comments during this period. The Bureau responds to all comments below.

### **Section 3394.53**

1. Deletion of subdivision (a) “Prior to [OAL insert earliest quarterly effective date on or after July 1, 2023], a cited person may contest the citation by requesting an administrative hearing. The request must be made in writing, within thirty days (30) days of receipt of the citation, to the Bureau chief or the Bureau chief’s designee. The hearing shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.”

The Bureau deleted this subdivision because it was unnecessary due the fact that the

proposed regulations wouldn't even be effective until July 1, 2023.

2. Change subdivision (b) to (a).

The Bureau changed the lettering of the subdivision to be consistent after the deletion of the previous subdivision (a).

3. Deletion of " On or after [OAL insert earliest quarterly effective date on or after July 1, 2023], A a" in subdivision (b).

The Bureau deleted this subdivision because it was unnecessary due the fact that the proposed regulations wouldn't even be effective until July 1, 2023.

4. Addition of "A" is subdivision (b).

This change was made to make the sentence grammatically correct.

5. Changed referenced subdivisions from to (b)-(g).

The Bureau changed the referenced subdivisions to stay consistent with the re-lettering that was a result of deleted subdivision (a).

6. Changed subdivision (c) to (b).

The Bureau changed the referenced subdivisions to stay consistent with the re-lettering that was a result of deleted subdivision (a).

7. Changed subdivision (d) to (c).

The Bureau changed the referenced subdivisions to stay consistent with the re-lettering that was a result of deleted subdivision (a).

8. Changed subdivision (e) to (d).

The Bureau changed the referenced subdivisions to stay consistent with the re-lettering that was a result of deleted subdivision (a).

9. Changed subdivision (f) to (e).

The Bureau changed the referenced subdivisions to stay consistent with the re-lettering that was a result of deleted subdivision (a).

10. Changed subdivision (g) to (f).

The Bureau changed the referenced subdivisions to stay consistent with the re-lettering

that was a result of deleted subdivision (a).

11. Changed subdivision (h) to (g).

The Bureau changed the referenced subdivisions to stay consistent with the re-lettering that was a result of deleted subdivision (a).

#### **Section 3394.54**

1. Deletion of “decision” in subdivision (a) and addition of “recommendation”.

The Bureau amended the language to clarify the informal citation review conference panel makes a recommendation to the Bureau Chief or designee. The panel does not render a decision on the contested citation.

2. Deletion of “and as determined by the Bureau chief” from subdivision (e)(2).

The Bureau made this deletion to stay consistent with changes made to subdivision (h), additionally it was found to be unnecessary because this section already references the applicable Government Code sections referencing ex parte communications.

3. Deletion of “at any time for any reasons including for” and the addition of “for reasons such as” in subdivision (h).

The Bureau deleted and added this language for clarity. Deleting and adding this language makes it clearer that the Bureau chief can remove any member of the panel for the listed reasons.

#### **Section 3394.55**

1. Deletion of “and” and deletion of “and section 3351” from subdivision (b)(2).

The Bureau deleted the word and to clarify that the individuals applying for non-disclosure of citation for ARDs can be the registrant or other persons directly involved in the business, rather than requiring the registrant and all parties to attend the remedial training.

The Bureau deleted reference to section 3351 as it was unnecessary since Business and Professions Code 9884 referenced in this subdivision covers all related material.

#### **Section 3395.8**

1. Deletion of “not” from subdivision (a)(6).

The Bureau deleted this language to make it clearer that the Bureau is requiring the disclosure of and convictions under Health and Safety Code sections 11357(b), (c), (d), or



(e) which are less than two years older.

2. Deletion of “or” and addition of “and”, addition of “less than”, and deletion of “or older” and addition of “old” to subdivision (a)(6)(F).

The Bureau deleted this language to make it clearer that the Bureau is requiring the disclosure of and convictions under Health and Safety Code sections 11357(b), (c), (d), or (e) which are less than two years older.

3. Deletion of “on a separate sheet of paper as provided in this section” in subdivision (a)(8).

The Bureau deleted this language because there is no separate sheet of paper incorporated by reference in the proposed regulatory package.

4. Amendment of the language in subdivision (f) to read “A previously certified provider (“petitioner”) shall wait one year from the effective date of a revocation decision or the denial date of a previous petition to petition for reinstatement of a certification. A petitioner shall submit to the Bureau chief or their designee a petition that includes all of the following:”

The Bureau amended the language to clarify that a petitioner may only apply for reinstatement of a revoked certification one year after the revocation date.

5. Addition of “Section 11361.5, Health and Safety Code” to the Note section.

The Bureau added this additional reference because it clarifies the changes to the regulation made in section 3395.8 (a)(6)(f).

### **Non-Substantive Changes**

1. Addition of “section 3351” to 3394.55(b)(2).

The Bureau added this additional language for clarification.

### **Local Mandate**

A mandate is not imposed on local agencies or school districts.

### **Consideration of Alternatives**

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Bureau would be more effective in carrying out the purpose for which it was proposed or would be as effective and less burdensome to affected private persons than the adopted regulations or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other

provision of law. The Bureau incorporates by reference the alternatives identified in its Initial Statement of Reasons and did not receive any comments that altered its findings.

## **Objections or Recommendations/Responses**

Below is a summary of the comments the Bureau received during the 45-day and responses thereto.

### **Summary of Comments Received During the 45-day Notice Period**

#### **Jack Molodanof, November 21, 2022**

##### **Comment 1:**

Commenter states BAR has publicly indicated they do not plan on issuing citations for concerns they determine are minimal in nature. BAR should “spell out” this policy and codify it in the proposed regulations. Commenter suggests language using the word “minimal” in proposed section 3394.50.

##### **Response:**

The Bureau has considered the comment and has modified the proposed text based thereon.

The Bureau declines to adopt the exact language proffered by the commenter as utilizing the term “minimal” would pose a clarity concern. The Bureau has amended the text in section 3394.51(b) to state that it will consider the factors in subdivision (b) in determining whether to issue a citation. As the factor in subdivision (b)(1) is the nature and gravity of the violation, this factor would encompass situations in which the violation is “minimal.”

##### **Comment 2:**

Commenter requests BAR add to the factors set forth in subdivision (b) a catch-all factor such as “such other factors as the Bureau considers relevant.” This would enable the Bureau to consider circumstances such as the pandemic, natural disasters, a noncompliant estimating software system, etc.

##### **Response:**

The Bureau has considered the comment and declines to modify the text based thereon.

The commenter’s proposed language creates a non-specific factor of aggravation/mitigation that is unnecessary as the existing aggravation/mitigation factors

listed in section 3394.51(b)(1) – (9) address unforeseen circumstances and noncompliant tools or equipment such as the examples given by the commenter.

When determining whether to issue a citation and the amount of any fine in situations involving natural disasters, pandemics, and other unforeseen crises, the Bureau can consider such factors as the nature and gravity of the violation (section 3394.51(b)(1)), the good or bad faith of the registrant, including any training regarding the subject matter of the violation prior to the issuance of a citation (section 3394.51(b)(3)), and whether the violation was willful or an inadvertent error (section 3394.51(b)(6)). If, because of a crisis, a registrant violated the Automotive Repair Act unintentionally, the violation itself is not serious in nature, and the registrant is acting in good faith to address the violation, then those factors would be considered when deciding to issue a citation or not.

When determining whether to issue a citation and the amount of any fine in situations involving a noncompliant estimating software system or any required tools or equipment that are not in compliance with BAR regulations, the Bureau can consider such factors as the registrant’s history of violations and/or the number of violations found in the investigation (section 3394.51(b)(2)), the good or bad faith of the registrant, including any training regarding the subject matter of the violation prior to the issuance of a citation (section 3394.51(b)(3)), and the extent to which the registrant has made restitution to affected consumers or mitigated or attempted to mitigate any damage or injury caused by the violation (section 3394.51(b)(5)). If a registrant has been repeatedly notified of a violation resulting from noncompliant tools or equipment but has not acted in good faith to address the violation, and/or does not mitigate or attempt to mitigate the damage caused by the continued use of that noncompliant equipment, then those factors would be considered when deciding to issue a citation or not and the amount of any fine.

**Comment 3:**

Commenter asserts automotive service writers should be able to attend the remedial training as they are the most appropriate individuals based on their direct communication with the customer and preparation of estimates and invoices.

**Response:**

The Bureau has considered the comment and declines to modify the text based thereon.

The Bureau does not license service writers and therefore does not consider their attendance of remedial training sufficient for the purposes of non-disclosure of a citation. The controlling individuals recorded on an automotive repair dealer application are required to attend the training as they are responsible for the conduct of the business. Additionally, pursuant to Business and Profession Code section 9882(a)(2)(B)(i), remedial training for the purposes of non-disclosure of a citation is only available to an “automotive

repair dealer” as defined in section 9880.1(a). Section 9880.1(a) defines an automotive repair dealer as “a person who, for compensation, engages in the business of repairing or diagnosing malfunctions of motor vehicles. This definition would not necessarily include all automotive service writers.

A controlling individual of an automotive repair dealer may always choose to require those employees directly involved in a violation to attend remedial training for the purposes of educating their staff.

**Comment 4:**

Commenter asserts the Bureau should define the term automotive service writer in its regulations and provide that service writers may be designated to attend training.

**Response:**

The Bureau has considered the comment and declines to modify the text based thereon.

The Bureau incorporates by reference its response to Comment # 3. Additionally, as service writers are not licensed by the Bureau, a definition is not necessary.

**Comment 5:**

Commenter asserts the proposed regulations fail to specify the amount of time citations remain on the Bureau’s website. A reasonable timeframe should be specified in the regulations.

**Response:**

The Bureau has considered the comment and declines to modify the text based thereon.

Business and Professions Code section 27 provides that “other enforcement related action” shall be provided on the internet for as long as the license is active. (Bus. & Prof. Code, § 27, subd. (a).) As it does not provide a time limit for the posting of this information, the Bureau is not authorized to adopt one.

**Comment 6:**

Commenter asserts citations should not be published on the BAR website upon issuance until the informal citation review conference is completed.

**Response:**

The Bureau has considered the comment and declines to modify the text based thereon.

Business and Professions Code section 9882(a)(2)(B)(i) permits a cited automotive repair dealer to prevent disclosure of that citation on the internet, as provided in Business and Professions Code section 27, upon successful completion of a remedial training course conducted by a Bureau certified provider. Business and Professions Code section 27 provides that “other enforcement related action” shall be provided on the internet for as long as the license is active. (Bus. & Prof. Code, § 27, subd. (a).) As neither Business and Professions Code section 9882(a)(2)(B)(i), nor section 27 provide for any other exemption for the posting of this information, the Bureau is not authorized to adopt one.

**Chris Cleveland, November 21, 2022**

**Comment 1:**

Commenter expresses support for proposed section 3394.51(b)(3).

**Response:**

The Bureau acknowledges commenter’s support of the regulation.

**Comment 2:**

Commenter asserts Bureau should clarify proposed section 3395.7(a) to provide “online training” should be “effective interactive online training created by an instructional designer” to prevent ineffective online courses that do not properly engage the learner.

**Response:**

The Bureau has considered the comment and declines to modify the text based thereon.

Section 3395.8(a)(9)(C) requires certified remedial training applicants to provide information on the methods of instruction, including information regarding student interaction. This information aptly enables the Bureau to determine the effectiveness of the proposed training. Furthermore, if the Bureau were to require training to be created by an instructional designer, this may create barriers and costs for applicants becoming certified to offer remedial training.

**Comment 3:**

Commenter asserts the Bureau should add an element to proposed section 3395.8(a)(9) that requires the applicant for certification as a remedial training provider to demonstrate mitigating factors designed to prevent students from cheating, sharing of test/quiz answers, fraudulent completion, forging certificates of completion, and other strategies that would reduce the effectiveness of and participation in the training.

**Response:**

The Bureau has considered the comment and declines to modify the text based thereon.

As part of the application process to become a certified remedial training provider outlined in section 3395.8(a)(9), the Bureau requires the provider to submit a course outline and description. Section 3395.8(a)(9)(C) requires a provider to demonstrate how they intend to confirm a student’s active participation for successful completion of the course, for example in-content quizzes. Since the Bureau does not require any tests or in-content quizzes as part of the remedial training course, it is the provider’s responsibility to mitigate fraudulent behavior related to those tests or in-content quizzes.

Two certificates of completion must be provided to the Bureau for each student upon completion of remedial training. Pursuant to section 3394.55(c), one certificate of completion shall be submitted by the student (automotive repair dealer), and pursuant to section 3395.9(c), the second certificate of completion shall be submitted by the provider. By requiring the certificates from the student and provider, the Bureau can cross reference and verify the legitimacy of the completion of remedial training.

**Comment 4:**

Commenter asserts proposed section 3395.8(a)(9) should require the applicant to demonstrate they have implemented and maintain reasonable security procedures and practices to protect against unauthorized access, use, and disclosure of information collected, such as complying with a nationally recognized cybersecurity framework, such as ISO 27001, CIS Controls, SOC2 or NIST Standards.

**Response:**

The Bureau has considered the comment and declines to modify the text based thereon.

Pursuant to section 3395.8(a)(9)(C), a remedial provider is required to explain how attendance is recorded accurately, which may involve certain security functions to avoid fraud, etc. The Bureau is not imposing a prescriptive standard in the interests of not overburdening providers with any specific physical or digital security requirements, but the provider must ensure the goals of accurately recording attendance and, in 3395.9(d), retaining records.

**Comment 5:**

Commenter asserts the Bureau should consider specifically requiring, at a minimum, that service writers, technicians, and managers directly involved in the offense/violation take the remedial training (e.g., the technician, writer and manager involved in the repair work subject to the violation). Otherwise, the ARD may arbitrarily enroll “students” that do not

have an effect on the prevention of future violations (e.g., an absentee owner or other high-level manager or executive who is not actively involved in day-to-day operations).

**Response:**

The Bureau has considered the comment and declines to modify the text based thereon.

The Bureau incorporates by reference its response to Cleveland’s Comment 3.

Additionally, the Bureau does not license technicians or managers who are not identified as controlling individuals on the automotive repair dealer application. Therefore, the Bureau does not consider their attendance of remedial training sufficient for the purposes of non-disclosure of a citation. The controlling individuals, as recorded on the automotive repair dealer application, are required to attend the training as they are responsible for the conduct of the business. Furthermore, pursuant to Business and Profession Code section 9882(a)(2)(B)(i), remedial training for the purposes of non-disclosure of a citation is only available to an “automotive repair dealer” as defined in section 9880.1(a). Section 9880.1(a) defines an automotive repair dealer as “a person who, for compensation, engages in the business of repairing or diagnosing malfunctions of motor vehicles.” This definition would not necessarily include all technicians and managers.

The controlling individual may always choose to require those employees directly involved in a violation to attend remedial training for the purposes of educating their staff.

**Comment 6:**

Commenter expresses support for proposed section 3395.8(a)(1)(B).

**Response:**

The Bureau acknowledges commenter’s support of the regulation.