



California Regulatory Notice Register

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict-of-interest codes, will review the proposed/amended conflict-of-interest codes of the following:

**CONFLICT-OF-INTEREST CODES
AMENDMENT**

STATE AGENCY:
Department of Managed Health Care

MULTI-COUNTY:
Fire Agencies Self Insurance System

A written comment period has been established commencing on June 5, 2020 and closing on July 20, 2020. Written comments should be directed to the Fair Political Practices Commission, Attention Amanda Apostol, 1102 Q Street, Suite 3000, Sacramento, California 95811.

At the end of the 45-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict-of-interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the

proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than July 20, 2020. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict-of-interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict-of-interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to Amanda Apostol, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED
CONFLICT-OF-INTEREST CODES

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Amanda Apostol, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 324-5660.

TITLE 13. AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER
PROPOSED PROCEDURES FOR THE
EXEMPTION OF ADD-ON AND MODIFIED
PART(S) FOR ON-ROAD VEHICLES/ENGINES

The California Air Resources Board (CARB or Board) will conduct a public hearing at the time and place noted below to consider approving for adoption the proposed Procedures for the Exemption of Add-On and Modified Part(s) for On-Road Vehicles/Engines:

DATE:

July 23, 2020

TIME:

9:00 a.m.

Please see the Public Agenda for the meeting location and/or any appropriate direction regarding a remote-only Board Meeting as necessary, which will be posted ten days before the July 23, 2020, Board Meeting.

This item will be considered at a meeting of the Board, which will commence at 9:00 a.m., July 23, 2020, and may continue at 8:30 a.m., on July 24, 2020. Please consult the agenda for the hearing, which will be available at least ten days before July 23, 2020, to determine the day on which this item will be considered.

WRITTEN COMMENT PERIOD AND
SUBMITTAL OF COMMENTS

Interested members of the public may present comments orally or in writing at the hearing and may provide comments by postal mail or by electronic submittal before the hearing. The public comment period for this regulatory action will begin on June 5, 2020. Written comments not physically submitted at the hearing must be submitted on or after June 5, 2020, and **received no later than July 20, 2020**. Comments submitted outside that comment period are considered untimely. CARB may, but is not required to, respond to untimely comments, including those raising significant environmental issues. CARB requests that when possible written

and email statements be filed at least ten days before the hearing to give CARB staff and Board members additional time to consider each comment. The Board also encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action. Comments submitted in advance of the hearing must be addressed to one of the following:

Postal mail:

Clerks' Office, California Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal:

<http://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

Additionally, the Board requests but does not require that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.

AUTHORITY AND REFERENCE

This regulatory action is proposed under the authority granted in California Health and Safety Code, sections 39600, 39601, 43000, 43000.5, 43011 and 43107. Health and Safety Code; and sections 27156, 38391 and 38395, Vehicle Code. Reference: sections 39002, 39003, 39500, 43000, 43000.5, 43009.5, 43011, 43107, 43204, 43205, 43205.5 and 43644, Health and Safety Code; and sections 27156, 38391 and 38395, Vehicle Code.

INFORMATIVE DIGEST OF PROPOSED
ACTION AND POLICY STATEMENT OVERVIEW
(GOV. CODE, § 11346.5, subd. (a)(3))

Section Affected: Proposed amendment of California Code of Regulations, title 13, sections 2222 (e) and 2224 (b).

Documents Incorporated by Reference (Cal. Code Regs., tit. 1, § 20, subd. (c)(3)):

The following documents and test methods would be incorporated in the procedures by reference:

1. California Air Resources Board, *Procedures for Exemption of Add-On and Modified Part(s) for On-Road Vehicles/Engines*, set forth as Appendix B of the Initial Statement of Reasons.
2. California Air Resources Board, *California Evaporative Emission Standards and Test Procedures for 2001 and Subsequent Model Motor Vehicles*, last amended September 2, 2015.

3. California Air Resources Board, *California Refueling Emission Standards and Test Procedures for 2001 and Subsequent Model Motor Vehicles*, last amended September 2, 2015.
4. California Air Resources Board, *Specifications for Fill Pipes and Openings of 2015 and Subsequent Model Motor Vehicle Fuel Tanks*, last amended May 31, 2019.
5. Code of Federal Regulations, Title 40, section 86.1803-01, last amended October 25, 2016.
6. Code of Federal Regulations, Title 40, section 86.162-00, last amended July 1, 2012.
7. Code of Federal Regulations, Title 49, Part 565, last amended April 30, 2008.
8. Official Journal of the European Union, *Regulation (EU) No. 168/2013 of the European Parliament and of the Council of 15 January 2013 on the Approval and Market Surveillance of Two- or Three-Wheel Vehicles and Quadricycles*, January 15, 2013.

Background and Effect of the Proposed Regulatory Action:

Overview:

CARB staff is proposing amendments to replace the “Procedures for Exemption of Add-On and Modified Parts” which was adopted on November 4, 1977, and amended on May 19, 1981 and June 1, 1990. The “Procedures for Exemption of Add-On and Modified Parts” provides a pathway for aftermarket parts manufacturers to receive an exemption from the prohibitions of section 27156 of the California Vehicle Code (VC) for add-on and modified parts or other modifications that affect emissions.

The “Procedures for Exemption of Add-On and Modified Parts,” last amended on June 1, 1990, provide staff the tools to work with aftermarket parts manufacturers in the daily processing of submitted exemption applications; however, there have been many changes in the design of new vehicles and engines since 1990. Accordingly, staff is proposing new “Procedures for the Exemption of Add-On and Modified Part(s) for On-Road Vehicles/Engines” (procedures) to improve the exemption process in light of these changes.

The new procedures will clarify and streamline the processes associated with a VC section 27156 exemption. They will facilitate compliance by making the process easier for manufacturers to submit applications, conduct necessary testing, and receive exemptions, potentially resulting in some cost savings on a per application basis. However, the new procedures may increase the total number of applications required by an aftermarket parts manufacturer to cover its whole product

line, possibly resulting in no cost savings for the manufacturer overall. Notwithstanding, faster turnaround on staff review and approval is expected to result from use of the new procedures, providing a pathway for manufacturers to bring products to market faster.

Objectives and Benefits of the Proposed Regulatory Action:

The objectives of the proposed procedures are to clarify, streamline, and update the current exemption process for add-on and modified parts, thereby assisting aftermarket parts manufacturers in successfully completing the process of obtaining an exemption from the prohibitions of VC Section 27156 and reducing staff burden on application review and approval, with the goal of providing a pathway for manufacturers to bring products to market faster without impacting projected emissions benefits.

The new proposed procedures will clarify, streamline, and update the CARB processes associated with a VC Section 27156 exemption, potentially resulting in cost savings on a per application basis. Clarity and updating is achieved through the creation of the following sections: 1) Application Submission Requirements, 2) Evaluation and Testing Criteria, 3) Test Vehicle or Engine Selection and Testing, and 4) Action on Application. Streamlining and updating would be achieved by: 1) new part specific applications with clear submission requirements, 2) requiring manufacturers to prepare and submit simplified and better organized vehicle or engine lists, and 3) outlining clear requirements for laboratory reports. The ability to streamline the review and approval process would also be achieved through the creation of new sections that would provide an exemption pathway for less complicated requests, such as: 1) Part Number(s) or Name Change(s), 2) Model-Year Additions on Carryover Vehicle(s) or Engine(s), 3) Private Label(s) or Extending Coverage to Subsidiaries, or 4) Consolidation of Executive Orders. With these proposed changes, the expectation is faster turnaround on staff review and approval, providing a pathway for manufacturers to bring products to market faster. The new proposed procedures may also increase the total number of applications per manufacturer.

Comparable Federal Regulations:

The United States Environmental Protection Agency (U.S. EPA) has adopted regulations applicable to aftermarket parts in the Code of Federal Regulations, title 40, part 85. Federally, an aftermarket emission control device is covered under U.S. EPA’s 1974 “Interim Tampering Enforcement Policy.” However, these regulations establish only a voluntary self-certification program. In contrast, CARB’s aftermarket parts procedures require aftermarket part manufacturers to receive

and obtain an exemption before they can offer parts for sale in California.

**AN EVALUATION OF
INCONSISTENCY OR INCOMPATIBILITY WITH
EXISTING STATE REGULATIONS
(Gov. Code, § 11346.5, subd. (a)(3)(D))**

During the process of developing the proposed procedures, CARB conducted a search of any similar requirements or procedures on this topic, and concluded these procedures are neither inconsistent nor incompatible with existing state regulations or procedures.

**MANDATED BY FEDERAL
LAW OR REGULATIONS
(Gov. Code, §§ 11346.2, subd. (c), 11346.9)**

These procedures are not mandated by federal law or regulation.

**DISCLOSURE REGARDING THE
PROPOSED REGULATION**

**Fiscal Impact/Local Mandate Determination
Regarding the Proposed Action (Gov. Code,
§ 11346.5, subds. (a)(5)&(6)):**

The determinations of the Board's Executive Officer concerning the costs or savings incurred by public agencies and private persons and businesses in reasonable compliance with the proposed procedures are presented below.

Under Government Code sections 11346.5, subdivision (a)(5) and 11346.5, subdivision (a)(6), the Executive Officer has determined that the proposed procedures would not create costs or savings to any State agency other than CARB, would not impact federal funding to the State, and would not create costs or a mandate to any local agency or school district, whether or not reimbursable by the State under Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

Based on discussions with the industry, CARB staff estimates that it currently takes about eight hours on average for an applicant to complete and file an exemption application. The proposed procedures are expected to reduce the average time to complete an application by about two hours, but the number of applications necessary for product coverage may increase for manufacturers. Staff expects these factors to largely offset each other, and as a result, estimates that the proposed action would result in no cost impacts overall.

The proposed procedures would have no fiscal impact on California State agencies. However, the proposed procedures are likely to minimize the need for questions and answers discussions with aftermarket parts manufacturers regarding missing information or the packaging format of a submitted application. The new procedures are designed to reduce ambiguities that exist in the current procedures and to be more relevant to today's vehicles and engines. Accordingly, the proposed procedures are expected to reduce CARB's staff time in the processing of an exemption application. Applications submitted by manufacturers will be reviewed and approved for exemption faster, providing a pathway for manufacturers to bring products to market quicker. However, with the streamlined application format, staff expects the number of applications received to increase to cover manufacturers' product lines for all intended vehicle and engine model years and models. The staff time savings associated with the reduced amount of time needed to process individual applications is anticipated to be redirected to the subsequent applications that may be submitted by the manufacturer to fully cover its anticipated market of vehicles and engines, resulting in no fiscal impact on CARB overall.

**HOUSING COSTS
(Gov. Code, § 11346.5, subd. (a)(12))**

The Executive Officer has also made the initial determination that the proposed procedures will not have a significant effect on housing costs.

**SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT DIRECTLY AFFECTING
BUSINESS, INCLUDING ABILITY TO COMPETE
(Gov. Code, §§ 11346.3, subd. (a), 11346.5, subd.
(a)(7), 11346.5, subd. (a)(8))**

The Executive Officer has made an initial determination that the proposed procedures would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

**RESULTS OF THE ECONOMIC IMPACT
ANALYSIS/ASSESSMENT
(Gov. Code, § 11346.5, subd. (a)(10)):**

Effect on Jobs/Businesses:

The Executive Officer has determined that the proposed procedures would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses

within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed procedures can be found in the Economic Impact Analysis in the Initial Statement of Reasons (ISOR).

Benefits of the Proposed Regulation:

The primary objectives of the proposed procedures are to clarify and streamline the current procedures for exemption of add-on and modified parts, thereby assisting aftermarket parts manufacturers in the process of submitting an application for exemption from the prohibitions of VC section 27156.

Please refer to “Objectives and Benefits,” under the Informative Digest of Proposed Action and Policy Statement Overview Pursuant to Government Code 11346.5(a)(3) for a summary of these benefits.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES
(Gov. Code, § 11346.5, subd. (a)(9))

In developing this proposed procedures, staff evaluated the potential economic impacts on representative private persons or businesses. Staff is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed procedures.

EFFECT ON SMALL BUSINESS
(Cal. Code Regs., tit. 1, § 4, subds. (a) and (b))

The Executive Officer has also determined under California Code of Regulations, title 1, section 4, that the proposal would not adversely affect small businesses because it is an optional certification procedure for add-on and modified part(s) for use in on-road vehicles or on-road engines, which when exempted, can be sold to California consumers for installation on applicable vehicles or engines. Further, the new procedures are not expected to impose any new costs associated with compliance.

CONSIDERATION OF ALTERNATIVES
(Gov. Code, § 11346.5, subd. (a)(13))

Before taking final action on the proposed procedures, the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, would be as ef-

fective and less burdensome to affected private persons than the staff’s proposal, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. See section X of the ISOR for more detail regarding the alternatives considered for this proposed procedures.

ENVIRONMENTAL ANALYSIS

CARB, as the lead agency under the California Environmental Quality Act (CEQA), has reviewed the proposed procedures and concluded that it is exempt pursuant to CEQA Guidelines §15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed action may result in significant adverse impact on the environment. A brief explanation of the basis for reaching this conclusion is included in Chapter VII of the ISOR.

SPECIAL ACCOMMODATION REQUEST

Consistent with California Government Code section 7296.2, special accommodation or language needs may be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format or another language; and
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk’s Office at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia;
- Documentos disponibles en un formato alterno u otro idioma; y
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envíe un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Re-transmisión de Mensajes de California.

AGENCY CONTACT PERSONS

Inquiries concerning the substance of the proposed procedures may be directed to the agency representative Mr. Richard Muradliyan, Air Resources Engineer, at (626) 575-6798 or (designated back-up contact) Ms. Jackie Lourenco, Branch Chief, at (626) 450-6152.

AVAILABILITY OF DOCUMENTS

CARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: Initial Statement of Reasons for Public Hearing to Consider Procedures for the Exemption of Add-On and Modified Part(s) for On-Road Vehicles/Engines.

Copies of the ISOR and the full text of the proposed regulatory language may be accessed on CARB's website listed below, on June 2, 2020. Copies of the report may also be obtained from CARB's Public Information Office, 1001 I Street, First Floor, Environmental Services Center, Sacramento, California, 95814. Because of current travel, facility, and staffing restrictions, the California Air Resources Board's offices may have limited public access. Please contact Bradley Bechtold, Regulations Coordinator, at bradley.bechtold@arb.ca.gov or (916) 322-6533, if you need physical copies of the documents

Further, the agency representative to whom non-substantive inquiries concerning the proposed administrative action may be directed is Bradley Bechtold, Regulations Coordinator, at (916) 322-6533. The Board staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

Following the public hearing, the Board may take action to approve for adoption the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also approve for adoption proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice and that the regulatory language as modified could result from the proposed procedures. If this occurs, the full regulatory text, with the

modifications clearly indicated, will be made available to the public, for written comment, at least 15-days before final adoption.

The public may request a copy of the modified regulatory text from CARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814.

FINAL STATEMENT OF REASONS AVAILABILITY

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on CARB's website listed below.

INTERNET ACCESS

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on CARB's website for this rulemaking at: <https://www.arb.ca.gov/rulemaking/2020/ampts2020>

TITLE 16. VETERINARY MEDICAL BOARD

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING: EMERGENCY ANIMAL CARE, § 2069

NOTICE IS HEREBY GIVEN that the Veterinary Medical Board (Board) is proposing to take the action described in the Informative Digest.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under "Contact Person" in this notice.

WRITTEN COMMENT PERIOD

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under "Contact Person" in this Notice, must be **received by the Board at its office no later than July 20, 2020**, or must be received by the Board at the hearing, should one be scheduled.

AVAILABILITY OF MODIFICATIONS

The Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 4808 and 4836 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC sections 4836.1 and 4840.5 of said code, the Board is considering amending section 2069 of article 6 of division 20 of title 16 of the California Code of Regulations (CCR)¹.

INFORMATIVE DIGEST

BPC section 4836, subdivision (a) requires the Board to adopt regulations establishing animal health care tasks and an appropriate degree of supervision required for those tasks that may be performed only by a registered veterinary technician (RVT) or licensed veterinarian. BPC section 4836.1 authorizes an RVT to administer a drug, including but not limited to, a drug that is a controlled substance, under the direct or indirect supervision of a licensed veterinarian when done pursuant to the order, control, and full professional responsibility of a licensed veterinarian. BPC section 4840.5 authorizes an RVT, under conditions of an emergency, to render lifesaving aid and treatment to an animal; however, if the emergency aid and treatment is not rendered in the presence of a licensed veterinarian, the treatment may only be continued under the direction of a licensed veterinarian. The statute defines “emergency” to mean that the animal has been placed in a life-threatening condition where immediate treatment is necessary.

The Board seeks to clarify BPC section 4840.5, by revising CCR section 2069, which provides the conditions under which an RVT may provide emergency treatment and the emergency treatment that may be provided, to clarify an RVT’s authority to administer drugs or controlled substances.

¹ All CCR references are to title 16 unless otherwise noted.

The proposal would also implement recent statutory changes to BPC section 4840.5 made by Senate Bill (SB) 547 (Hill, Chapter 429, Statutes of 2017), which deleted the restriction of RVTs to render emergency aid to only circumstances where immediate treatment was necessary to sustain life, and address RVT health care tasks performed at sanctioned rodeos or other sporting events. The Board anticipates that the health, safety, and welfare of animals in emergency situations will be better protected by clarifying an RVT’s ability to administer drugs and controlled substances.

The Board is proposing the following changes:

Amend CCR Section 2069 — Emergency Animal Care

The proposed regulation would amend CCR section 2069, subsection (a), to make minor and technical revisions and authorize an RVT to provide either lifesaving aid or emergency treatment to an animal. The proposal would also amend CCR section 2069, subsection (a)(2), to strike the terms for administration of pharmacological agents and instead provide, in new subsection (b), that an RVT may only perform administration of a drug or controlled substance after direct communication with a veterinarian licensed or otherwise authorized to practice in this state to prevent or control shock, manage pain or sedate an animal for examination or to prevent further injury, and to prevent suffering of an animal, up to and including euthanasia. The proposal would also adopt CCR section 2069, subsection (c), to address circumstances when an RVT cannot establish direct communication with a licensed or authorized veterinarian, and authorize the RVT to administer the drug or controlled substance in accordance with written instructions established by the supervising veterinarian or, in the case of a sanctioned rodeo or other sporting event, the veterinarian charged with the responsibility to provide treatment to the animals at the rodeo or event.

POLICY STATEMENT
OVERVIEW/ANTICIPATED
BENEFITS OF PROPOSAL

The primary mission of the Board is to protect consumers and animals through the development and maintenance of professional standards. The proposed regulations would allow the Board to continue carrying out this mandate through its licensing and regulatory efforts by clarifying the authority of an RVT to administer drugs and controlled substances to animals in need in emergency circumstances. By updating CCR section 2069, the Board will be ensuring the RVT is still receiving the proper level of supervision and communication for these emergency services, while also allowing for animals in immediate danger to receive the appropriate level of care and to alleviate animal suffering. The Board anticipates that consumers and their animals will

benefit from clarified provisions for RVTs rendering emergency treatment to animals.

Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the Board has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

The Board will be required to ensure compliance with the proposed regulations through its inspections program. Any enforcement-related workload and costs are anticipated to be minor and absorbable within existing resources.

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None.

Business impact:

The Board has made the initial determination that this proposal will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposal clarifies existing law regarding an RVT's ability to administer drugs and controlled substances to animals in emergency situations.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. The proposal clarifies existing law regarding an RVT's ability to administer drugs and controlled substances to animals in emergency situations.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Benefits of Regulation:

The Board has determined that this proposal will benefit the health, safety, and welfare of California consumers and their animals by clarifying that an RVT can administer drugs and controlled substances after direct communication or in accordance with written instructions established by a supervising veterinarian; this will allow RVTs to provide better immediate aid to animals in an emergency. This proposal may benefit worker safety as the proposal provides for an RVT administering drugs or controlled substances to an animal in pain or to sedate an animal, who may be dangerous to itself, as well as to rodeo and sporting event workers and veterinary medical personnel. This proposal does not affect the state's environment.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons that the proposal described in this Notice, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may submit comments to the Board in writing relevant to the above determinations at 1747 North Market Blvd., Suite 230, Sacramento, California 95834.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, any document incorporated by reference, the initial statement of reasons, and all of the information up-

on which the proposal is based, may be obtained upon request from the Board at 1747 North Market Blvd., Suite 230, Sacramento, California 95834.

AVAILABILITY AND LOCATION OF THE
FINAL STATEMENT OF REASONS AND
RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the Contact Person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name:

Justin Sotelo

Address:

Veterinary Medical Board
1747 North Market Blvd., Suite 230
Sacramento, CA 95834

Telephone No.:

916-515-5238

Fax No.:

916-928-6849

E-Mail Address:

Justin.Sotelo@dca.ca.gov

The backup contact person is:

Name:

Timothy Rodda

Address:

Veterinary Medical Board
1747 North Market Blvd., Suite 230
Sacramento, CA 95834

Telephone No.:

916-515-5227

Fax No.:

916-928-6849

E-Mail Address:

Timothy.Rodda@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.vmb.ca.gov.

TITLE 16. VETERINARY
MEDICAL BOARD

Animal Health Care Tasks for R.V.T., § 2036

NOTICE IS HEREBY GIVEN that the Veterinary Medical Board (Board) is proposing to take the action described in the Informative Digest.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under "Contact Person" in this notice.

WRITTEN COMMENT PERIOD

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under "Contact Person" in this Notice, must be received by the Board at its office no later than July 20, 2020, or must be received by the Board at the hearing, should one be scheduled.

AVAILABILITY OF MODIFICATIONS

The Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 4808, 4826, and 4836 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC sections 4826.5, 4836, 4840, and 4840.2 of said

code, the Board is considering amending section 2036 of article 4 of division 20 of title 16 of the California Code of Regulations (CCR)¹.

INFORMATIVE DIGEST

BPC section 4808 authorizes the Board to adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of the Veterinary Medicine Practice Act. BPC section 4826 defines the practice of veterinary medicine and, among other things, authorizes a registered veterinary technician (RVT) to administer a medicine (including a drug or controlled substance), appliance, application, or treatment at the direction of and under the direct supervision of a licensed veterinarian. BPC section 4826.5 authorizes an RVT under the supervision of a licensed veterinarian to compound drugs for animal use, and requires the Board to promulgate regulations to address, among other things, the level and type of supervision required for compounding drugs by an RVT. BPC section 4836 requires the Board to adopt regulations establishing animal health care tasks and an appropriate degree of supervision required for those tasks that may be performed only by an RVT or licensed veterinarian. BPC section 4840 authorizes RVTs and veterinary assistants (VAs) to perform animal health care services under the supervision of a California licensed or authorized veterinarian. BCP section 4840.2 prohibits an RVT or VA from: (a) performing surgery; (b) diagnosis and prognosis of animal disease; and (c) prescribing drugs, medicine, and appliances.

This regulatory proposal will amend CCR section 2036 regarding animal health care tasks an RVT is authorized to perform. Specifically, the Board is proposing the following:

Amend Subsection (a) of Section 2036 of Article 4 of Division 20 of Title 16 of the CCR

The proposal would amend CCR section 2036, subsection (a) to make a minor, nonsubstantive change.

Amend Subsections (b) and (c) of Section 2036 of Article 4 of Division 20 of Title 16 of the CCR

The proposal would amend CCR section 2036, subsections (b) and (c), to strike from direct veterinarian supervision of an RVT applying casts and splints and instead authorize the RVT to apply casts and splints under indirect supervision. The proposal would also make minor, technical changes.

Amend Subsection (c) of Section 2036 of Article 4 of Division 20 of Title 16 of the CCR

The proposal would amend CCR 2036, subsection (c), to authorize an RVT to compound drugs under indi-

rect supervision, as well as make minor, nontechnical changes.

Amend Subsection (d) of Section 2036 of Article 4 of Division 20 of Title 16 of the CCR

The proposal would amend CCR section 2036, subsection (d) to make a minor, nonsubstantive change.

POLICY STATEMENT OVERVIEW/ANTICIPATED BENEFITS OF PROPOSAL

The primary mission of the Board is to protect consumers and their animals through the development and maintenance of professional standards. This regulatory proposal promotes the safety of animals and the public by clarifying the health care tasks an RVT can provide under indirect veterinarian supervision and will allow additional authorized individuals to provide services to animals who are injured and/or ill. By amending and adopting the proposed regulations, the Board seeks to ensure that California consumers and their animals are protected by being provided with additional services when in need, while ensuring the RVT is properly supervised.

Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the Board has conducted a search of any similar regulations of these topics and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

The Board will be required to ensure compliance with the proposed regulations through the Board's inspection programs. Any increased workload and costs are anticipated to be minor and absorbable within existing resources.

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None.

Business Impact:

The Board has made the initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposal

¹ All CCR references are to title 16 unless otherwise noted.

would authorize RVTs to provide additional veterinary medical care for California consumers and their animals. Accordingly, the Board does not anticipate an adverse economic impact on businesses and individuals that are currently complying with the law.

Cost impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations will not affect small businesses. The proposed regulations would authorize RVTs to provide additional veterinary medical care to California consumers and their animals, while still ensuring the RVT is properly supervised.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses, or the elimination of jobs or existing businesses, or the expansion of businesses in the State of California. The proposed regulations would authorize RVTs to provide additional veterinary medical care to California consumers and their animals, while still ensuring the RVT is properly supervised.

Benefits of Regulation:

This regulatory proposal focuses on identifying additional animal health care tasks an RVT can provide under the indirect supervision of a veterinarian, which will provide additional access to veterinary medical care for California consumers and their animals. For this reason, the Board anticipates that the proposal will benefit California consumers and their animals. This regulatory proposal does not affect worker safety or the state’s environment.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less bur-

densome to affected private persons than the proposal described in this Notice or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Below are the alternatives considered by the Board and the reason each was rejected.

1. The initial question brought to the Board’s Multidisciplinary Advisory Committee (MDC) was whether the Board’s regulations needed to provide for extended animal health care duties that could be performed by RVTs or to restrict some animal health care duties to only be delegated to RVTs, and not to permit holders or VAs. The MDC discussed whether the regulations should provide a list of duties (e.g., only an RVT could perform a procedure involving placement of a needle or appliance in a blood vessel, body cavity, or epidural space, induce anesthesia, or perform casting and splinting) that a supervising veterinarian could only delegate to an RVT based on the degree of risk. The idea to create a list the specific duties that could only be delegated to an RVT was rejected because generating a list of all restricted duties would be difficult and impractical and imply that any task omitted from the list may be interpreted as a task delegable to an RVT. Instead, the MDC determined that assessment of risk is necessarily based on the specific set of circumstances of the individual animal patient, and it was more prudent to identify tasks that an RVT could safely perform under indirect supervision, which this proposal accomplishes. Importantly, the list of indirect supervised duties of an RVT in CCR section 2036, subdivisions (b) and (c), which this proposal amends, is referenced in CCR section 2036.5 as the animal health care tasks that a VA is prohibited from performing. Accordingly, although the proposal does not create a list of tasks that an RVT may perform under indirect supervision, the proposal does ensure that a VA will not be able to apply casts and splints or perform drug compounding.

Any interested person may submit comments to the Board in writing relevant to the above determinations at 1747 North Market Blvd., Suite 230, Sacramento, California 95834.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board at 1747 North Market Blvd., Suite 230, Sacramento, California 95834.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the Contact Person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name:

Justin Sotelo

Address:

Veterinary Medical Board
1747 North Market Blvd., Suite 230
Sacramento, CA 95834

Telephone No.:

916-515-5238

Fax No.:

916-928-6849

E-Mail Address:

Justin.Sotelo@dca.ca.gov

The backup contact person is:

Name:

Timothy Rodda

Address:

Veterinary Medical Board
1747 North Market Blvd., Suite 230
Sacramento, CA 95834

Telephone No.:

916-515-5227

Fax No.:

916-928-6849

E-Mail Address:

Timothy.Rodda@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.vmb.ca.gov.

TITLE 16. VETERINARY MEDICAL BOARD

Veterinarian-Client-Patient Relationship in Absence of Client Communications, § 2032.15

Written Prescriptions in Absence of Originally Prescribing Veterinarian, § 2032.25

NOTICE IS HEREBY GIVEN that the Veterinary Medical Board (Board) is proposing to take the action described in the Informative Digest.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under "Contact Person" in this notice.

WRITTEN COMMENT PERIOD

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under "Contact Person" in this Notice, must be received by the Board at its office no later than July 20, 2020, or must be received by the Board at the hearing, should one be scheduled.

AVAILABILITY OF MODIFICATIONS

The Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by section 4808 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC section 4883, the Board is considering amending sections 2032.15 and 2032.25 of article 4 of division 20 of title 16 of the California Code of Regulations (CCR)¹.

INFORMATIVE DIGEST

BPC section 4808 authorizes the Board to adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of the Veterinary Medicine Practice Act (Act).

This regulatory proposal will amend CCR sections 2032.15 and 2032.25 regarding veterinarian–client–patient relationships (VCPRs) in the absence of client communication and in the absence of the original prescribing veterinarian. Specifically, the Board is proposing the following:

- Amend CCR section 2032.15, subsection (a), to establish that when the original veterinarian is absent, the VCPR may continue to exist in the absence of client communication when the designated veterinarian serves at the same location where the medical records are kept. Additionally, this proposal seeks to conform the language in the regulation to the language and terminology used by the Board.
- Amend CCR section 2032.25, subsection (a), to clarify that, absent establishing a VCPR, prescribing, dispensing, or furnishing dangerous drugs constitutes unprofessional conduct and make clarifying and conforming revisions to the subsection.
- Amend CCR section 2032.25, subsection (b)(1), to clarify that a veterinarian may serve in the absence of the treating veterinarian and prescribe, dispense, or furnish drugs on an emergency basis for a traveling patient only as necessary to maintain the health of the animal until they can return to the originally treating veterinarian, if the veterinarian, prior to providing a prescription refill, makes a reasonable effort to contact the original prescribing veterinarian and documents in the medical record the communication or his or her attempt to contact the original prescribing veterinarian.
- Amend CCR section 2032.25, subsection (b)(1), to strike the 72–hour limitation on prescribing,

dispensing, or furnishing the drug on an emergency basis for a traveling patient.

- Amend CCR section 2032.25, subsection (b), paragraphs (2) and (3), to remove existing paragraph (2) and add language to authorize the veterinarian to prescribe, dispense, or furnish a drug to an animal patient when the original prescribing veterinarian is unavailable to authorize the refill and the veterinarian authorizing the refill is working in the same practice as the original prescribing veterinarian, if the veterinarian authorizing the refill is in possession of and has reviewed the animal patient’s records, orders the renewal of a medically indicated prescription for an amount not exceeding the original prescription in strength or amount or for more than one refill, enters the prescription refill in the medical record and, in the veterinarian’s professional judgment, believes that failure to refill the prescription may interrupt the animal patient’s ongoing care and have an adverse effect on the animal patient’s wellbeing.

POLICY STATEMENT
OVERVIEW/ANTICIPATED
BENEFITS OF PROPOSAL

The primary mission of the Board is to protect consumers and animals through the development and maintenance of professional standards. This regulatory proposal promotes the safety of animals and the public by clarifying the circumstances under which a designated veterinarian may continue treatment of an animal patient in the absence of the originating veterinarian. This regulatory proposal will provide additional services to animals who are injured/ill and protect California consumers and their animals. By amending and adopting the proposed regulations, the Board seeks to ensure that California consumers and their animals are protected by being provided with veterinary services when in need, while ensuring proper prescribing, treating, and documentation protocols.

Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the Board has conducted a search of any similar regulations of these topics and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

The Board will be required to ensure compliance with the proposed regulations through the Board’s inspec-

¹ All CCR references are to title 16 unless otherwise noted.

tion programs. Any increased workload and costs are anticipated to be minor and absorbable within existing resources.

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None.

Business Impact:

The Board has made the initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations would authorize designated veterinarians to provide services to clients who have animals in need in the absence of the original veterinarian.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations will not affect small businesses. The proposed regulations would authorize designated veterinarians to provide services to animals who are in need in the absence of the original veterinarian.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses, or the elimination of jobs or existing businesses, or the expansion of businesses in the State of California.

Benefits of Regulation:

This regulatory proposal focuses on providing additional services to California consumers and their animals and to help animals who may be ill/injured and need necessary prescriptions in order to maintain a

healthy quality of life. By adopting this regulatory proposal, the Board will be authorizing veterinarians other than the original diagnosing veterinarian to continue treatment under the established VCPR and refill prescriptions as needed in order to maintain the health of the animal patient. This regulatory proposal does not affect the health and welfare of California residents, worker safety, or the state's environment.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose or as effective and less burdensome to affected private persons than the proposal described in this Notice or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may submit comments to the Board in writing relevant to the above determinations at 1747 North Market Blvd., Suite 230, Sacramento, California 95834.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board at 1747 North Market Blvd., Suite 230, Sacramento, California 95834.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below. You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the Contact Person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rule-making action may be addressed to:

Name:

Justin Sotelo

Address:

Veterinary Medical Board
1747 North Market Blvd., Suite 230
Sacramento, CA 95834

Telephone No.:

916-515-5238

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Sacramento, CA 95834

Telephone No.:

916-515-5227

Fax No.:

916-928-6849

E-Mail Address:

Timothy.Rodda@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.vmb.ca.gov.

GENERAL PUBLIC INTEREST

**BOARD OF FORESTRY AND
FIRE PROTECTION**

NOTICE OF CORRECTION FOR PUBLIC
HEARING FOR NOTICE OF PROPOSED ACTION

“Fuel Hazard Reduction Amendments, 2020”

(Permanent Rulemaking)

Title 14 of the California Code of

Regulations (14 CCR),

Division 1.5, Chapter 4

Subchapters 4, 5, and 6, Article 3;

Subchapter 7, Article 2

Amend: §§ 913, 933, 953, 1052, and 1052.4

**CORRECTION TO THE LOCATION OF
PUBLIC HEARING**

On March 20, 2019, the Board of Forestry and Fire Protection (Board) published the Notice of Proposed Action regarding “Fuel Hazard Reduction Amendments, 2020”. The Board is hereby correcting the location that the public hearing will be held as published within that Notice of Proposed Action.

Within the previously published Notice of Proposed Action, the location of the public hearing was identified as Ramada Plaza Hotel, in Chico, California and, due to circumstances beyond the control of the Board, the public hearing will now be hosted via teleconference only. A registration link for this hearing (within the June Board meeting) is available on the Board of Forestry and Fire Protection website (<https://bof.fire.ca.gov/>). No other details related to the public hearing have changed and the public hearing will still be held at the June Board meeting, on June 10, 2020, commencing at 9:00 a.m., as originally noticed.

CONTACT PERSON

Any questions regarding the re-location of the public hearing, requests for copies of the proposed text of the regulations, the Initial Statement of Reasons, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
Attn: Eric Hedge
Regulations Program Manager
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 653-8007

The designated backup person in the event Mr. Hedge is not available is Matt Dias, Executive Officer for the Board of Forestry and Fire Protection. Mr. Dias may be contacted at the above address or by phone at (916) 653-8007.

**BOARD OF FORESTRY AND
FIRE PROTECTION**

**NOTICE OF CORRECTION FOR PUBLIC
HEARING FOR NOTICE OF PROPOSED ACTION**

**“LICENSED TIMBER OPERATOR (LTO)
EDUCATION AND LIMITED LICENSED
TIMBER OPERATOR (LTO)”**

**CORRECTION TO THE LOCATION OF
PUBLIC HEARING**

On April 10, 2020, the Board of Forestry and Fire Protection (Board) published the Notice of Proposed Action regarding “LTO Education and Limited LTO”. The Board is hereby correcting the location that the public hearing will be held as published within that Notice of Proposed Action.

Within the previously published Notice of Proposed Action, the location of the public hearing was identified as the Natural Resources Building Auditorium, 1416 9th Street, Sacramento, CA and, due to circumstances beyond the control of the Board, the public hearing will now be hosted via teleconference only. A registration link for this hearing (within the June Board meeting) is available on the Board of Forestry and Fire Protection website (<https://bof.fire.ca.gov/>). No other details related to the public hearing have changed and the public hearing will still be held at the June Board meeting, on June 10, 2020, commencing at 9:00 a.m., as originally noticed.

CONTACT PERSON

Any questions regarding the re-location of the public hearing, requests for copies of the proposed text of the regulations, the Initial Statement of Reasons, modified

text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
Attn: Eric Hedge
Regulations Program Manager
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 653-8007

The designated backup person in the event Mr. Hedge is not available is Matt Dias, Executive Officer for the Board of Forestry and Fire Protection. Mr. Dias may be contacted at the above address or by phone at (916) 653-8007.

**DEPARTMENT OF
FISH AND WILDLIFE**

**CESA CONSISTENCY DETERMINATION
REQUEST FOR
Doctor Fine Bridge Replacement Project
2080-2020-002-01
Del Norte County**

The California Department of Fish and Wildlife (CDFW) received a notice on May 19, 2020 that the California Department of Transportation (CalTrans) and the Federal Highway Administration (FHWA) propose to rely on a consultation between federal agencies to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves the replacement of a bridge to provide a seismically sound structure that meets current highway design standards. Proposed activities will include, but are not limited to, the construction of a detour panel bridge; demolition of the old bridge using an excavator-mounted hoe-ram, jackhammers, concrete saws, and cutting torches; and the construction of the new bridge including the pouring of concrete and the placement of piles and casings using oscillation, vibratory hammering, or impact hammering. The proposed project will occur on Dr. Ernest Fine Memorial Bridge (Caltrans Bridge# 01-0020), located on U.S. Highway 101 in northwest Del Norte County.

The National Marine Fisheries Service (NMFS) issued a federal biological opinion (BO) (NMFS No. WCRO-2020-00584) in a memorandum to Caltrans on March 19, 2020, which considered the effects of the proposed project on state and federally threatened Southern Oregon Northern California Coast coho salmon (*Oncorhynchus kisutch*).

Pursuant to California Fish and Game Code section 2080.1, Caltrans is requesting a determination that the BO and its associated Incidental Take Statement (ITS)

are consistent with CESA for purposes of the proposed project. If CDFW determines the BO and its associated ITS are consistent with CESA for the proposed project, Caltrans will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) for the proposed project.

**DEPARTMENT OF
FISH AND WILDLIFE**

**PROPOSED RESEARCH ON FULLY
PROTECTED SPECIES
Monitoring and Research on Light-footed
Ridgway’s Rail**

The Department of Fish and Wildlife (“Department”) received a proposal on January 14, 2020 from Dr. Courtney J. Conway (Principal Investigator), on behalf of the USGS Idaho Cooperative Fish & Wildlife Research Unit, requesting authorization to take Light-footed Ridgway’s Rails (*Rallus obsoletus levipes*; rail), for research purposes, consistent with protection and recovery of the species. The rail is a Fully Protected bird and is listed as Endangered under the California Endangered Species Act and Endangered under the federal Endangered Species Act.

Dr. Conway is planning to conduct research throughout the range of the species in California in accordance with methods approved by the Department and the U.S. Fish and Wildlife Service (Recovery Permit TE-039466-4 or later amendments). The following research activities are proposed: a) enter marshes occupied by rails; b) capture adult rails using a combination of drift fence trap lines, drop-door traps, mist nests, noose carpets and other appropriate methods; c) use audio lures with taped recordings of rail vocalizations to facilitate movement into traps; d) measure, weigh, and band each captured rail; e) attach transmitters to rails; f) collect rail feathers for genetic and stable isotope analyses; g) collect blood samples for genetic and contaminant analyses; h) collect eggshells and non-viable eggs from inactive rail nests; i) salvage rail carcasses and deposit them at Department-approved facilities; and j) conduct standardized rail surveys by judicious use of recorded rail vocalizations.

The Department intends to issue, under specified conditions, a Memorandum of Understanding (MOU) to authorize qualified professional wildlife researchers, with Dr. Conway as the Principal Investigator, to carry out the proposed activities. The applicant is also required to have a valid federal recovery permit and federal bird banding lab permit for the rail, and a scientific

collecting permit to take other terrestrial species in California.

Pursuant to California Fish and Game Code (FGC) Section 3511(a)(1), the Department may authorize take of Fully Protected Birds after a 30-day notice period has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 3511 for take of Fully Protected birds, it will issue the authorization on or after July 6, 2020, for an initial and renewable term of up five years. Contact: Hans Sin, Hans.Sin@wildlife.ca.gov, Phone (858) 539-9022.

**RULEMAKING PETITION
DECISION**

**DEPARTMENT OF MANAGED
HEALTH CARE**

May 21, 2020

Mr. Royal J. Martin
Royal J. Martin Insurance Agency, Incorporated
928 N. San Fernando Blvd., Ste. J, #625
Burbank, CA 91504-4360

ACTION: Notice of Decision on Petition for Rulemaking Action

SUBJECT: Petition by Royal J. Martin, Requesting the Convening of a Taskforce and Adoption of Regulations Pursuant to Title 28, California Code of Regulations, Related to the Medical Loss Ratio Reporting Requirements of Health Care Service Plans.

PETITIONER

The request for rulemaking action (Petition) from Mr. Royal J. Martin, of the Royal J. Martin Insurance Agency (Petitioner), was received by the Department of Managed Health Care (Department) on April 23, 2020. Pursuant to the requirements of Government Code section 11340.7, the Department provides this response to the Petition.

DEPARTMENT CONTACT PERSON

Inquiries concerning this decision may be directed to Kim Bollenbach, Department of Managed Health Care, Office of Legal Services, by mail at: 980 9th Street, Suite 500, Sacramento, CA 95814, by telephone at: (916) 322-6727, or by e-mail at: Kim.Bollenbach@dmhc.ca.gov or regulations@dmhc.ca.gov.

AVAILABILITY OF PETITION

The Petition for the amendment of regulations is available upon request directed to the Department's Contact Person.

AUTHORITY

The Petitioner cites as authority to adopt the regulations Health and Safety Code sections 1342, 1342.4, 1342.5 and 1342.6 of the Knox–Keene Health Care Service Plan Act of 1975 (the Knox–Keene Act).¹

DETERMINATION ON THE PETITION

For the reasons discussed below, the Department denies in whole the Petition to convene a taskforce and adopt regulations as requested by the Petitioner.

REASONS SUPPORTING THE DEPARTMENT DETERMINATION

Under authority established in the Knox–Keene Act, including Health and Safety Code sections 1343, 1344 and 1346, the Department may adopt, amend and rescind regulations as necessary to carry out the provisions of the Knox–Keene Act.

1. Petitioner's Request to Convene a Taskforce with the Department of Insurance

The Petitioner requests that the Department convene a taskforce with the Department of Insurance (CDI) to promulgate regulations regarding medical loss ratio (MLR) reporting by health care service plans (health plans). As authority to convene this taskforce, the Petitioner cites to Health and Safety Code sections 1342, 1342.4, 1342.5 and 1342.6.

Under Government Code section 11340.6, a petition for adoption or repeal of regulations does not include the ability of a Petitioner to request a taskforce be convened between departments to consider regulations. This request is outside of the scope of this section of the Administrative Procedure Act. Further, although Health and Safety Code section 1342.4, as cited by the Petitioner, required that the Department and CDI maintain a joint senior level–working group for five (5) years to ensure regulatory consistency, this statutory requirement has lapsed and is no longer in effect.

As required under Health and Safety Code section 1342.5, the Department continues to work on a regular basis with the CDI to ensure as much consistency as possible in the regulatory oversight of health plans un-

der the existing laws in the Knox–Keene Act and the Insurance Code.

For the reasons stated above, the Petitioner's request to convene a taskforce is denied in whole under Government Code section 11340.6.

2. Petitioner's Request to Adopt MLR Regulations

The Petitioner sent email communications to the Department containing the Petition request. In the emails, the Petitioner requests that the Department convene a workgroup with the Department of Insurance and adopt regulations related to the MLR reporting requirements of health plans. Specifically, the Petitioner is requesting the regulations to include requirements for when a health plan may exclude agent or broker fees and commissions from earned premium amounts for the purposes of MLR reporting. As discussed previously, the Petitioner cites as authority to adopt these regulations, Health and Safety Code sections 1342, 1342.4, 1342.5 and 1342.6. None of the statutory provisions cited by the Petitioner specifically deal with MLR reporting requirements for health plans. Instead, the statutes state the legislative intent of the Knox–Keene Act and the Department's general authority to adopt regulations to effectuate the purpose of the Knox–Keene Act.

a. Medical Loss Ratio Reporting Under State and Federal Law

The federal Affordable Care Act (ACA) ensures consumers obtain value for their health care premium dollars by requiring health plans to meet minimum MLR standards. The MLR is the proportion of premium revenue, excluding taxes, licensing and regulatory fees and after accounting for risk adjustment payments, a health plan spends on clinical services and quality improvement activities.

Section 2718 of the Public Health Service Act (PHSA), added by the ACA, requires health plans offering coverage in the individual and small group markets to meet a minimum 80 percent MLR and requires health plans offering coverage in the large group market to meet a minimum 85 percent MLR. Stated another way, with respect to health plans' individual and/or small group products, the plans must spend at least 80 percent of their adjusted premium revenue on clinical services and quality improvement activities; for large group products, health plans must spend at least 85 percent of their adjusted premium revenue on clinical services and quality improvement activities. Health plans that fail to meet MLR requirements must issue rebates to purchasers.

Senate Bill (SB) 51² codified the ACA's 80 and 85 percent MLR requirements in the Knox–Keene Act at Health and Safety Code section 1367.003. This statute tied implementation to PHSA section 2718 and any

¹ Health and Safety Code section 1340, *et seq.*

² SB 51 (Chapter 644, Statutes of 2011).

rules or regulations issued pursuant to this federal statute.

In 2019, Assembly Bill 2499³ became law. Assembly Bill 2499 amended Health and Safety Code section 1367.003, to require California MLR requirements for health plans and health insurers to be implemented as described by the federal law, rules, and regulations in effect on January 1, 2017. The bill also repealed the provisions in Health and Safety Code section 1367.003, authorizing the Department and CDI to adopt emergency regulations to implement federal MLR requirements.

The Department adopted title 28, section 1300.67.003, to require health plans to submit the Federal MLR Annual Reporting Form to the Department and allow the Department to verify health plan representations in their MLR reports. The information required in the Federal MLR Annual Reporting Form that is submitted to the Department must be completed in accordance with federal MLR standards for health plans. Under the terms of this regulation, the Department has the ability to conduct a financial examination pursuant to Health and Safety Code section 1382 and Rule 1300.82, to verify the information contained in the health plan's Federal MLR Annual Reporting Form. See section 1300.67.003, subdivision (c).

b. Accounting for brokers' fees and commissions in a plans MLR calculation

Federal law requires health insurance issuers (health plans) to report earned premium for each MLR reporting year.⁴ This provision states that earned premium "means all monies paid by a policyholder or subscriber as a condition of receiving coverage from the issuer, including any fees or other contributions associated with the health plan." 45 C.F.R. section 158.160(b)(2)(iv), requires issuers to report "agents and brokers fees and commissions" as a non-claims cost because such fees and commissions are generally a condition of receiving coverage and an expense of the issuer and not a separate cost incurred by the policyholder. However, if seven (7) specified conditions are met, the health insurance issuer may exclude agent or broker fees and commissions from its MLR reporting of earned premium amounts.

The following are the seven (7) specified conditions under federal law that must be met in order to exclude

agent or broker fees and commissions from a health plan's MLR reporting of earned premium amounts⁵:

1. The law of the state in which the policy is situated does not deem the agent or broker to be a representative of the issuer;
2. The policyholder is not required to utilize an agent or broker to purchase insurance and may purchase a policy directly from the issuer;
3. The policyholder selects, retains, and contracts with the agent or broker on his or her own accord;
4. The policyholder negotiates and is responsible for the fee or commission separate and apart from premium;
5. The issuer does not include these agent or broker commissions and fees in rate filings submitted to the applicable regulatory agency;
6. The policyholder voluntarily chooses to pass the fee or commission through the issuer and is not required to do so, or the policyholder pays the fees or commission directly to the agent or broker; and,
7. The policyholder issues the 1099 to the agent or broker, if a 1099 is required.

The Department's existing statutory and regulatory provisions encompass the federal law, as discussed. This includes monitoring when a health plan excludes agent or broker fees and commissions from MLR reporting of earned premium amounts in the Federal MLR Annual Reporting Form that is submitted to the Department for review. Therefore, it is not necessary at this time to adopt regulations governing MLR reporting requirements for health plans since health plans already provide this information, in compliance with federal and state law, pursuant to Health and Safety Code section 1367.003 and Rule 1300.67.003. The Petitioner's request to adopt further regulations on this subject matter would be duplicative with existing law under the Knox-Keene Act. The Department will continue to monitor health plans for compliance with state and federal MLR reporting requirements and will work with CMS to ensure proper review of CCIIO guidance as required under current law.

CONCLUSION

For the reasons set forth above, the Department declines in whole the Petition to convene a taskforce and

³ AB 2499 (Chapter 678, Statutes of 2018).

⁴ 45 C.F.R. section 158.130.

⁵ Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS), Center for Consumer Information & Insurer Oversight (CCIIO), Technical Guidance 2015-0001, May 27, 2015.

adopt regulations regarding MLR reporting requirements for health plans.

**SUMMARY OF REGULATORY
ACTIONS**

**REGULATIONS FILED WITH
SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2020-0414-01
AIR RESOURCES BOARD
Low Carbon Fuel Standard Regulation

In this rulemaking action, the Board amends its Low Carbon Fuel Standards (LCFS). The amendments add definitions and establish new requirements related to base credits, advanced credits, compliance plan reporting, and clearance market credit prices. The regulations also ensure a significant portion of LCFS revenue from base residential charging is directed to benefit disadvantaged and low-income communities.

Title 17
AMEND: 95481, 95483, 95485, 95486.1, 95487, 95491, 95495
Filed 05/27/2020
Effective 07/01/2020
Agency Contact: Chris Hopkins (916) 445-9564

File# 2020-0514-02
CALIFORNIA DEBT LIMIT ALLOCATION
COMMITTEE
QRRP Program Changes

This emergency rulemaking by the California Debt Limit Allocation Committee amends regulations relating to the Qualified Residential Rental Project (QRRP) Program.

Title 4
AMEND: 5000, 5052, 5060, 5141, 5144, 5170, 5190, 5230, 5233, 5250
Filed 05/22/2020
Effective 05/22/2020
Agency Contact: Isaac Clark III (916) 651-8484

File# 2020-0514-03
CALIFORNIA DEBT LIMIT ALLOCATION
COMMITTEE
Emergency Regulations

This emergency rulemaking by the California Debt Limit Allocation Committee readopts amendments to regulations relating to the Qualified Residential Rental Project (QRRP) Program.

Title 4
AMEND: 5000, 5100, 5233
Filed 05/26/2020
Effective 07/06/2020
Agency Contact: Isaac Clark III (916) 651-8484

File# 2020-0408-01
CALIFORNIA UNDERGROUND FACILITIES
SAFE EXCAVATION BOARD
Dig Safe-Investigation and Enforcement

This action by the California Underground Facilities Safe Excavation Board proposes to adopt regulations establishing definitions, investigation and enforcement processes, and onsite meeting and agreement requirements for areas of continual excavation near high priority subsurface installations.

Title 19
ADOPT: 4000, 4002, 4100, 4150, 4151, 4200, 4250, 4251, 4252, 4253, 4254, 4255, 4256, 4257, 4258, 4300, 4350, 4351, 4360, 4361
Filed 05/21/2020
Effective 07/01/2020
Agency Contact: Diane Arend (916) 568-2917

File# 2020-0408-03
DEPARTMENT OF ALCOHOLIC BEVERAGE
CONTROL
Responsible Beverage Service Training Program

This resubmittal action proposes to implement the Responsible Beverage Service Training Program Act of 2017 (RBSTPA), codified as Business and Professions Code sections 25680-25686, including the required curriculum standards for RBS training courses, approval standards for accreditation agencies and training providers, reporting requirements of ABC on-premises licensees, the establishment of an online alcohol server certification system, and enforcement standards and penalties for violations of the RBSTPA by accreditation agencies, training providers, and ABC on-premises licensees.

Title 4
ADOPT: 160, 161, 162, 163, 164, 165, 166, 167, 168, 168.1, 168.2, 168.3, 169, 170, 171, 172, 173
Filed 05/20/2020
Effective 05/20/2020
Agency Contact: Robert de Ruyter (916) 419-8958

File# 2020-0511-01
DEPARTMENT OF CORRECTIONS AND REHABILITATION
Limited Term Light Duty Assignments/Temporary Modified Work Assignment

In this emergency of operational necessity rulemaking by the Department of Corrections and Rehabilitation (the "Department") pursuant to Penal Code section 5058.3, the Department is amending regulations pertaining to a Limited Term Light Duty Assignment (an "LTLDA") and adopting regulations pertaining to a Temporary Modified Work Assignment (a "TMWA"). Both an LTLDA and a TMWA permit an employee with documented temporary medical limitation(s) or restriction(s), that affect the employee's ability to perform one or more of the essential functions and requires the waiver of one or more essential functions of the employee's current classification and position, to remain working or return to work after an injury or illness.

Title 15
ADOPT: 3436.1
AMEND: 3436
Filed 05/27/2020
Effective 06/01/2020
Agency Contact: Sarah Pollock (916) 445-2308

File# 2020-0416-01
DEPARTMENT OF MOTOR VEHICLES
Entry Level Driver's Training for CDL Applicants

In this regular rulemaking action the Department of Motor Vehicles adopts requirements for commercial driver's license entry-level driver training pursuant to Vehicle Code section 15250.1.

Title 13
ADOPT: 26.03
Filed 05/27/2020
Effective 07/01/2020
Agency Contact: Randi Calkins (916) 657-8898

File# 2020-0407-01
DEPARTMENT OF SOCIAL SERVICES
Children Residential Facilities Psychotropic Medications

In this regular rulemaking the Department of Social Services amends several sections regarding the use and

management of psychotropic medications by children and youths in foster care and group homes.

Title 22, MPP
AMEND: 83001, 83064, 83068.1, 83070, 83072.1, 83075, 84001, 84044, 84065, 84068.1, 84070, 84072.1, 84075, 89201, 89370, 89468, 89475, 89475.1
Filed 05/20/2020
Effective 07/01/2020
Agency Contact: Everardo Vaca (916) 657-2363

File# 2020-0326-01
SUPERINTENDENT OF PUBLIC INSTRUCTION
Uniform Complaint Procedures (UCP)

This action updates Uniform Complaint Procedures (UCP) to align with statutory changes and makes other adjustments and clarifications.

Title 5
ADOPT: 3200, 3201, 3202, 3203, 3204, 3205, 4635, 4690, 4691, 4692, 4693, 4694, 15580, 15581, 15582, 15583, 15584
AMEND: 3080, 4600, 4610, 4611, 4620, 4621, 4622, 4630, 4631, 4632, 4633, 4640, 4650, 4651, 4663, 4664, 4665, 4670
REPEAL: 3080, 4600, 4610, 4611, 4620, 4621, 4622, 4630, 4631, 4632, 4633, 4640, 4650, 4651, 4663, 4664, 4665, 4670
Filed 05/21/2020
Effective 07/01/2020
Agency Contact: Patricia Alverson (916) 402-1303

**PRIOR REGULATORY
DECISIONS AND CCR
CHANGES FILED WITH THE
SECRETARY OF STATE**

A quarterly index of regulatory decisions by the Office of Administrative Law (OAL) is provided in the California Regulatory Notice Register in the volume published by the second Friday in January, April, July, and October following the end of the preceding quarter. For additional information on actions taken by OAL, please visit www.oal.ca.gov.