

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

In the Matter of the Accusation Against:

UBALDO CUIEL ZEPEDA dba JURUPA V SMOG

6645 Mission Blvd. # C

Riverside, CA 92509

Mailing Address

19197 Painted Rock St.

Perris, CA 92570

Automotive Repair Dealer Registration No. ARD 301891

Smog Check Test Only Station License No. TC 301891

and

UBALDO CUIEL ZEPEDA

19197 Painted Rock St.

Perris, CA 92570

Smog Check Inspector License No. EO 635028

and

ERNESTO CARRILLO

3572 Banbury Dr. Apt. 27

Riverside, CA 92505

Smog Check Inspector License No. EO 644580

and

BRANDON FRANCISCO MOBASSER

34732 Woods Pl.

Beaumont, CA 92223

Smog Check Inspector License No. EO 644392

Respondents.

Case No. 79/25-1454

OAH No. 2025100221

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 July 20, 2026.

IT IS SO ORDERED June 10, 2026.

Original signature on file
GRACE ARUPO RODRIGUEZ
Assistant Deputy Director
Legal Affairs Division
Department of Consumer Affairs

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UBALDO CURIEL ZEPEDA, d.b.a. JURUPA V SMOG

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Smog check Station License No. TC 301891,

and

UBALDO CURIEL ZEPEDA

Smog Check Inspector License No. EO 635028,

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ERNESTO CARRILLO

Smog Check Inspector License No. EO 644580,

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BRANDON FRANCISCO MOBASSER

Smog Check Inspector License No. EO 644392,

Respondents.

Agency Case No. 79/25-1454

OAH No. 2025100221

PROPOSED DECISION

Administrative Law Judge Traci C. Belmore, Office of Administrative Hearings, State of California, heard this matter on April 15, 2026, by videoconference.

Deputy Attorney General Al Macina represented complainant Patrick Dorais, Chief of the Bureau of Automotive Repair (bureau or BAR), Department of Consumer Affairs.

Respondent Ernesto Carrillo represented himself.

The record was held open until close of business on April 15, 2026, for complainant to file an amended exhibit 34. The exhibit was received, the record was closed, and the matter was submitted for decision on April 15, 2026.

FACTUAL FINDINGS

Jurisdictional Matters

1. On September 25, 2023, the bureau issued Smog Check Inspector License No. EO 644580 to respondent, Ernesto Carrillo.
2. On June 30, 2025, complainant signed the accusation in his official capacity, alleging 11 causes for discipline against respondents.
3. Respondents Ubaldo Curiel Zepeda, doing business as, Jurupa V Smog, Ubaldo Curiel Zepeda, and Brandon Francisco Mobasser reached stipulated settlement agreements with the bureau. As a result, the hearing proceeded only against the remaining respondent, Ernesto Carrillo.

Smog Inspection Program

4. Beginning in March 2015, smog check inspections of most vehicles in California are performed pursuant to the BAR-OIS (Bureau of Automotive Repair On-Board Diagnostic Inspection System) protocol. Instructions for performing inspections are included in the bureau's Smog Check Manual. Beginning in May 2023, a biometric palm scanner was required for use in smog testing. Smog technicians initially had their palm scanned at a BAR field office. Smog technicians are required to scan their palm before and after each OIS functional test conducted of a vehicle. As part of a BAR-OIS inspection, the on-board diagnostic system of the vehicle being tested is connected to the bureau's database by means of a data acquisition device (DAD).

5. All vehicles manufactured after 2005, and many manufactured earlier, have an electronic vehicle identification number (eVIN), which is identical to the vehicle identification number physically present on the vehicle. If the vehicle has an eVIN stored in its computer, the eVIN is transmitted during the OIS inspection. Vehicles also transmit a communication protocol during the OIS inspection, which is the "language" used by the vehicle's computer. The protocol is programmed during the manufacturing process and does not change. Vehicles of the same make, model, and year will all use the same protocol. A PID (parameter identification) count is also transmitted during an OIS inspection. The PID count is the number of data points reported by the vehicle's computer. Each make, model, and year of vehicle will have an expected PID count (or range of PID counts.) When performing a smog inspection, the technician is required to confirm that the VIN input into the OIS system is correct and matches the vehicle being tested.

6. Clean plugging is the illegal practice of substituting one vehicle for another or using a device instead of the vehicle being inspected during the on-board

diagnostic portion of a smog inspection. It can be detected when the data transmitted by the vehicle does not match what is expected to be transmitted for that year, make, and model of vehicle.

Clean Plugging

7. Steve Koch is a Program Representative I (PR) for the bureau. PR Koch has been employed by the bureau for 25 years. He has held smog check inspector and repair technician licenses since 1996. PR Koch is also an Automotive Service Excellence (ASE) certified master technician.

8. PR Koch explained that some of the parameters recorded when the DAD is plugged into a vehicle are engine speed in revolutions per minute (rpm), throttle position measured by a throttle position sensor (TPS), ignition timing measured in degrees before top dead center (BTDC), manifold absolute pressure measured by a manifold air pressure sensor (MAP) measured by kilo pascals (kpa), and mass air flow measured by a mass air flow sensor (MAF) measured in grams per second (gps). A normal engine would transmit to the DAD a relatively steady engine speed. While idling, the TPS would remain steady at or near zero percent. The MAP, and/or MAF readings would also remain steady. An increase in throttle, which increases the engine rpm, would also result in increases in the readings from MAF and a change in the readings for MAP.

9. PR Koch performed a review of data of smog inspections performed by respondent. PR Koch reviewed the following vehicle inspections performed by respondent:

- 2002 BMW M3 – On December 8, 2023, respondent issued a smog certificate to this vehicle. The data accumulated during the test showed that while the

vehicle was idling, the engine speed was steady at 825 rpm, the throttle was fixed at 0.0 percent opening, the timing was fixed at 21.5 degrees BTDC, and MAF was fixed at 7.15 gps. The engine speed was then increased to approximately 1,525 rpm. The BTDC, MAF, and throttle opening did not change.

- 2000 Mazda MPV Wagon – On December 23, 2023, respondent issued a smog certificate to this vehicle. The data accumulated during the test showed that while the vehicle was idling, the engine speed was steady at 725 rpm, the throttle was fixed at 0.0 percent opening, the timing was fixed at 10.5 degrees BTDC, and MAF was fixed at 3.6 gps. The engine speed was then increased to approximately 1,700 rpm. The BTDC, MAF, and throttle opening did not change.
- 2005 Hummer H2 – On December 29, 2023, respondent issued a smog certificate to this vehicle. The data accumulated during the test showed that while the vehicle was idling, the engine speed was steady at 600 rpm, the throttle was fixed at 4.7 percent opening, the timing was fixed at 15 degrees BTDC, MAP was fixed at 35 kpa, and MAF was fixed at 7.15 gps. The engine speed then increased to approximately 1,950 rpm. The BTDC, MAP, MAF, and throttle opening did not change.
- 2004 Nissan Altima – On December 29, 2023, respondent issued a smog certificate to this vehicle. The data accumulated during the test showed that while the vehicle was idling, the engine speed was steady at 725 rpm, the throttle was fixed at 2.0 percent opening, the timing was fixed at 12 degrees BTDC, and MAF was fixed at 3.27 gps. The engine speed was then increased

to approximately 1,925 rpm. The BTDC, MAF and throttle opening did not change.

- 2004 Subaru Impreza WRX – On January 3, 2024, respondent issued a smog certificate to this vehicle. The data accumulated during the test showed that while the vehicle was idling, the engine speed was steady at 700 rpm, the throttle was fixed at 10.6 percent opening, the timing was fixed at 11 degrees BTDC, MAP was fixed at 29 kpa, and MAF was fixed at 2.49 gps. The engine speed was then increased to approximately 1,600 rpm. The BTDC, MAP, MAF, and throttle opening did not change.

10. While reviewing the data provided to the bureau regarding all respondents' smog inspections, PR Koch stated that he found multiple vehicles that showed abnormal data. Regarding respondent Carrillo, he identified five specific instances where the data suggested a cheating device was used to fraudulently pass the vehicles by "clean plugging" them because no movement was recorded in the key engine data points despite increases in the vehicles' rpm.

Respondent's Evidence

11. Respondent admitted performing the inspections at issue. He received his license in September 2023 but did not use it until December 2023. Prior to performing smog inspections, respondent was working part-time as a plumber and automobile detailer. He worked for Jurupa V Smog for approximately one month. Respondent stated that he was a very new technician and he did what the owner told him to do. He felt very uncomfortable working at Jurupa V Smog and left shortly afterwards.

12. Respondent is currently employed at Green Smog Check. He has continued performing smog inspections and has not engaged in clean plugging any vehicle. He has received extensive training and follows all rules and regulations. Respondent is married with two children. His wife is a stay-at-home mother. It would create significant financial hardship if he lost his license. Respondent currently works seven days a week for a total of three shops to provide for his family. Respondent wishes to retain his smog check inspector license so that he can continue performing smog inspections and provide support for his family. Respondent will comply with any and all terms of probation should it be granted.

Costs

13. In connection with the investigation and enforcement of this accusation, complainant requests an award of costs. These costs reflect \$2,919.14 for legal services provided to the bureau for respondent Carrillo only. The bureau's investigative costs are \$2,580. At hearing, PR Koch testified that only one-fourth of those costs, \$645, could be attributed to respondent Carrillo alone. These requests are supported by declarations that comply with the requirements of California Code of Regulations, title 1, section 1042. These total costs of \$3,564.14 are reasonable.

LEGAL CONCLUSIONS

1. The burden of proof in this proceeding is on complainant, and the standard of proof is a preponderance of the evidence. (*Imports Performance v. Dept. of Consumer Affairs, Bureau of Automotive Repair* (2011) 201 Cal.App.4th 911.)

2. Health and Safety Code sections 44702.2, subdivision (c), authorizes the bureau to discipline a smog check inspector license if the licensee violates the statutes

and regulations governing the licensed activities. The five clean plugging incidents violated several statutes and regulations including: failing to ensure that the emission control tests were performed in accordance with prescribed procedures (Health & Saf. Code, § 44012), entering false information into the OIS, (Cal. Code Regs., tit. 16, § 3340.41, subd. (c)), and failing to conduct the required smog tests and inspections on those vehicles in accordance with the Smog Check Manual (Cal. Code Regs., tit. 16, §§ 3340.42, & 3340.30, subd. (a)). Respondent issued five smog certificates for vehicles that were clean plugged. Cause exists to impose discipline upon respondent's licenses pursuant to this section.

3. Health and Safety Code section 44072.2, subdivision (d), authorizes the bureau to discipline a smog check inspector license if the licensee engages in fraudulent conduct. Issuing a certificate of compliance as a result of clean plugging is fraud. Respondent committed this act five times. Cause exists to impose discipline upon respondent's license pursuant to this section.

Discussion

4. Having established cause for discipline against respondent's license, the issue is what level of discipline to impose. The bureau set forth factors to be considered when determining appropriate discipline in its Guidelines for Disciplinary Orders and Terms of Probation (rev. March 2016) (Guidelines). Pursuant to the Guidelines, aggravating factors to be considered are whether the unlawful act is part of a pattern of practice and whether there is evidence of conduct which constitutes fraud. A mitigating factor to be considered is whether there is an absence of prior disciplinary action. For violations of Health and Safety Code section 44072.2, subdivisions (a) and (c), the minimum recommended discipline is revocation stayed with a two-year term of probation. For violating Health and Safety Code section

44072.2, subdivision (d), the minimum recommended discipline is revocation stayed with a five-year term of probation. The maximum recommended discipline is revocation.

5. In one month, respondent clean plugged five vehicles. The fraudulent conduct is significant and was part of a pattern of practice. Respondent has no other history of discipline. Over two years have elapsed since respondent last engaged in clean plugging, during which time respondent has continued performing smog inspections. Respondent has demonstrated a credible and significant change in attitude, which is an important factor in assessing rehabilitation. Upon consideration of the record as a whole, it is determined that allowing respondent to keep his license on a probationary basis following a 15-day suspension of his license, with appropriate conditions, including the completion of a training course, will protect the public and impress upon respondent the importance of following the bureau's required inspection procedures.

Costs

6. Business and Professions Code section 125.3 authorizes the Bureau to recover its reasonable costs of investigation and enforcement in disciplinary proceedings. Complainant has reasonably incurred \$3,564.14 in costs in connection with the investigation and enforcement of this matter.

7. In *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, 45, the California Supreme Court established standards for determining whether costs should be assessed in the particular circumstances of each case, to ensure that licensees are not deterred from exercising their right to an administrative hearing. Among those standards are whether or not the licensee was successful at hearing in

getting the charges reduced or outright dismissed; the licensee's good faith belief in the merits of his or her position; whether the licensee has raised a colorable challenge to the proposed discipline; the financial ability of the licensee to pay, and whether the scope of the investigation was appropriate to the alleged misconduct.

In this case, respondent succeeded in establishing that a stayed revocation of his license with probation, rather than outright revocation was sufficient to protect the public. In consideration of these factors, it is determined that it is appropriate to reduce the bureau's cost recovery to \$1,000.

ORDER

Smog Check Inspector License No. EO 644580 issued to Ernesto Carrillo is revoked. However, the revocation is stayed, and respondent's license is placed on probation for five years on the following terms and conditions.

1. Actual Suspension

Smog Check Inspector License No. EO 644580, issued to respondent Ernesto Carrillo is suspended for 15 consecutive days beginning on the effective date of the decision and order.

2. Obey All Laws

During the period of probation, respondent shall comply with all federal and state statutes, regulations and rules governing all BAR registrations and licenses held by respondent.

3. Quarterly Reporting

During the period of probation, respondent shall report either by personal appearance or in writing as determined by BAR, on a schedule set by BAR, but no more frequently than once each calendar quarter, on the methods used and success achieved in maintaining compliance with the terms and conditions of probation.

4. Report Financial Interests

Respondent shall, within 30 days of the effective date of the decision and within 30 days from the date of any request by BAR during the period of probation, report any financial interest which any respondent or any partners, officers, or owners of any respondent facility may have in any other business required to be registered pursuant to Business and Professions Code section 9884.6.

5. Access to Examine Vehicles and Records

Respondent shall provide BAR representatives unrestricted access to examine all vehicles (including parts) undergoing service, inspection, or repairs, up to and including the point of completion. Respondent shall also provide BAR representatives unrestricted access to all records pursuant to BAR laws and regulations.

6. Tolling of Probation

If, during probation, respondent leaves the jurisdiction of California to reside or do business elsewhere or otherwise ceases to do business in the jurisdiction of California, respondent shall notify BAR in writing within 10 days of the dates of departure and return, and of the dates of cessation and resumption of business in California. All probation provisions other than cost reimbursement requirements, restitution requirements, training requirements, and that respondent obey all laws,

shall be held in abeyance during any period of time of 30 days or more in which respondent is not residing or engaging in business within the jurisdiction of California.

All provisions of probation shall recommence on the effective date of resumption of business in California. Any period of 30 days or more in which respondent is not residing or engaging in business within the jurisdiction of California shall not apply to the reduction of this probationary period or to any period of actual suspension not previously completed. Tolling is not available if business or work relevant to the probationary license or registration is conducted or performed during the tolling period.

7. Violation of Probation

If respondent violates or fails to comply with the terms and conditions of probation in any respect, the Director, after giving notice and opportunity to be heard, may set aside the stay order and carry out the disciplinary order provided in the decision. Once respondent is served notice of BAR's intent to set aside the stay, the Director shall maintain jurisdiction, and the period of probation shall be extended until final resolution of the matter.

8. Maintain Valid License

Respondent shall, at all times while on probation, maintain a current and active registration and/or license(s) with BAR, including any period during which suspension or probation is tolled. If respondent's registration or license is expired at the time the decision becomes effective, the registration or license must be renewed by respondent within 30 days of that date. If respondent's registration or license expires during a term of probation, by operation of law or otherwise, then upon renewal respondent's registration or license shall be subject to any and all terms and conditions of probation

not previously satisfied. Failure to maintain a current and active registration and/or license during the period of probation shall also constitute a violation of probation.

9. Cost Recovery

Respondent shall pay the Bureau of Automotive Repair \$1,000 for the reasonable costs of the investigation and enforcement of this case. Any agreement for a scheduled payment plan shall require full payment to be completed no later than six months before probation is terminated. Respondent shall make payment by check or money order payable to the Bureau of Automotive Repair and shall indicate on the check or money order that it is for cost recovery payment for case No. 79/25-1454. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled. Probation shall not terminate until full cost recovery payment has been made. BAR reserves the right to pursue any other lawful measures in collecting on the costs ordered and past due, in addition to taking action based upon the violation of probation.

10. Completion of Probation

Upon successful completion of probation, respondent's affected registration and/or license will be fully restored or issued without restriction, if respondent meets all current requirements for registration or licensure and has paid all outstanding fees, monetary penalties, or cost recovery owed to BAR.

11. License Surrender

Following the effective date of a decision that orders a stay of invalidation or revocation, if respondent ceases business operations or is otherwise unable to satisfy the terms and conditions of probation, respondent may request that the stay be

vacated. Such request shall be made in writing to BAR. The Director and the BAR Chief reserve the right to evaluate respondent's request and to exercise discretion whether to grant the request or take any other action deemed appropriate or reasonable under the circumstances. Upon formal granting of the request, the Director will vacate the stay order and carry out the disciplinary order provided in the decision.

Respondent may not petition the Director for reinstatement of the surrendered registration and/or license or apply for a new registration or license under the jurisdiction of BAR at any time before the date of the originally scheduled completion of probation. If respondent applies to BAR for a registration or license at any time after that date, respondent must meet all current requirements for registration or licensure and pay all outstanding fees or cost recovery owed to BAR and left outstanding at the time of surrender.

12. Training Course

During the period of probation, respondent shall attend and successfully complete a BAR-specified and -approved training course in inspection, diagnosis and/or repair of emission systems failures and engine performance, applicable to the class of license held by the respondent. Respondent shall provide to the bureau proof of enrollment in the course within 30 days of the effective date of the decision, and proof of successful course completion within 180 days of the effective date of the decision. Failure to provide proof of enrollment and/or successful course completion to the bureau within the timeframes specified shall constitute a violation of probation, and respondent shall be prohibited from issuing any certificate of compliance or noncompliance until such proof is received.

13. Notification to Employer

When performing services that fall within the scope of his license, respondent shall provide each of his current or future employers a copy of the decision and the underlying Accusation before commencing employment. Notification to respondent's current employer shall occur no later than the effective date of the decision.

Respondent shall submit to BAR, upon request, satisfactory evidence of compliance with this term of probation.

DATE: May 15, 2026

A handwritten signature in cursive script that reads "Traci C. Belmore".

TRACI C. BELMORE

Administrative Law Judge

Office of Administrative Hearings