

BUREAU OF AUTOMOTIVE REPAIR

LICENSING OF SMOG CHECK INSPECTORS AND REPAIR TECHNICIANS APPLICATION
AMENDMENT

TITLE 16, CALIFORNIA CODE OF REGULATIONS, SECTION 3340.29

SECTION 100. CHANGE WITHOUT REGULATORY EFFECT

Pursuant to Title 1, Division 1, Chapter 1, Article 2, section 100(b)(3), of the California Code of Regulations, the Bureau of Automotive Repair (BAR), Department of Consumer Affairs (DCA), hereby submits this written statement explaining why the proposed amendment to section 3340.29 contained within Chapter 1, Division 33, Title 16, California Code of Regulations¹ (CCR) does not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision.

It has come to BAR's attention that its existing *Application for Initial Smog Check Inspector, and/or Smog Check Repair Technician License*, which is incorporated by reference in CCR section 3340.29, is not entirely clear as to the statutory requirement to publish specified information provided by the licensee on BAR's Web site. Additionally, contact information regarding the Information Practice Act is outdated and is being updated.

BAR is seeking to remedy these discrepancies by modifying its regulations with a Section 100 Change Without Regulatory Effect as follows:

- I. Include language, pursuant to Business and Professions Code section 27, notifying applicants that their address of record will be disclosed on BAR's Web site.

Specifically, Business and Professions Code (BPC) Section 27 states in pertinent part:

“(a) Each entity specified in subdivisions (c), (d), and (e) shall provide on the Internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action, including accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the

¹ All references made hereafter to the California Code of Regulations apply to Title 16, Division 33, Chapter 1, unless otherwise specified.

Government Code) taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as his or her address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(b) In providing information on the Internet, each entity specified in subdivisions (c) and (d) shall comply with the Department of Consumer Affairs Guidelines for Access to Public Records.

(c) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:

(1) The Board for Professional Engineers, Land Surveyors, and Geologists shall disclose information on its registrants and licensees.

(2) The Bureau of Automotive Repair shall disclose information on its licensees, including auto repair dealers, smog stations, lamp and brake stations, smog check technicians, and smog inspection certification stations.”

II. Update the department and contact information for consumers to contact should they have questions regarding the Information Practices Act.

BAR is updating the contact information for applicants with questions relating to the Information Practices Act. Assembly Bill 2408 (Smyth, Chapter 404, Statutes of 2010) moved the DCA's Office of Privacy Protection from the Department to within the then State and Consumer Services Agency (Agency). The Governor's Reorganization Plan eliminated the Office of Privacy Protection from within the Agency through Senate Bill 1039 (Steinberg, Chapter 147, Statutes of 2012).

Questions relating to the Information Practices Act are now directed to the Privacy Enforcement and Protection Unit within the Department of Justice, and BAR's amendments will update the application incorporated in CCR section 3340.29 with that agency's correct name, mailing address, and toll-free telephone number.

Benefits:

At present, an applicant for initial licensure as a Smog Check Inspector or Smog Check Repair Technician may be unaware that the address submitted by them as “address of

record” on the initial application for licensure is a public record that must be posted on BAR’s Web site to pursuant to BPC section 27. The proposed revisions to the application better clarify the information being requested by BAR, and will make the public disclosure of the applicant’s address of record upon licensure clear.

Additionally, updating the agency and contact information for consumers with questions regarding the Information Practices Act is essential as the Department of Consumer Affairs no longer supports an Office of Privacy Protection. Further, the toll-free telephone number currently listed on the application is now registered to an adult entertainment service.

The changes being proposed do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision. BAR came to this determination because BPC 27 already mandates that BAR publish specified licensee information on its Web site, and the proposed changes seek only to clearly alert potential licensees of BAR’s mandate to publish specified information on its Web site, to alert applicants of their right not to disclose a home address for that purpose, and to provide updated contact information regarding the Information Practices Act.