

**TITLE 16. BUREAU OF AUTOMOTIVE REPAIR**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
**INITIAL STATEMENT OF REASONS**

**Hearing Date:** No hearing scheduled.

**Subject Matter of Proposed Regulations:** Readiness Monitor Limits

**Section(s) Affected:** 3340.42.2 of Division 33 of Title 16 of the California Code of Regulations (CCR).

**Background/Statement of the Problem**

The Bureau of Automotive Repair (BAR or Bureau), within the oversight of the Department of Consumer Affairs, is the state entity charged with implementation and administration of the Smog Check Program. The Smog Check Program is designed to reduce air pollution from mobile vehicles, by requiring these vehicles to meet specific emission inspection standards.

As part of the Smog Check Program, the Bureau accesses the On-Board Diagnostic system (OBD-II) on vehicles that are so equipped. This system monitors the performance of the vehicle's emission controls to determine when a potential issue exists and alerts the motorist when repairs are needed. If the OBD-II system detects a problem with the vehicle, that will cause the vehicle to fail its Smog Check inspection.

Before the OBD-II system can make that determination, however, it must run a series of self-checks. If the self-checks are not-complete, the computer cannot render a decision as to whether the vehicle is functioning properly. This is where readiness monitors factor in. A readiness monitor for a particular emissions control system is set once the tests necessary to evaluate that system have been run. Since some readiness monitors take longer to set than others, and the amount of time required varies between vehicles, there were concerns at both the Air Resources Board and the Environmental Protection Agency that some vehicles may be incapable of setting all of the monitors within a reasonable amount of time after a vehicle is repaired. This could place undue hardship on motorists with vehicles that were slow to set the required monitors necessary to pass a Smog Check inspection, thus preventing the vehicle from being registered on time. For this reason, not all readiness monitors were required to be set in order to pass a Smog Check inspection. Current regulations allow some unset monitors, broadly applied, to provide dispensation for such vehicles.

The problem with this allowance is that air quality is degraded when vehicles are held to looser standards. If a monitor is allowed not to run during a Smog Check inspection, vehicle issues usually detected by that monitor will go undetected, and therefore unrepaired. As vehicles continue to run and these issues go unrepaired, air quality will decrease.

To address the air quality degradation issue while improving compliance with the Smog Check Program emissions goal—improving air quality—the Bureau proposes amending section 3340.42.2 of Article 5.5 of Chapter 1 of Division 33 of Title 16 of the California Code of Regulations to require all OBD-II readiness monitors to be set in order for a vehicle to pass a Smog Check inspection. In cases where specific vehicles do require special dispensation from this requirement due to problems unique to the vehicle, the Bureau, under consultation with the Air Resources Board, can provide such dispensation without the across-the-board leniency that subverts the broader goal of improving (or, at the very least, not decreasing) air quality.

Amended section 3340.42.2 will prevent a vehicle from passing an OBD-II inspection if the vehicle's OBD-II system reports not-complete readiness status for gasoline-powered vehicles model-years 1996 and newer and diesel-powered vehicles model-years 1998 and newer. The regulation amendments will also remove outdated subdivisions.

### **Anticipated benefits from this regulatory action**

The Bureau has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents and the state's environment.

The amendments to section 3340.42.2 will prevent a vehicle from passing an OBD-II inspection if, among other things, the vehicle's OBD-II system reports not-complete readiness status for gasoline-powered vehicles model-years 1996 and newer and diesel-powered vehicles model-years 1998 and newer. Allowing a vehicle to pass with not-complete readiness monitors can lead to increased pollution. This proposal will contribute to pollution reduction because it will reduce the number of polluting cars on California roads and highways, which will benefit the state's environment and the health and welfare of California residents.

This regulatory proposal does not affect worker safety.

### **SPECIFIC PURPOSE OF, AND RATIONALE FOR, EACH ADOPTION, AMENDMENT, OR REPEAL:**

#### **Amend section 3340.42.2, Test Methods and Standards for the On-Board Diagnostic Inspection.**

#### **Delete subdivisions (a) and (b), and re-letter subdivision (c) to (a) and subdivision (d) to (b)**

Delete subdivisions (a) and (b)

Purpose: Remove the outdated subdivisions that are no longer relevant or necessary.

Necessity/Rationale: These subdivisions were only effective until the implementation of subdivision (c). Now that subdivision (c) has been implemented (since January 1,

2013), existing subdivisions (a) and (b) are no longer effective, so not only is there no reason to leave these subdivisions in regulation, but is necessary to remove these subdivisions to avoid causing confusion to the regulated public.

**Re-letter subdivision (c) to (a) and subdivision (d) to (b)**

Purpose: Due to the deletion of current subdivisions (a) and (b), the remaining subdivisions should begin with (a).

Necessity/Rationale: This renumbering is non-substantive change that accounts for the deleted sections and simplifies the section's lettering format. The changes are necessary to avoid confusion due to the deleted sections.

**Amend existing subdivision (c)**

Delete the language "Starting on or after January 1, 2013,"

Purpose: The purpose of this change is to remove unnecessary language that is no longer relevant, as this subdivision has long been in effect.

Necessity/Rationale: This section has been used since 2013 and continuing to include the language "Starting on or after January 1, 2013," serves no purpose, since it is after that date. Removing the language is necessary to make the regulation clearer and more concise, and to avoid confusion.

**Amend existing subdivision (c)(9)**

The Bureau proposes to amend the existing language to read: "The vehicle's OBD-II system reports not-complete readiness status for gasoline-powered vehicles model-years 1996 and newer and diesel-powered vehicles model-years 1998 and newer."

The existing language for section (c)(9) is as follows:

(9) The vehicle's OBD system reports incomplete readiness monitor(s) as specified below:

- (A) Gasoline-powered vehicles model-years 1996 through 1999 with more than one (1) incomplete monitor,
- (B) Gasoline-powered vehicles model-years 2000 and newer with any incomplete monitors, excluding the evaporative system monitor;
- (C) Diesel-powered vehicles model-years 1998 through 2006 with any incomplete monitors;
- (D) Diesel-powered vehicles model-years 2007 and newer with any incomplete monitors, excluding the particulate filter system monitor.

### Amend OBD to OBD-II.

Purpose: Most vehicles manufactured after 1996 use OBD-II. The purpose of this change is to make the regulation specific to the vehicles to which it applies.

Necessity/Rationale: Within the industry, OBD is a generic term that can apply to what is now OBD-I or OBD-II. In general terms, and with some exceptions, OBD-I was installed on pre-1996 vehicles, while OBD-II was installed on 1996 and newer vehicles. While malfunctions identified with either system will result in a Smog Check failure, only the OBD-II systems utilize readiness monitors that can be used as a cause of Smog Check failure. This change is necessary to clarify that this regulation pertains to OBD-II vehicles and avoids any confusion that may come from simply using the term “OBD”.

### Amend “incomplete” to “not-complete”.

Purpose: Incomplete and not-complete have different meanings within the industry, and the purpose of this change is to clarify that the Bureau intends use of the term ‘not-complete’.

Necessity/Rationale: The term “not-complete” is consistent with industry terminology that is used by the Bureau, the Air Resources Board, and the Environmental Protection Agency. Incomplete suggests that a test may not have been completed or the test didn’t finish. Not-complete covers “incomplete” and an instance where the monitors did not run at all, not just that they didn’t finish. Therefore, this change is necessary for clarity, and to ensure that vehicles do not pass the smog check if the system reports “not-complete” readiness.

### Amend “readiness monitors” to “readiness status for”.

Purpose: A vehicle doesn’t report what the readiness monitors are, it reports the status of the monitors it has. The purpose of this change is to make clear that the OBD-II system is reporting its status, not that it has monitors.

Necessity/Rationale: There is a fixed list of monitors that a vehicle has, and the vehicle reports the status of the monitors, not which monitors it has. The status is on or off, so this change is necessary to clarify that the OBD-II system is reporting the readiness/on or off status.

## **Amend existing subdivision (c)(9)(A)**

Amend the language to include OBD-II-equipped non-Diesel vehicles from all model years manufactured after 1996, not just model years 1996 through 1999.

Purpose: The purpose of this change is to apply a single standard to all OBD-II non-Diesel vehicles, which includes all model years after 1996.

Necessity/Rationale: OBD-II was being phased in and improved for non-Diesel vehicles when vehicles with model years 1996-1999 were being designed. As such, many of these vehicles require special dispensation to prevent the readiness requirements from being onerous to motorists. Rather than treat all of these vehicles with a single standard which is too loose for many vehicles, vehicles with specific issues can be addressed more precisely and appropriately. Since vehicles requiring dispensation will be handled in this manner, it is necessary to make the overall standard uniform and more stringent in order to improve air quality.

Amend the language to remove “more than one”.

Purpose: The purpose of this change is to ensure that a vehicle fails even if it has one not-complete readiness status, it does not have to have more than one to fail.

Necessity/Rationale: It is important to air quality that a vehicles' OBD-II self-tests be allowed to complete whenever feasible. This tighter standard is necessary to ensure that as few as one not-complete readiness status causes a vehicle to fail the OBD-II portion of a Smog Check inspection and therefore fail the overall Smog Check.

#### **Delete existing subdivision (c)(9)(B)**

Delete the language “Gasoline-powered vehicles model-years 2000 and newer with any incomplete monitors, excluding the evaporative system monitor;”.

Purpose: The purpose of this change is to remove language that is no longer relevant because it was incorporated in another part of the regulation.

Necessity/Rationale: This requirement is included/covered with the revision above in amended subdivision (c)(9). Therefore, this change is necessary to prevent there being duplicative language in the regulation.

#### **Incorporate subdivision (c)(9)(C) into amended existing subdivision (c)(9)**

Amend the language to include all model year diesel vehicles manufactured after 1998, not just model years 1998 through 2006.

Purpose: The purpose of this change is to apply a single standard to all OBD-II non-Diesel vehicles, which also includes all model years after 1998.

Necessity/Rationale: OBD-II was being phased in and improved for diesel vehicles when vehicles with model years 1996-1999 were being designed. In the case of diesel vehicles, however, the readiness monitors were simple and easy-to-set for the oldest vehicles so not-complete monitors were not allowed in order to pass an inspection. For newer vehicles, however, new readiness monitors require additional time to set, potentially leaving some motorists in the same situation as the older gasoline vehicles, where the monitors might not complete in a reasonable amount of time after vehicle repairs. While the current regulations treated the readiness

requirements for these vehicles in broad terms, it is necessary to make this change and apply an across-the-board standard for all OBD-II equipped diesel vehicles and handle dispensations for specific vehicles on a case-by-case basis, in consultation with the Air Resources Board. This change is necessary to make the overall standard uniform and more stringent in order to improve air quality.

### **Delete subdivision (c)(9)(D)**

Delete the language “Diesel-powered vehicles model-years 2007 and newer with any incomplete monitors, excluding the particulate filter system monitor.”

Purpose: The purpose of this change is to remove language that is no longer relevant because it was incorporated in another part of the regulation.

Necessity/Rationale: This requirement is included/covered with the revision above in amended subdivision (c)(9). Therefore, this change is necessary to prevent there being duplicative language in the regulation.

### **Underlying Data**

None.

### **Business Impact**

The Bureau made the initial determination that the proposed regulations 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. This proposal is designed to fail an OBD-II equipped vehicle if it reports not-complete readiness status. If the vehicle fails the inspection, it can be repaired and subsequently pass the inspection.

### **Economic Impact Assessment**

The Bureau has determined that this regulatory proposal will not:

- (1) create jobs within California;
- (2) eliminate jobs within California;
- (3) create new businesses within California;
- (4) eliminate existing businesses within California; and,
- (5) expand businesses currently doing business in the State of California.

The Bureau has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents and the state’s environment.

The amendments to section 3340.42.2 will prevent a vehicle from passing an OBD-II inspection if, among other things, the vehicle's OBD-II system reports not-complete readiness status for gasoline-powered vehicles model-years 1996 and newer and

diesel-powered vehicles model-years 1998 and newer. Allowing a vehicle to pass with not-complete readiness monitors can lead to increased pollution. This proposal will contribute to pollution reduction because it will reduce the number of polluting cars on California roads and highways, which will benefit the state's environment and the health and welfare of all California residents.

This regulatory proposal does not affect worker safety.

### **Specific Technologies or Equipment**

This regulation does not mandate the use of specific technologies or equipment.

### **Consideration of Alternatives**

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which it was proposed or as effective and less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Set forth below is the alternative that was considered and the reason the alternative was rejected:

**Alternative 1:** The Bureau considered taking no action. However, with no action, polluting vehicles would continue to pass an OBD-II inspection, and in the long run, which would result in a higher number of polluting vehicles on the road and contribute to and worsen pollution of the air.