

**TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS**  
**Division 33**  
**Chapter 1**

**DEPARTMENT OF CONSUMER AFFAIRS**  
**BUREAU OF AUTOMOTIVE REPAIR**

**FINAL STATEMENT OF REASONS**

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

**Articles/Sections Affected:** California Code of Regulations (CCR), Title 16, Division 33, Chapter 1, Article 5.5, section 3340.42.2

**Updated Information:** The Informative Digest and Initial Statement of Reasons are included in the rulemaking file and incorporated as though set forth herein.

The Bureau of Automotive Repair (Bureau or BAR) staff noticed the proposed rulemaking with a 45-day comment period ending on December 16, 2024. The Bureau received 10 comments during the comment period. No public hearing was held.

**Local Mandate:** A mandate is not imposed on local agencies or school districts.

**Small Business Determination:** The Bureau has determined that the proposed regulations will not affect small businesses. These regulations are aimed at ensuring vehicles are properly maintaining emissions control systems by checking the OBD systems during Smog Check inspections. The Smog Check procedure won't change and stations will not have to change anything- they will be running the same Smog Check. No operational changes are required of small business Smog Check stations.

**Consideration of Alternatives:** No alternative considered by the Bureau would be more effective in carrying out the purpose for which the regulations are proposed, would be as effective and less burdensome to affected private persons than the adopted regulations, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Bureau incorporates by reference the alternatives identified in its Initial Statement of Reasons and did not receive any comments that altered its findings.

**Comments:**

During the 45-day comment period, the Bureau received comments regarding the proposed from (1) Jeremy Cruse on November 1, 2024; (2) Jim George on November 1, 2024; (3) Loren Kaiser on November 4, 2024; (4) Abram Blackwood on November 7, 2024; (5) John Bridgewater on November 18, 2024; (6) Dean Schlingmann on December 2, 2024; (7) Eddie Reyna on December 2, 2024; (8) Eddie Reyna on December 6, 2024; (9) Joe Warch on December 9, 2024; (10) Christian Robinson, Specialty Equipment Market Association on December 16, 2024.

The Bureau elected not to change the proposed regulation based on the comments received during the 45-day comment period. The comments received and the Bureau's responses to the comments are below. Note: comments are in italics.

**Comment 1: Jeremy Cruse, November 1, 2024**

*I do at least 100 smogs a month. I check monitors multiple times a day on vehicles.*

*I am writing to say that requiring the EVAP monitor to be ran on cars is not only gonna cause more people to fail smog but it will cause thousands of people to drive their vehicle on the roadways trying to run their EVAP monitor when they would otherwise not be on the road at all.*

*Out of all the vehicles I smog per month 90% of them do not have the EVAP monitor completed.*

*I would like California to have good air quality as well but this is a move I think will have reverse effects and cause more people on the road driving their cars trying to run a readiness monitor that is very difficult to complete even for trained professionals on all the different makes and models.*

**Reply:**

The Bureau considered the comment and did not modify the text based upon the comment.

Roadside inspection data collected in 2023 and 2024 indicates that over 90% of vehicles on the road have all of their readiness monitors set. This includes the evaporative monitor. This high rate is even more surprising given that roadside inspections tend to oversample older vehicles in the fleet, which break down more often and tend to set readiness monitors at a lower rate even when functioning properly. Still, there are some vehicles that may have design-related issues that prevent a properly functioning vehicle from setting readiness monitors in two weeks or less with normal vehicle operation, meaning that the OBD-II system can detect repairable defects within two weeks just by driving the vehicle around like normal. Two weeks is the amount of time within which most properly functioning vehicles are able to set the required readiness monitors. To account for vehicles that either take longer to set or never set required monitors, and ensure requirements do not burden consumers, BAR's regulations provide a safety valve to all vehicles, and will continue to do so while increasing the stringency of readiness monitor limits in the program. If a vehicle is unable to set readiness monitors as required to pass a Smog Check inspection, the vehicle owner may visit the BAR Referee, wherein BAR will work with the vehicle's factory service team, under consultation with the California Air Resources Board

(CARB), to determine whether there is an underlying problem with the vehicle design (in which case, the vehicle manufacturer would address the issue) or simply a vehicle malfunction. Historically, vehicles referred to the Referee through this process were usually addressed either by fixing a broken vehicle, or by helping to educate repair technicians on the proper way to set required monitors when a vehicle's owner has driving patterns that differ from that of the average California driver whose vehicle is able to set required monitors (one example of an atypical driving pattern is if all trips are less than two miles, so the vehicle never fully warms up and is therefore not able to set the required monitors).

Existing regulations allow vehicles to pass Smog Check inspections before these self-diagnostic tests are complete and with defects that need repair to prevent excess emissions. This often saddles downstream vehicle purchasers with unforeseen and costly repairs that they reasonably would have expected to be identified during the legally required change-of-ownership Smog Check inspection. The proposed regulatory changes are required to decrease (or at least prevent increased) pollution by ensuring that vehicles that can support tighter monitor readiness standards are functioning properly and protect consumers from unknowingly purchasing vehicles that should not have passed their smog inspections and are still in need of repair.

BAR has no intention of tightening monitor readiness limits, including for the evaporative monitor, beyond what properly functioning vehicles are designed for and capable of meeting.

#### **Comment 2: Jim George, November 1, 2024**

*Please correct me if I am wrong, but is it that **\*all\*** monitors will now have to be complete to pass the OBDII portion?*

*Do you have any idea when this will take effect?*

#### **Reply:**

The Bureau considered the comment and did not modify the text based upon the comment.

Not **\*all\*** monitors for all vehicles will have to be complete to pass the OBD-II portion of the Smog Check inspection. Some vehicles have design-related issues that prevent a properly functioning vehicle from setting readiness monitors in two weeks or less with normal vehicle operation. Two weeks is the amount of time within which most properly functioning vehicles are able to set the required readiness monitors. Further, the process of determining whether there are design-related issues is resource intensive and therefore, additional readiness monitor standards must be phased in over time.

The proposed regulations will become effective on 10/1/2025 pursuant to Gov. Code § 11343.4(a).

### Comment 3: Loren Kaiser, November 4, 2024

*By changing the regulations on 98 and newer vehicles to pass a smog test with all Monitors passing is going to put a huge burden on the consumers and DMV. As you probably know by the data out there that Evap monitors are the most common monitors that don't run and that is due to the specific vehicle requirements that each manufacturer sets for them to run. A simple battery replacement or a repair for emission related problem and codes cleared before a smog test will cause major consumer complaints. If someone is needing there registration and only has a day to get it fixed, that will not happen. If scan tools allowed us to run evap tests in the service bay that would be a game changer, but thats not the case. Please take in consideration and the hardship this will put on the shops and the consumers, not a good Idea. Maybe if we were able to run the tests in the shop that would be a different situation but that is not the case. I understand the concerns for this change but is it really worth making things harder on people, they are struggling enough and just need to get to there jobs to pay the bills, I do not believe this needs to be implemented at this time.*

### Reply:

The Bureau considered the comment and did not modify the text based upon the comment.

BAR has no intention of tightening monitor readiness limits beyond what properly functioning vehicles are designed for and capable of meeting. Not all monitors for all vehicles will have to be set/complete to pass the OBD-II portion of the Smog Check inspection. BAR only plans to tighten monitor readiness standards on vehicles that can meet the tighter readiness standards. As the commentor suggests, the evaporative readiness monitor can be tricky to set within a couple of weeks of normal driving for some vehicles, and this is particularly true for older vehicles. The simple fact is that some monitors take more time to set than others. The determination of proper functioning cannot be determined instantaneously for some emission control systems.

To account for vehicles that either take longer to or never set required monitors, and ensure requirements do not unduly burden consumers, BAR's regulations provide (and will continue to provide) a safety valve to all vehicles while increasing the stringency of readiness monitors in the program. If a vehicle is unable to set readiness monitors as required to pass a Smog Check inspection, the vehicle owner may visit the BAR Referee, wherein BAR will work with the vehicle's factory service team, under consultation with CARB, to determine whether there is an underlying problem with the vehicle design (in which case, the vehicle manufacturer would address the issue) or simply a vehicle malfunction.

Historically, vehicles referred to the Referee through this process were usually addressed either by fixing a broken vehicle, or helping to educate repair technicians on the proper way to set required monitors when a vehicle's owner has driving patterns that

differ from that of the average California driver whose vehicle is able to set required monitors (one example of an atypical driving pattern is if all trips are less than two miles, so the vehicle never fully warms up and is therefore not able to set the required monitors).

The Department of Motor Vehicles has provisions for the issuance of a temporary operating permit that allows for continued operation of a vehicle when unforeseen issues arise, such as those suggested in this comment. Further, the DMV will not apply late-registration penalties for a pending Smog Check inspection if the registration fees are paid on-time.

#### **Comment 4: Abram Blackwood, November 7, 2024**

*I disagree with your proposed text changes for readiness monitor. I see that there has been no study of the effect of these changes. How will this disproportionately affect low income and minority populations? There's a reason why this was written the way it was because the older cars won't pass without it. This is largely due to poor software on the manufacturer side. Therefore, (1) this should not become the customer's burden, (2) there will need to be exemptions if the manufacturers are unable to fix this beyond the recognized exemptions already in place, and (3) the State referee will not be able to handle all of the cars that will not pass.*

*You need to go back to the drawing board with this one.*

- 1. Study how much pollution is being created by not running all the monitors.*
- 2. Study who is going to pay for all the car that will not run the monitors in a reasonable amount of time.*
- 3. Study how this will disproportionately affect the low income and minorities, given that these populations often drive older vehicles.*
- 4. Study how you can actually have these vehicles run the monitors with all of the automotive manufacturers.*
- 5. Study how the state referee will be affected from having to run exemptions.*

#### **Reply:**

The Bureau considered the comment and did not modify the text based upon the comment.

OBD-II was required by CARB and the US Environmental Protection Agency (EPA) to more completely identify emissions-causing malfunctions and aid in the repair of these vehicles once these issues are identified. The benefits of OBD-II were predicated on full implementation of the program, where all of the monitored vehicle systems are deemed to be compliant to pass an inspection. The intention was never to have a program where only a portion of the monitored vehicle systems were required to be compliant.

As such, lowering the OBD-II readiness monitor limit is not a new program requirement necessitating a full emissions impact analysis, rather it is the final stage of the implementation of OBD-II, which started many years ago.

When OBD-II inspection programs were first implemented, extremely loose readiness requirements were implemented to allow for discovery of, and adaptation for, some vehicle design-related issues that may prevent vehicles from setting required monitors which prevents these vehicles from passing a smog check when they are functioning as designed. This phased implementation spared motorists that own such vehicles the inconvenience of their vehicles failing an inspection when the vehicles are operating as designed. Over time, vehicles with design-related issues were identified and, in many cases, the issues were rectified by the vehicle manufacturers. In other cases, smog check inspectors learned and educated consumers on how to operate the vehicle in ways that enable the readiness monitors to set. These improvements were driven by tighter readiness monitor requirements during inspections.

BAR has no intention of tightening monitor readiness limits beyond what properly functioning vehicles are designed for and capable of meeting. Issues that prevent readiness monitors from setting are usually either underlying problems with the vehicle design (in which case, the vehicle manufacturer would address the issue) or a vehicle malfunction.

Smog Check inspections are crucial as vehicles age, and for poorly maintained vehicles, as these vehicles often have serious pollution-causing issues, issues that cause these vehicles to fail their inspections.

BAR's Consumer Assistance Program (CAP) provides financial assistance with Smog Check repairs to low-income motorists to help them meet vehicle emissions compliance requirements, and as a result, the program can achieve greater air quality benefits.

#### **Comment 5: John Bridgewater, November 18, 2024**

*I have a few concerns with this proposal. I am a California smog inspection technician as well as a California smog repair technician, and I operate a California smog inspection and repair facility.*

*While I can appreciate the intent of this proposal, and I do believe in a clean environment for everyone, I also feel that this proposal will place undue hardship on a significant enough percentage of both businesses and consumers that it should be reconsidered.*

*Some of these monitors can take thousands of miles to run (Sprinter diesel comes to mind) and some will not run at all depending on environmental conditions (EVAP will not run on many vehicles if the air temperature is over a certain limit).*



*For smog repair shops, it will place an additional burden on them because they will either have to spend potentially significant time to run all monitors or have the consumer perform that same testing by way of operating the vehicle in such a manner that the monitor tests will run to completion.*

*If the shop spends the time performing this service they will either have to give away potentially significant additional time or charge the consumer for that time. The consumer may then become upset with the shop because of this potentially significant additional expense the shop will have to charge for or the shop will lose potentially significant money by having their technician spending what could be hours or days to complete these tests.*

*If the consumer is given back their vehicle and instructed to drive the vehicle so the tests can run on their own, some of the tests may never run. There are specific driving patterns required to properly complete these tests which are often not a pattern likely to be used by the consumer in their daily operation of the vehicle.*

*Additional consideration should be given to the fact that most people don't try to get their smog inspection until shortly before the registration needs to be paid. If the vehicle is having trouble running these monitor tests it is likely that the registration will expire before the smog inspection can be completed, which will require the vehicle to be driven with an expired registration, which is illegal. While there are provisions for this, it does not seem reasonable to me to force the consumer to spend extra time visiting the DMV as well as extra money to obtain a special permit. This can have a particularly detrimental effect on businesses who depend on their vehicles to provide the goods and services which makes their business run.*

*It is my belief that the monitor requirements as they are currently is sufficient and makes a reasonable compromise between cleaner air and the practicality of passing a smog inspection with reasonable effort. If anything, focus more on the referee waivers. I suspect that significantly more pollution is being created by the vehicles exempted by the referee than by the vehicles with the currently not required monitors incomplete.*

**Reply:**

The Bureau considered the comment and did not modify the text based upon the comment.

To account for vehicles that either take longer to or never set required monitors, and ensure requirements do not unduly burden consumers, BAR's regulations provide a safety valve to all vehicles, and will continue to do so while increasing the stringency of readiness monitor limits in the program. If a vehicle is unable to set readiness monitors as required to pass a Smog Check inspection, the vehicle owner may visit the BAR

Referee, wherein BAR will work with the vehicle's factory service team, under consultation with CARB, to determine whether there is an underlying problem with the vehicle design or simply a vehicle malfunction. When there is a design-related issue, BAR will work with the vehicle manufacturer to address the issue.

Smog Check technicians also need to be familiar with the driving conditions necessary to set specific readiness monitors on various vehicles when the vehicles are functioning properly. Repair technicians must be familiar with the proper way to set required monitors in order to assist vehicle owners that have driving patterns that differ from that of the average California driver whose vehicle is able to set required monitors (one example of an atypical driving pattern is if all trips are less than two miles, so the vehicle never fully warms up and is therefore not able to set the required monitors). This is the same learning curve with which the industry is already familiar given past changes in monitor readiness stringency, so the repair industry would not be burdened by continuing to provide Smog Check compliance assistance to motorists, a service they already provide. Whether industry operators choose to charge for this service is their choice.

However, in many cases, when a vehicle fails to set required readiness monitors, it is not a design-related issue; rather the vehicle has a malfunction that is preventing a readiness monitor from setting. Motorists have voiced frustration that they have been repeatedly told to simply keep driving their vehicle when—as was later confirmed by the Referee and/or through consumer complaints—the vehicle instead requires repairs that the repair technician never diagnosed.

Regarding motorist procrastination, while BAR certainly recommends seeking inspections when motorists first receive their renewal notice, accommodations are available for people when they do not do so. Paying fees on-time, even if the vehicle has not yet had its Smog Check inspection, helps avoid DMV late fees. DMV also provides Temporary Operating Permits (TOP) for vehicles with registration that has lapsed before compliance is obtained.

Finally, BAR's Consumer Assistance Program (CAP) provides financial assistance with Smog Check repairs to low-income motorists to help them meet vehicle emissions compliance requirements, and as a result, the program can achieve greater air quality benefits.

**Comment 6: Dean Schlingmann, December 2, 2024**

*Is there a report available which provides an environmental impact assessment, or provides metrics as to anticipated improvements if the proposed were enacted? That would help build understanding, thank you for your consideration.*

**Reply:**



The Bureau considered the comment and did not modify the text based upon the comment.

BAR is unaware of a report that breaks down the benefits of the partial implementation of the OBD-II requirements. OBD-II was required by CARB and the EPA in order to more completely identify emissions-causing malfunctions and aid in the repair of these vehicles once these issues are identified. The benefits of OBD-II were predicated on full implementation of the program, where all the monitored vehicle systems are deemed to be compliant to pass an inspection. The intention was never to have a program where only a portion of the monitored vehicle systems were required to be compliant. As such, lowering the OBD-II readiness monitor limit is not a new program requirement necessitating a full emissions impact analysis, rather it is the final stage of the implementation of OBD-II, which started many years ago.

When OBD-II inspection programs were first implemented, extremely loose readiness requirements were implemented to allow for discovery of, and adaptation for, some vehicle design-related issues that may prevent vehicles from setting required monitors, which prevents these vehicles from passing a smog check when they are functioning as designed. This phased implementation spared motorists that own such vehicles the inconvenience of their vehicles failing an inspection when the vehicles are operating as designed. Over time, vehicles with design-related issues were identified and, in many cases, these issues were rectified by the vehicle manufacturers. In other cases, smog check inspectors learned and educated consumers on how to operate the vehicle in ways that enable the readiness monitors to set. These improvements were driven by tighter readiness monitor requirements during inspections.

**Comment 7: Eddie Reyna, December 2, 2024**

*This is a formal request for a public hearing regarding the proposed changes to the smog check program and the readiness monitors that vehicles must have completed prior to scheduling a smog check.*

**Reply:**

The Bureau considered the comment and did not modify the text based upon the comment.

Unfortunately, the time to request a public hearing has expired. Please see [Government Code section 11346.8](#) and the Notice of Proposed Action at [www.bar.ca.gov/regulatory-actions](http://www.bar.ca.gov/regulatory-actions), which states that “. . . the Bureau will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period.”

Although the Bureau did not hold a hearing on the proposed regulation changes, we encouraged this commenter in an email response dated December 3, 2024 to send any

written comments prior to the end of the comment period, which ended on December 16, 2024.

#### **Comment 8: Eddie Reyna, December 6, 2024**

*I personally have dealt with an issue for my 2002 Chevrolet Silverado 1500 with readiness monitors not being ready, specifically the EVAP monitor. I had replaced the gas cap and that required a reset of the of OBD2 system. it took about 3 weeks in order for all the monitors to set to "ready" status not to mention all the fuel that had to be used during that time.*

*My vehicle has never failed a smog test but it's extremely well maintained, even at 200k+ miles, had it not been for the current exception for allowing that monitor to not be set I would have failed that smog check and even if I pay my registration on time I would not have been able to renew it or get my tags.*

*Now think of this example in the same situation if this change is implemented, I would fail the test automatically.*

*The section text below is also concerning to me, for vehicles that require "special dispensation" what does that mean exactly? is there a cost to the consumer? What options other than vehicle retirement are going to be made available?*

*For Californians that only own 1 vehicle in their household and face this issue, are we expecting them to retire thie vehicle solely because they can't pass a smog check?*

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 run to completion 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.

#### **Reply:**

The Bureau considered the comment and did not modify the text based upon the comment.

Roadside inspection data collected in 2023 and 2024 indicates that over 90% of vehicles on the road have all of their readiness monitors set. This high rate is even more surprising given that roadside inspections tend to oversample older vehicles in the fleet, which break down more often and tend to set readiness monitors at a lower rate even when functioning properly. Still, there are some vehicles that may have design-related issues that prevent a properly functioning vehicle from setting readiness monitors in two weeks or less with normal vehicle operation, meaning that the OBD-II system can detect

repairable defects within two weeks just by driving the vehicle around like normal. Two weeks is the amount of time within which most properly functioning vehicles are able to set the required readiness monitors. To account for vehicles that either take longer to or never set required monitors, and ensure requirements do not burden consumers, BAR's regulations provide a safety valve to all vehicles, and will continue to do so while increasing the stringency of readiness monitor limits in the program. If a vehicle is unable to set readiness monitors as required to pass a Smog Check inspection, the vehicle owner may visit the BAR Referee, wherein BAR will work with the vehicle's factory service team, under consultation with the California Air Resources Board (CARB), to determine whether there is an underlying problem with the vehicle design (in which case, the vehicle manufacturer would address the issue) or simply a vehicle malfunction. Historically, vehicles referred to the Referee through this process were usually addressed either by fixing a broken vehicle, or helping to educate repair technicians on the proper way to set required monitors when a vehicle's owner has driving patterns that differ from that of the average California driver whose vehicle is able to set required monitors (one example of an atypical driving pattern is if all trips are less than two miles, so the vehicle never fully warms up and is therefore not able to set the required monitors). BAR provides dispensation when issues prevent certain monitors from setting within a reasonable amount of time, and this will continue to be the case when these new regulations go into effect.

Existing regulations allow vehicles to pass Smog Check inspections before these self-diagnostic tests are complete and with defects that need repair to prevent excess emissions. This often saddles downstream vehicle purchasers with unforeseen and costly repairs that they reasonably would have expected to be identified during the legally required change-of-ownership Smog Check inspection. The proposed regulatory changes are required to decrease (or at least prevent increased) pollution by ensuring that vehicles that can support tighter monitor readiness standards are functioning properly and protect consumers from unknowingly purchasing vehicles that should not have passed their smog inspections and are still in need of repair.

Additionally, BAR's Consumer Assistance Program provides financial assistance with Smog Check repairs to low-income motorists to help them meet vehicle emissions compliance requirements.

Ultimately, BAR has no intention of tightening monitor readiness limits beyond what properly functioning vehicles are designed for and capable of meeting.

#### **Comment 9: Joe Warsh, December 9, 2024**

*I oppose this regulation*

*It is overly onerous and does not benefit or protect anyone*

*It will increase additional cost of insurance and repairs*

*It will create new complaints of misguided customers*

*No one has ever complained about this*

## Reply:

The Bureau considered the comment and did not modify the text based upon the comment.

This comment makes unsubstantiated claims, many of which are refuted in the ISOR. Regarding the cost of insurance, it is unclear why the commenter believes the proposed regulation will increase the cost since none of the proposed changes relate to vehicle insurance. Regarding the cost of repairs, the proposed regulations are intended to enable the Smog Check Program to identify repairable defects of vehicles that are currently passing a Smog Check. Motorists would be required to make the repairs before passing a Smog Check inspection. With regards to complaints of misguided customers, licensed Smog Check inspectors and repair technicians regularly field Smog Check-related complaints and questions from their customers. It is, and will continue to be, as part of consumer protection, the responsibility of these Bureau licensees to inform their customers why vehicle emissions testing and repairs are necessary.

### **Comment 10: Christian Robinson, Specialty Equipment Market Association, December 16, 2024**

*The Specialty Equipment Market Association (SEMA) welcomes the opportunity to comment on the Bureau of Automotive Repair's (BAR) proposed regulatory change on readiness monitor limits as outlined in the November 1, 2024, notice. While SEMA appreciates BAR's objectives to enhance environmental compliance and public health, we have several significant concerns regarding the proposed regulation.*

*SEMA is a trade association based in Diamond Bar, California, made up of approximately 7,000 mostly small businesses nationwide, including over 1,500 in California. These companies manufacture, market, and sell specialty automotive aftermarket products, including appearance, performance, comfort, convenience, and technology products for motor vehicles. The specialty automotive equipment industry contributes \$40.44 billion to California's economy, including 149,325 jobs, \$13.47 billion in total wages and benefits, and \$6.16 billion in taxes annually. 95 percent of SEMA's members are small businesses.*

#### ***Lack of Environmental Justification***

*The Initial Statement of Reasons (ISOR) lacks quantitative metrics to justify the proposed changes to the California Smog Check Program. BAR has acknowledged that no formal study was conducted, and the stakeholders are relying on inference rather than substantive data to justify its proposal. This omission makes it difficult to assess the necessity and potential impact of the regulation.*

#### ***Regulatory and Procedural Concerns***

*The language of the proposed regulation is overly broad. BAR has indicated that the proposal targets not-complete Diesel Particulate Filter (DPF) monitors in 2015 and newer diesel pickups. However, the proposed regulation states that any OBD-II equipped 1996 and newer gas-powered vehicle or 1998 and newer diesel-powered vehicle shall fail its smog check inspection if any readiness monitor is not complete. Instead of adopting a blanket approach, BAR should narrowly tailor the regulation to address specific issues, such as the DPF monitor for these diesel vehicles.*

*Moreover, the proposal appears to conflict with CARB's guidance. During CARB's Spring 2024 OBD Conference, CARB's OBD Branch indicated that readiness monitors for model year 2026 would increase from approximately 10 to 20 and recommended leniency while evaluating field data. The current BAR proposal contradicts this guidance, creating inconsistencies that must be addressed.*

*The proposal grants BAR broad authority to alter pass/fail parameters of the smog check program. While we trust the current leadership to exercise enforcement discretion, such extensive authority should not be granted without thorough consideration and justification. This could lead to unintended consequences for vehicle owners and businesses in the future. While the regulatory process can be cumbersome, it exists to ensure sound decision-making and stakeholder input.*

### **Consumer Impact**

*The proposed regulation to eliminate monitor exemptions raises several issues that could adversely impact vehicle owners. For example, evaporative monitors rely on specific conditions such as ambient pressure and temperature to complete. For vehicle owners in high-altitude areas or regions with extreme temperatures, meeting these requirements can be nearly impossible without extensive and impractical steps, such as 16-18+ hours of soaking, vehicle cold start, and operating at moderate load for a specific duration, which can vary by vehicle manufacturer.*

*Furthermore, as stated during the October 17, 2024, BAR Advisory Committee meeting, OEMs are obligated to ensure readiness monitor functionality for seven years. However, California smog checks begin at year eight, leaving owners financially responsible for compliance. The proposed changes may lead to situations where a vehicle owner cannot pass smog checks due to unresolved readiness issues, leaving them financially responsible without clear remedies.*

*In light of these concerns, SEMA recommends delaying the implementation of the proposed regulation until a thorough impact analysis is conducted. The regulation should be narrower and clearly defined, specifically addressing DPF monitors for 2015 and newer diesel pickups.*

*SEMA respectfully requests that BAR reevaluate the proposed changes to ensure they are fair and effective. We are committed to working with BAR to address these concerns and develop regulations that meet environmental goals without imposing undue burdens on vehicle owners and businesses.*

**Reply:**

The Bureau considered the comment and did not modify the text based upon the comment.

BAR is unaware of a report that breaks down the benefits of the partial implementation of the OBD-II requirements. OBD-II was required by CARB and the EPA in order to more completely identify emissions-causing malfunctions and aid in the repair of these vehicles once these issues are identified. The benefits of OBD-II were predicated on full implementation of the program, where all the monitored vehicle systems are deemed to be compliant to pass an inspection. The intention was never to have a program where only a portion of the monitored vehicle systems were required to be compliant. As such, lowering the OBD-II readiness monitor limit is not a new program requirement necessitating a full emissions impact analysis, rather it is the final stage of the implementation of OBD-II, which started many years ago.

When OBD-II inspection programs were first implemented, extremely loose readiness requirements were implemented to allow for discovery of, and adaptation for, some vehicle design-related issues that may prevent vehicles from setting required monitors, which prevents these vehicles from passing a smog check when they are functioning as designed. This phased implementation spared motorists that own such vehicles the inconvenience of their vehicles failing an inspection when the vehicles are operating as designed. Over time, vehicles with design-related issues were identified and, in many cases, these issues were rectified by the vehicle manufacturers. In other cases, smog check inspectors learned and educated consumers on how to operate the vehicle in ways that enable the readiness monitors to set. These improvements were driven by tighter readiness monitor requirements during inspections.

Roadside inspection data collected in 2023 and 2024 indicates that over 90% of vehicles on the road have all of their readiness monitors set. This high rate is even more surprising given that roadside inspections tend to oversample older vehicles in the fleet, which break down more often and tend to set readiness monitors at a lower rate even when functioning properly. Still, there are some vehicles that may have design-related issues that prevent a properly functioning vehicle from setting readiness monitors in two weeks or less with normal vehicle operation, meaning that the OBD-II system can detect repairable defects within two weeks just by driving the vehicle around like normal. Two weeks is the amount of time within which most properly functioning vehicles are able to set the required readiness monitors.

To account for vehicles that either take longer to or never set required monitors, and ensure requirements do not burden consumers, BAR's regulations provide a safety



valve to all vehicles, and will continue to do so while increasing the stringency of readiness monitor limits in the program. If a vehicle is unable to set readiness monitors as required to pass a Smog Check inspection, the vehicle owner may visit the BAR Referee, wherein BAR will work with the vehicle's factory service team, under consultation with the California Air Resources Board (CARB), to determine whether there is an underlying problem with the vehicle design (in which case, the vehicle manufacturer would address the issue) or simply a vehicle malfunction. Historically, vehicles referred to the Referee through this process were usually addressed either by fixing a broken vehicle, or helping to educate repair technicians on the proper way to set required monitors when a vehicle's owner has driving patterns that differ from that of the average California driver whose vehicle is able to set required monitors (one example of an atypical driving pattern is if all trips are less than two miles, so the vehicle never fully warms up and is therefore not able to set the required monitors). BAR provides dispensation when issues prevent certain monitors from setting within a reasonable amount of time, and this will continue to be the case when these new regulations go into effect. This safety valve approach mitigates the "blanket" concern raised by the commenter by ensuring that motorists have a relief mechanism in place to get their vehicles certified.

The commenter suggests that this proposal contradicts CARB's guidance related to the implementation of SAE J1979-2 specification (not specifically referenced in the comment, but it is the only thing to which this comment could be referring). Through J1979-2, CARB revised the OBD-II requirements and expanded the number of readiness monitors set by a vehicle to monitor the state of the vehicle's emission control systems.

The limits set forth in this proposal will apply equally to vehicles already making their way into California's vehicle fleet starting in model year 2025. If a vehicle is unable to set readiness monitors as required to pass a Smog Check inspection, the vehicle owner may visit the BAR Referee, wherein BAR will work with the vehicle's factory service team, under consultation with CARB, to determine whether there is an underlying problem with the vehicle design (in which case, the vehicle manufacturer would address the issue) or simply a vehicle malfunction. Historically, vehicles referred to the Referee through this process were usually addressed either by fixing a broken vehicle, or helping to educate repair technicians on the proper way to set required monitors when a vehicle's owner has driving patterns that differ from that of the average California driver whose vehicle is able to set required monitors (one example of an atypical driving pattern is if all trips are less than two miles, so the vehicle never fully warms up and is therefore not able to set the required monitors). BAR provides dispensation when issues prevent certain monitors from setting within a reasonable amount of time, and this will continue to be the case when these new regulations go into effect. It should be noted that the early J1979-2 2025 model year vehicles already being inspected through Smog Check are not yet required to meet any of the OBD-II requirements. Additionally, with respect to applying leniency to vehicles with potential design-related issues, BAR has

always exercised, and will continue to exercise, leniency to ensure that motorists are not adversely impacted.

Existing regulations allow vehicles to pass Smog Check inspections before these self-diagnostic tests are complete and with defects that need repair to prevent excess emissions. This often saddles downstream vehicle purchasers with unforeseen and costly repairs that they reasonably would have expected to be identified during the legally required change-of-ownership Smog Check inspection. The proposed regulatory changes are required to decrease (or at least prevent increased) pollution by ensuring that vehicles that can support tighter monitor readiness standards are functioning properly and protect consumers from unknowingly purchasing vehicles that should not have passed their smog inspections and are still in need of repair.

The comment related to the length of the new vehicle biennial Smog Check exemption being longer than the warranty period of the vehicles is potentially valid, however it applies to Smog Checks in general and is beyond the scope of this regulatory proposal, in addition to the new vehicle exemption being established in statute. If the commenter feels strongly about this issue, they should consider petitioning the legislature to shorten the new vehicle biennial Smog Check exemption.

Ultimately, BAR has no intention of tightening monitor readiness limits beyond what properly functioning vehicles are designed for and capable of meeting, and this regulatory proposal was designed specifically with that in mind.