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## BUREAU OF AUTOMOTIVE REPAIR PROPOSED REGULATION

### SMOG CHECK EQUIPMENT SECURITY AND FRAUD PREVENTION

**Legend:** Added text is indicated with an underline.  
Deleted text is indicated by ~~strikeout~~.  
Omitted text is indicated by (\* \* \* \*)

#### **1. Amend Section 3340.15, Article 5.5, Chapter 1, Division 33 of Title 16 of the California Code of Regulations**

##### § 3340.15. General Requirements for Smog Check Stations

A Smog Check station shall meet the following requirements for licensure and shall comply with these requirements at all times while licensed.

(a) The testing and repairing of vehicles shall be performed only in a work area of the station that has been approved by the ~~bBureau during the licensing inspection~~. Other work may be performed in the approved area, as desired. Except for heavy-duty vehicles, the work area shall be within a building and shall be large enough to accommodate the type of vehicle being serviced. In the case of the testing and repair of heavy-duty vehicles the work area need not be in a building, but the emissions inspection system used at the station may only be used within a building. The work area shall be kept clean and orderly.

(b) A licensed inspector and/or repair technician shall be present during all hours the station is open for the business. Testing and/or repairing of vehicles pursuant to the Smog Check Program shall be performed by a licensed inspector and/or repair technician, consistent with their license classification.

(c) The station, inspector, and/or repair technician licenses shall be posted prominently under glass or other transparent material in an area frequented by customers.

(d) The station shall post conspicuously in an area frequented by customers a list of price ranges for the specific activities for which it is licensed. The posted prices shall include the price charged by the station for inspections, and, if a separate price is charged for reinspections, the reinspection price. The station shall also post the inspection prices for vans and/or heavy-duty vehicles if those prices differ from the passenger car inspection price. If the station imposes an hourly labor charge for repairs, the hourly labor rate shall be posted. The price of issuance of a certificate of compliance or noncompliance charged by the ~~bBureau~~ shall be posted separately from the price of the inspection and of the reinspection, if any.

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(e) The station shall make, keep secure, and have available for inspection on request of the ~~h~~Bureau, or its representative, legible records showing the station's transactions as a licensee for a period of not less than three years after completion of any transaction to which the records refer. All records shall be open for reasonable inspection and/or reproduction by the ~~h~~Bureau or its representative. Station records required to be maintained shall include copies of:

(1) All certificates of compliance and certificates of noncompliance in stock and/or issued,

(2) Repair orders relating to the inspection and repair activities, and

(3) Vehicle inspection reports generated either manually or by the emissions inspection system.

The above listed station records shall be maintained in such a manner that the records for each transaction are kept together, so as to facilitate access to those records by the ~~h~~Bureau or its representative. In this regard, the second copy of an issued certificate shall be attached to the final invoice record.

(f) A Smog Check station shall be open and available to the general public for Smog Check Program services.

(g) A Smog Check station shall afford the ~~h~~Bureau or its representative reasonable access during normal business hours ~~to the station for the bureau's quality assurance efforts to evaluate the effectiveness of tests and/or repairs made to vehicles subject to the Smog Check Program and any time inspections and/or repairs are being performed for the purpose of performing an examination of the station pursuant to Health and Safety Code Section 44035(b).~~

\* \* \* \*

Note: Authority cited: Sections 44002 and 44030, Health and Safety Code; and Section 9882 and 9884.9(b), Business and Professions Code. Reference: Sections 44014, 44030, 44032, 44033, 44035, 44036, 44037 and 44045.5, Health and Safety Code.

## **2. Amend Section 3340.41, Article 5.5, Chapter 1, Division 33 of Title 16 of the California Code of Regulations**

§ 3340.41. Inspection, Test, and Repair Requirements.

\* \* \* \*

(f) Smog Check inspectors must have their biometric data collected and identity verified at a BAR field office or during a BAR station visit prior to biometric use during inspections. When prompted by the EIS or OIS software, the licensee shall authenticate their identity for purposes of authorizing their access to the EIS and OIS using a

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biometric device model specified in the Smog Check Manual. Upon proven incompatibility with the biometric system, BAR may allow the traditional use of the inspector's license number and access code.

(g) When prompted by the EIS or OIS software, the BAR licensee shall permit BAR and/or a BAR designee remote access to view and record audio, video, pictures, and text relating to the inspection.

(h) No licensed station shall have on the premises at any time any electronic device or software that could be used for changing or replacing a vehicle's data. No licensed inspector shall use during a Smog Check inspection any electronic device or software for changing or replacing a vehicle's data.

(i) Failure to comply with section 3340.15(f) or subsections (b), (c), (g) or (h) of this section may result in disabling EIS or OIS communication to the VID and/or directing the vehicle to have its next inspection performed at a BAR Referee facility.

Note: Authority cited: Sections 44002, 44016 and 44030, Health and Safety Code; and Section 9882, Business and Profession Code. Reference: Sections 44010.5, 44012, 44014, 44014.2, 44014.7, 44016, 44030, 44036(a), 44036(b) and 44050, Health and Safety Code.

### **3. Section 3340.45, Article 5.5, Chapter 1, Division 33 of Title 16 of the California Code of Regulations**

§ 3340.45. Smog Check Manual.

~~(a) All Smog Check inspections shall be performed in accordance with requirements and procedures prescribed in the following:~~

~~(1) Smog Check Manual, dated ~~2013~~October 2020, which is hereby incorporated by reference. ~~This manual became effective on or after January 1, 2013. This manual shall remain in effect until subparagraph (2) is implemented.~~~~

~~(2) Smog Check Manual, dated November 2, 2017, which is hereby incorporated by reference. This manual shall become effective on August 2, 2018.~~

Note: Authority cited: Section 44002, Health and Safety Code; and Section 9882, Business and Professions Code. Reference: Sections 44002, 44003, 44005, 44010, 44011, 44011.3, 44012, 44012.1, 44013, 44014, 44014.5, 44014.7, 44015 and 44032, Health and Safety Code.

### **4. Section 3394.26, Article 11.1, Chapter 1, Division 33 of Title 16 of the California Code of Regulations**

§ 3394.26. Administrative Fine Amounts.

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(a) The minimum and maximum administrative fine amounts are established in Table I, Administrative Fine Schedule. If a citation lists multiple violations arising from an inspection or repair on a single vehicle the total penalties assessed shall not exceed five thousand dollars (\$5,000) pursuant to Health and Safety Code section 44052.

(b) Penalties exceeding five thousand dollars (\$5,000) for inspections and repairs that arise from multiple vehicles shall be assessed in separate citations.

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§ 3340.41(c)		\$1000	\$5000
§ 3340.41(d)		\$1000	\$5000
<del>§ 3340.41(f)</del>		<del>\$1000</del>	<del>\$5000</del>
<u>§ 3340.41(g)</u>		<u>\$1000</u>	<u>\$5000</u>
<u>§ 3340.41(h)</u>		<u>\$1000</u>	<u>\$5000</u>
§ 3340.41.3		\$250	\$1000
§ 3340.42		\$1000	\$5000
§ 3340.42.2		\$1000	\$5000
§ 3340.45		\$1000	\$5000
§ 3340.50(e)		\$750	\$3000
§ 3340.50(f)		\$750	\$3000
§ 3340.50(g)		\$250	\$1000
§ 3340.50(h)		\$250	\$1000
§ 3353		\$250	\$1000

Note: Authority cited: Section 9882, Business and Professions Code. Reference: Sections 44002, 44050 and 44052, Health and Safety Code.