

**BEFORE THE DIRECTOR OF THE
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

CHRISTOPHER STEVEN OCHOA dba OCHOA'S SMOG CHECK

6177 Santa Monica Blvd.

Los Angeles, CA 90038

Mailing Address:

13651 Garfield Ave.

South Gate, CA 90280

Automotive Repair Dealer Registration No. ARD 301097

Smog Check Test Only Station License No. TC 301097

and

RICARDO DIAZ-ROSAS

640 W16th St.

San Bernardino, CA 92405

Smog Check Inspector License No. EO 643923

Respondents.

Case No. 79/25-8529

OAH No. 2026020605

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall be effective on August 26, 2024

IT IS SO ORDERED July 20, 2026



GRACE ARUPO RODRIGUEZ
Assistant Deputy Director
Legal Affairs Division
Department of Consumer Affairs

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In the Matter of the Accusation Against:

CHRISTOPHER STEVEN OCHOA, DBA OCHOA'S SMOG CHECK

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Respondent

RICARDO DIAZ-ROSAS

Smog Check Inspector License No. EO 643923

Respondent

Agency Case No. 79/25-8529

OAH No. 2026020605

PROPOSED DECISION

Thomas Heller, Administrative Law Judge, Office of Administrative Hearings
(OAH), State of California, heard this matter by videoconference on May 21, 2026.

M. Travis Peery, Deputy Attorney General, represented complainant Patrick Dorais, Chief, Bureau of Automotive Repair (Bureau), Department of Consumer Affairs (Department).

There was no appearance by or on behalf of respondent Christopher Steven Ochoa, doing business as Ochoa's Smog Check. Complainant's counsel represented that the Bureau already took disciplinary action against Ochoa's licenses on the charges in the Accusation. Therefore, the hearing proceeded only as to respondent Ricardo Diaz-Rosas.

Thinh Van Doan, Esq., represented respondent Ricardo Diaz-Rosas.

At the start of the hearing, Diaz-Rosas's counsel moved to continue the hearing on the grounds that his client could not join the videoconference due to illness. Complainant opposed the motion, which was denied for the reasons stated on the record.

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on May 21, 2026.

SUMMARY

Complainant requests that the Director of Consumer Affairs (Director) revoke or suspend Diaz-Rosas's smog check inspector license due to 10 allegedly fraudulent smog inspections that Diaz-Rosas performed at Ochoa's Smog Check. Diaz-Rosas's counsel challenges the sufficiency of the Bureau's investigation of the smog inspections. Notwithstanding that challenge, a preponderance of the evidence establishes that the smog inspections were fraudulent, and that revocation of Diaz-

Rosas's smog check inspector license is warranted. Complainant also requests an order directing Diaz-Rosas to reimburse the Bureau for its investigation and prosecution costs; that request is granted.

FACTUAL FINDINGS

Background and Procedural History

1. On September 22, 2022, the Bureau issued Smog Check Inspector License Number EO 643923 to Diaz-Rosas. The license is scheduled to expire on December 31, 2026, unless renewed.

2. The allegations in this case involve 10 smog inspections that Diaz-Rosas performed in 2024 while working as a smog technician at Ochoa's Smog Check, located at 6177 Santa Monica Boulevard in Los Angeles, California. At the time, Ochoa's Smog Check was licensed as an Automotive Repair Dealer (License No. ARD 301097), a Smog Check Test Only Station (License No. TC 301097), and a STAR-certified station. The Bureau's STAR program establishes performance standards that smog check stations must meet or exceed to become STAR certified. (See Cal. Code Regs., tit. 16, § 3340.1.)

3. California's smog check program is designed to reduce air pollution by identifying and requiring the repair of polluting vehicles. The smog check program requires most vehicles in the state to undergo a smog inspection every two years or when title is transferred. These inspections are performed by smog check inspectors at smog check stations, both of which are licensed by the Bureau.

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4. Since March 2015, California's smog check program has required the use of an On-Board Diagnostic Inspection System (BAR-OIS) when inspecting most model-year 2000 and newer gasoline and hybrid vehicles. The system consists of a certified Data Acquisition Device (DAD), computer, bar code scanner, and printer. The DAD is a scan tool that retrieves on-board diagnostic data from the vehicle when requested by the BAR-OIS software. The on-board diagnostic system in modern vehicles is called the "OBD II." The DAD connects between the BAR-OIS computer and the vehicle's Data Link Connector (DLC). The bar code scanner is used to input inspector information, the vehicle identification number (VIN), and Department of Motor Vehicles renewal information. The printer provides a Vehicle Inspection Report (VIR) containing inspection results for motorists, and a Smog Check Certificate of Compliance number for passing vehicles.

5. During a BAR-OIS inspection, engine operating parameters are retrieved from the vehicle and transmitted to the Bureau's Vehicle Information Database (VID). Some of the parameters recorded are:

- Engine speed in revolutions per minute (RPM).
- Throttle position as measured by a throttle position sensor (TPS) mounted onto the throttle shaft, measured in a percentage of opening from 0 percent at idle to near or up to 100 percent at full throttle.
- Manifold absolute pressure as measured in kilopascals (kpa) by a manifold air pressure sensor (MAP) connected to an intake manifold source. Typical readings for a normally aspirated vehicle are as follows: 0 kpa for absolute vacuum, 25 to 45 kpa at idle, 101 kpa 20 at full throttle, and the same as atmospheric pressure at sea level.

- Mass air flow as measured in grams per second (gps) by a mass air flow sensor (MAF) mounted in the engine's air intake tract.
- Ignition timing as set by the vehicle powertrain control module (PCM) based on engine speed and load, measured in degrees before top dead center (BTDC).

6. Not all vehicles include both MAP and MAF parameters. Many vehicles will have either MAP or MAF parameters separately.

7. During normal engine operation at idle, engine speed is relatively steady around its target idle speed. With the engine idling, the TPS is steady and at or near zero percent, and the MAP and/or MAF readings are also steady. For engine speed to increase, the throttle must be opened to increase airflow through the engine. The engine's management systems supply fuel and spark timing appropriate to any changes in throttle position and engine speed. An increase in throttle, which increases engine RPM, results in a corresponding increase in MAF and a decrease in MAP.

8. The Bureau has become aware of fraudulent methods that some smog check stations and smog check inspectors use to issue smog certificates to vehicles that may not pass a smog inspection on their own, or in some instances, are not even present during the time of the inspection. "Clean plugging" is one such fraudulent method by which another vehicle's OBD II system, or another source such as a defeat device, is used to generate passing data readings or diagnostic information for the purpose of issuing smog certificates to vehicles that are not in smog compliance or are not present for testing. Defeat devices attempt to simulate engine operation during a smog check inspection by transmitting OBD II data to the VID that has been modified

or replaced entirely for the purportedly inspected vehicle during the functional portion of the BAR-OIS inspection.

9. As part of his regular duties, Israel Ortiz, a Bureau Program Representative, accessed and reviewed smog inspection data transmitted from Ochoa's Smog Check to the VID. Ortiz identified 10 post-2000 model year vehicles tested and passed between April and October 2024 under Diaz-Rosas's license for which the data were unusual. In each inspection, during the entire period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position, MAP, and MAF readings remained unchanged even though the engine RPM was increased. These readings are not characteristic or expected for normal engine operation. The 10 vehicles and corresponding Smog Check Certificates of Compliance were:

- 2001 Mercedes-Benz S430, CA license #6LWT181, VIN #WDBNG70J21A200231, Certificate #TW145788C
- 2002 Chevrolet Silverado C1500, CA license #65625R3, VIN #1GCEC14T72Z264337, Certificate #TW145792C
- 2002 Ford 20 Mustang, CA license #LTN130, VIN #1FAFP44472F141924, Certificate #TW145794C
- 2003 Ford Ranger, CA license #12814C2, VIN #1FTYR10U13PA14891, Certificate #TW145797C
- 2000 Honda Civic Base, CA license #4KBN601, VIN #2HGEJ6614YH527991, Certificate #TW627358C

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- 2006 Honda Accord LX, CA license #7BJK248,
VIN #1HGCM56496A057018, Certificate #TW627389C
- 2001 Dodge Ram 1500,
VIN #1B7HF16Y31S285738, Certificate #UA839711C
- 2002 Chevrolet Express G2500, CA license #7B36065,
VIN #1GCGG25R321178348, Certificate #UA839710C
- 2005 GMC Savana G2500, CA license #7X24635,
VIN #1GTGG29V851153733, Certificate #UA839746C
- 2000 Ford Crown Victoria Police Interceptor,
VIN #2FAFP71W2YX161826, Certificate #UE449801C

10. On May 22, 2025, Ortiz visited Ochoa's Smog Check and requested vehicle inspection records and invoices from Diaz-Rosas for the 10 smog inspections, which Diaz-Rosas agreed to provide. Ortiz identified Diaz-Rosas from a photograph that Ortiz reviewed before the visit. On May 27, 2025, Ortiz returned to Ochoa's Smog Check and met again with Diaz-Rosas, who provided records for nine of the ten smog inspections, explaining that rodents probably destroyed the records for the tenth inspection. During this second visit, Diaz-Rosas stated that all the signatures on the Vehicle Inspection Reports (VIR) were his signatures, and that Diaz-Rosas does not share his smog check inspector license information with others.

11. During the second visit, Ortiz explained the term "clean plugging" to Diaz-Rosas, who said he was unaware of the term's meaning. Diaz-Rosas stated that although he is aware of illegal smog testing, he does not engage in any such activity and performs all smog inspections as required by the Bureau.

12. Ortiz nonetheless concluded that the data for the 10 smog inspections evidenced clean plugging, and he prepared an investigative report recommending disciplinary action. On September 8, 2025, complainant filed an Accusation in his official capacity that includes six causes for disciplinary action against Ochoa's licenses and three causes for disciplinary action against Diaz-Rosas's license. Diaz-Rosas filed a notice of defense to request a hearing. As noted above, the causes for disciplinary action against Ochoa's licenses are no longer at issue.

Hearing

13. Complainant presented Ortiz's testimony and investigative report and the underlying VID data as evidence that the 10 smog inspections involved clean plugging. Ortiz testified that he is an experienced Program Representative and former auto repair technician, and the unusual data from the 10 smog inspections is inconsistent with normal engine operation. The only parameter that changed during the smog inspections was engine RPM, which is not possible for an engine operating normally. According to Ortiz, clean plugging is the only plausible explanation for the data.

14. Complainant also presented certifications stating that the Department of Justice has billed the Bureau \$5,780.25 concerning the case, and that the Bureau incurred an additional \$3,822.39 in investigating it, for a total of \$9,602.64.

15. Diaz-Rosas did not call witnesses or present documents in support of his defense. But his counsel's cross-examination of Ortiz established that Ortiz performed no surveillance of Diaz-Rosas or of Ochoa's Smog Check, and Ortiz never actually saw anyone at the station clean plugging a vehicle. Ortiz also did not contact any of the vehicle owners with respect to the 10 smog inspections. Based on these facts, Diaz-Rosas's counsel challenges the sufficiency of Ortiz's investigation.

Analysis of Evidence

16. Complainant's evidence that Diaz-Rosas clean plugged the 10 vehicles at issue is persuasive and unrebutted. Complainant's exhibits and Ortiz's testimony establish that the smog inspection data are unusual, inconsistent with normal engine operation, and consistent with clean plugging. Counsel for Diaz-Rosas's critiques of Ortiz's investigation lack persuasive force as compared to this evidence. Furthermore, the record does not include evidence of any plausible alternative explanation for the unusual smog inspection data.

LEGAL CONCLUSIONS

Legal Standards

1. The Director may suspend, revoke, or take other disciplinary action against a smog check inspector license "if the licensee, or any partner, officer, or director thereof, does any of the following: [¶] (a) Violates any section of this chapter [i.e., the Motor Vehicle Inspection Program, Health & Saf. Code, div. 26, pt. 5, ch. 5] and the regulations adopted pursuant to it, which related to the licensed activities. [¶] . . . [¶] (c) Violates any of the regulations adopted by the director pursuant to this chapter. [¶] (d) Commits any act involving dishonesty, fraud, or deceit whereby another is injured. . . ." (Health & Saf. Code, § 44072.2.)

2. A smog check inspector license is a nonprofessional license because it does not have extensive educational, training, or testing requirements similar to a professional license. (*Imports Performance v. Dept. of Consumer Affairs, Bureau of Automotive Repair* (2011) 201 Cal.App.4th 911, 916-917 (*Imports Performance*); *Mann v. Dept. of Motor Vehicles* (1999) 76 Cal.App.4th 312, 319; *San Benito Foods v.*

Veneman (1996) 50 Cal.App.4th 1889, 1894.) Although an applicant for a smog check inspector license must complete certain course work (Cal. Code Regs., tit. 16, § 3340.28, subd. (b)) and pass an examination (Cal. Code Regs., tit. 16, § 3340.29), "such requirements are not similar to the 'extensive educational, training and testing requirements' necessary to obtain a professional license. [Citation]." (*Imports Performance, supra*, 201 Cal.App.4th at p. 916.) Therefore, to impose discipline on a smog check station or inspector license, complainant's burden of proof is proof by a preponderance of the evidence (*id.* at pp. 916-917), which means "'evidence that has more convincing force than that opposed to it.' [Citation.]" (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)

Analysis

CAUSES FOR DISCIPLINE AGAINST DIAZ-ROSAS

3. The seventh, eighth, and ninth causes for discipline are against Diaz-Rosas based on allegations that the 10 smog inspections were the product of clean plugging. A preponderance of the evidence proves the allegations of clean plugging, which is fraudulent conduct. Complainant's evidence of clean plugging was persuasive and un rebutted, and the evidence also proves that Diaz-Rosas performed the inspections.

4. Based on the above, there is cause for the Director to revoke or suspend Diaz-Rosas's smog check inspector license for the following reasons:

a. Seventh Cause for Discipline – violations of the Motor Vehicle Inspection Program. The violations included failures to perform the smog tests in accordance with procedures prescribed by the Department, and causing electronic smog certificates of compliance to be issued without ensuring the vehicles were

properly tested and inspected. (Health & Saf. Code, §§ 44012, 44015, subd. (b), 44072.2, subd. (a).)

b. Eighth Cause for Discipline – violation of regulations adopted under the Motor Vehicle Inspection Program. The violations included falsely or fraudulently issuing electronic smog certificates of compliance (Cal. Code Regs., tit. 16, § 3340.24, subd. (c)); failing to inspect and test the vehicles in accordance with statutory and regulatory requirements (Cal. Code Regs., tit. 16, § 3340.30, subd. (a)); knowingly entering false information into the Bureau’s VID (Cal. Code Regs., tit. 16, § 3340.41, subd. (c)); and failing to ensure that the smog inspections conformed with the Bureau’s specifications (Cal. Code Regs., tit. 16, § 3340.42).

c. Ninth Cause for Discipline – committing acts involving dishonesty, fraud or deceit whereby another is injured, by issuing electronic smog certificates of compliance for vehicles without performing bona fide inspections of the emission control devices and systems on the vehicles, thereby depriving the People of the State of California of the benefits of the Motor Vehicle Inspection Program. (Health & Saf. Code, § 44072.2, subd. (d).)

DISPOSITION

“The department shall revoke the license of any smog check technician or station licensee who fraudulently certifies vehicles or participates in the fraudulent inspection of vehicles. . . .” (Health & Saf. Code, § 44072.10, subd. (c).) The primary purpose of administrative license proceedings is to protect the public, and the object of discipline is not to punish the licensee. (*Fahmy v. Medical Bd. of California* (1995) 38 Cal.App.4th 810, 817; see also *Pirouzian v. Superior Court* (2016) 1 Cal.App.5th 438, 448-450; *Imports Performance, supra*, 201 Cal.App.4th at p. 919.)

5. Here, Diaz-Rosas performed 10 fraudulent smog tests at Ochoa's Smog Check, resulting in 10 fraudulent certificates of compliance. The violations were serious and numerous, and Diaz-Rosas presented no evidence of mitigating circumstances or of rehabilitation. Therefore, the proper level of discipline is revocation of Diaz-Rosas's smog check inspector license.

COSTS

6. Complainant also requests \$9,602.64 in investigation and enforcement costs related to the case. Unless otherwise provided by law, "in any order issued in resolution of a disciplinary proceeding before any board within the [Department of Consumer Affairs] . . . upon request of the entity bringing the proceeding, the administrative law judge may direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case." (Bus. & Prof. Code, § 125.3, subd. (a).)

7. In evaluating a request for costs, the administrative law judge must consider whether complainant's investigation was "disproportionately large" compared to the violation, and whether the licensee: (1) committed some misconduct but "used the hearing process to obtain dismissal of other charges or a reduction in the severity of the discipline imposed;" (2) had a "'subjective good faith belief in the merits of his or her position;" (3) raised a "'colorable challenge'" to the proposed discipline; and (4) "will be financially able to make later payments." (*Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, 45 (*Zuckerman*) [quoting *California Teachers Assn. v. State of California* (1999) 20 Cal.4th 327, 342, 345].)

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8. Complainant offered certifications of the Bureau's enforcement costs, which are prima facie evidence that those costs are reasonable. (Bus. & Prof. Code, § 125.3, subd. (c).) Diaz-Rosas presented no evidence to the contrary. He did not obtain a reduction in the severity of the discipline imposed from the maximum discipline requested in the Accusation, i.e., revocation. Diaz-Rosas also did not raise a colorable challenge to the requested discipline, and the Bureau's investigation was not disproportionately large in light of the violations. Furthermore, Diaz-Rosas did not present evidence of any financial inability to pay the costs. Therefore, he will be ordered to pay the costs.

OTHER MATTERS

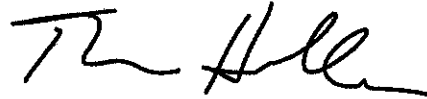
9. "When a license has been revoked or suspended following a hearing under this article, any additional license issued under this chapter [i.e., the Motor Vehicle Inspection Program] in the name of the licensee may be likewise revoked or suspended by the director." (Health & Saf. Code, § 44072.8.) Complainant requests relief against Diaz-Rosas under this statute, and complainant presented evidence supporting revocation of any additional licenses Diaz-Rosas holds under the Motor Vehicle Inspection Program. Therefore, this request is granted.

ORDER

Smog Check Inspector License No. EO 643923, issued to respondent Ricardo Diaz-Rosas, is revoked.

Any additional license issued to respondent Ricardo Diaz-Rosas under the Motor Vehicle Inspection Program (Health & Saf. Code, div. 26, pt. 5, ch. 5) is revoked.

Respondent Ricardo Diaz-Rosas shall pay the Bureau \$9,602.64 for the reasonable costs of the investigation and enforcement of case number 79/25-8529, within 30 days of the effective date of this order.

A handwritten signature in black ink, appearing to read 'TH Heller', is positioned above a horizontal line.

Thomas Heller (Jun 22, 2026 14:39:58 PDT)

DATE: 06/22/2026

THOMAS HELLER

Administrative Law Judge

Office of Administrative Hearings