

2012 Smog Check Performance Report

Introduction

The enactment of AB 2289 (Eng, Chapter 258, Statutes of 2010) marked the first major improvements to the Smog Check Program since the mid-1990s. The new law, many of the provisions of which cannot legally be implemented until January 2013, is a comprehensive effort to modernize California's vehicle emissions inspection and maintenance program. It is in direct response to a March 12, 2009 Sierra Research, Inc. report and is made possible by advancements in vehicle technology, and enhanced resources to produce and analyze data from Smog Check inspection results.

Health and Safety Code section 44024.5, as amended by AB 2289, requires the Bureau of Automotive Repair (BAR), in cooperation with the Air Resources Board (ARB), to perform an analysis of the Smog Check Program performance improvements made pursuant to AB 2289 using data collected from on-road inspections and statewide vehicle inspections. The results are to be reported annually, beginning July 1, 2011. During legislative committee reviews of AB 2289, amendments were made to delay the start dates of the legislation's key provisions. However, the annual reporting requirement was not amended to be consistent with these changes. As such, this second report, like the first report, does not include an analysis of the effectiveness of the AB 2289 improvements. Instead, the report provides a summary of the major provisions of AB 2289 and the implementation status of these changes.

In preparation for the next report quantifying reform effectiveness, BAR has added a fourth roadside inspection team to increase on-road data collection.

AB 2289 Implementation Status¹

1. Station Performance Standards

Health and Safety Code (H&S) sections 44014.2 and 44014.5 now require Test-Only and Test and Repair stations to meet inspection-based performance standards for the right to inspect directed and gross-polluting vehicles pursuant to (H&S) sections 44010.5 and 44014.5, respectively.

The performance standards will be implemented in the new STAR Program. The STAR Program has been developed to incentivize the proper performance of Smog Check inspections. STAR is scheduled to begin on January 1, 2013, as required by AB 2289. Under the Program, stations interested in inspecting directed vehicles must apply for STAR certification. BAR will grant certification upon the station meeting various inspection-based performance standards and upon passing a review of the station and technician disciplinary actions. Failure to meet the performance standards may result in decertification from the STAR Program and suspension of the right to inspect directed and gross-polluting vehicles.

H&S section 44014.6 also requires a preliminary station and technician performance report no later than January 1, 2012. In response, BAR published report cards containing actual technician

¹ For more information concerning the status or to access the regulation text, go to www.smogcheck.ca.gov.

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and station scores on December 28, 2011. Releasing this information in advance of the January 1, 2013 program start date provides stations and technicians the ability to learn the performance standards they are graded against and to improve their inspection performance. STAR Program information and the report cards may be viewed on BAR's Web site www.smogcheck.ca.gov.

Status: STAR Program regulations were adopted November 1, 2011. In June 2012, BAR redesigned the station report to a more user-friendly format. The technician report will also be redesigned after the program starts in 2013. A variety of database, procedural, and enforcement revisions are in progress to accommodate and process STAR Program applications. STAR applications will be accepted beginning July 1, 2012. In addition, a significant outreach effort is underway, including approximately 30 public workshops, Web posted Q&A documents, newsletter articles, and an industry help desk.

Target Implementation Date: January 1, 2013

2. Directed Vehicles

H&S section 44010.5 now includes a more detailed description of the types of vehicles to be included in the directed vehicle population. Directed vehicles have a higher than average probability of failing their next inspection and will be identified by BAR for inspection only at STAR stations. In response, BAR will designate the following vehicle groups as directed vehicles:

- I. The first group will include all 1976 to 1999 model-year vehicles and all 2000 and newer model-year vehicles with a gross vehicle weight rating (GVWR) greater than 14,000. Most of these heavy-duty vehicles are not equipped with a second generation on-board diagnostic system (OBD II).
- II. The second group will include vehicles with emissions-related problems that may not be adequately detected by the vehicle's OBD II system. When these vehicles are identified by BAR and ARB, they will be included in the directed vehicle population.
- III. The third group includes any other vehicles necessary to meet the emissions reduction standards established by the United States Environmental Protection Agency (USEPA). The current rate of directed vehicles will remain.

If a vehicle is directed, the vehicle owner will receive a DMV registration renewal notice requiring inspection and certification at a STAR station. Motorists may use BAR's on-line station locator to assist them in finding STAR stations in their area.

Status: STAR-certified stations will all model-year 1976 – 1999 vehicles, and vehicles that are model-years 2000 and newer with a GVWR greater than 14,000.

Target Implementation Date: January 1, 2013

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3. Citation Process

Amendments to H&S sections 44050, 44052, and 44055 expand BAR's authority to issue citations for violations of the Smog Check Program. The maximum administrative fine against Smog Check stations has been increased from \$2,500 to \$5,000 per vehicle inspection or repair. This provision also provides BAR new authority to cite and fine technicians up to \$5,000 per incident. Regulatory revisions will specify fine amounts and establish a framework for determining fine amounts.

Additionally, similar changes were made to H&S section 44056, which allows BAR to levy civil penalties against any person who falsifies information in an attempt to obtain a certificate of compliance or repair cost waiver.

Status: Regulations were drafted based on input received from stakeholders, including the Smog Check industry at two public workshops held in March 2011. The draft regulations were modified in May 2012 after a public comment period. The proposed regulations were filed with the Office of Administrative Law (OAL) on June 11, 2012.

Target Implementation Date: July 2012

4. Inspection Procedures

H&S section 44012 permits the adoption of inspection procedures based on various technology considerations of the vehicle. Most notably, this section provides that most model-year 2000 and newer vehicles will receive an OBD-focused inspection in lieu of a tailpipe inspection beginning no earlier than January 1, 2013. Eligible vehicles would pass or fail an inspection based on the absence or presence of OBD detected emissions-related malfunctions instead of exhaust emissions measurements. However, vehicles that exhibit certain operational problems may be required to receive the tailpipe inspection and will be included in the directed vehicle population. OBD-focused inspections will reduce inspection time and may reduce consumer costs.

Status: BAR has drafted regulatory text and updated the Smog Check Manual to require the OBD-focused inspection procedure. In April and May of 2012, BAR presented draft regulations to industry stakeholders for comment during seven workshops conducted throughout the state. Regulation adoption is anticipated early 2013. The new inspection procedures commence after the new equipment has been certified by BAR and purchased by stations.

Target Implementation Date: Mid-2013

5. New Equipment

H&S section 44036 provides BAR the authority to adopt new equipment standards and to incorporate the new OBD-focused inspection equipment. In addition, the law also authorizes BAR to employ real-time vehicle identification measures to reduce inappropriate testing practice. The revised Smog Check Manual requires STAR-certified stations, and all other stations that choose to inspect 2000 and newer model-year vehicles, to use the new OBD-focused inspection

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equipment. BAR also developed an OBD Data Acquisition Device Specification, which establishes the standards for the performance of the new equipment. This specification was posted to BAR's Web site in June 2012. Equipment manufacturers will develop the inspection equipment in accordance with the specification and will submit the OBD inspection equipment to BAR for certification testing. Upon certification, the equipment will be purchased by stations and used with BAR's Web-based inspection software. Existing BAR-97 inspection equipment will continue to be used to inspect 1999 and older model-year vehicles and to inspect any 2000 and newer model-year vehicles without OBD II systems or with OBD II systems that do not adequately detect excess emissions.

Status: New equipment requirements are included in the draft inspection procedure regulations referenced above and are anticipated to be adopted in early 2013. The OBD Data Acquisition Device Specification was completed in June 2012. Equipment certification is expected to begin in early 2013. The Web-based Smog Check software is currently under development and testing.

Target Implementation Date: Mid-2012

6. Referee Network

H&S sections 44014 and 44017 delineate the types of vehicles that require a Referee inspection. The list includes vehicles for which the manufacturer's design presents inspection incompatibilities (e.g., specially constructed vehicles, engine changes, etc.) and vehicles equipped with emission control configurations that do not match configurations certified by the USEPA or ARB. The Referee is authorized to charge the motorist for the cost of its inspection services.

Status: The Referee services regulation package is currently under review at the Department of Consumer Affairs.

Target Implementation Date: Early 2013

Other Improvements

- Consumer Assistance Program

In January 2011, BAR limited eligibility for repair assistance services under the Consumer Assistance Program (CAP) exclusively to income-eligible consumers (AB 787, Chapter 231, Statutes of 2010). In addition, income-eligible consumers can now receive \$1,500 to retire a vehicle under CAP. In 2012, BAR limited the Repair Assistance (RA) program to only include those repairs that are emissions related. Maintenance related repairs are no longer allowed. Beginning July 1, 2012, BAR will require consumers participating in RA to pay the total cost of testing and diagnosing the emissions-related problems of a vehicle. Additionally, BAR will only allow vehicles with current registration to participate in RA.

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- License Restructure

Recent regulatory changes allow an individual to become licensed as an Inspector and/or Repair Technician. The new licensing structure improves training requirements for the Inspector license, bolsters the qualification requirements for the Repair Technician license, and creates more comprehensive examinations for both licenses. BAR consulted with a group of instructors from California Community Colleges and private technical trade schools. As a result, BAR developed new standards which schools must follow in developing training for initial licensure. The new standards target specific competencies identified in a formal Smog Check job analysis, while providing schools with the freedom to develop training that best suits the needs of their students and classroom environments. The standards also recognize that automotive training should be derived from the industry and that program related materials should come from BAR, the regulatory agency. Ultimately, the measure should result in higher quality inspections and repairs. Regulations were adopted in February of 2012. The improved training and more comprehensive licensing examination become available in August 2012.

- License Related Training

BAR is also improving license renewal update training. In April 2012, BAR participated in the California Automotive Teachers conference and is working closely with the teachers to implement improvements. As a result, the process for license renewal update training is being revamped to include a menu of courses rather than a single statewide course, as was offered in the past. This new training will become available in August 2012 for licenses that expire January 1, 2013, and later. As with initial license training, renewal update training is built upon standards that provide schools the flexibility to develop training that meets the needs and interests of their students.

- BAR-Certified Schools

Draft regulations to update the qualifications and performance of BAR-certified schools are in progress. These regulations will improve the school certification process, establish authority for schools and instructor performance measures, and expand the scope of training to possibly include ethics standards.