

**DEPARTMENT OF CONSUMER AFFAIRS  
Title 16. BUREAU OF AUTOMOTIVE REPAIR  
DIVISION 33.  
BUREAU OF AUTOMOTIVE REPAIR**

**NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:  
Readiness Monitor Limits**

**NOTICE IS HEREBY GIVEN** that the Bureau of Automotive Repair (Bureau) is proposing to take the rulemaking action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

**PUBLIC HEARING**

The Bureau has not scheduled a public hearing on this proposed action. However, 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. A hearing may be requested by making such request in writing addressed to the individuals listed under “Contact Person” in this notice.

**WRITTEN COMMENT PERIOD**

Written comments relevant to the action proposed, including those sent by mail, facsimile, or e-mail to the addresses listed under “Contact Person” in this Notice, must be received by the Bureau at its office no later than **by Monday, December 16, 2024**, or must be received by the Bureau at the hearing, should one be scheduled.

**AUTHORITY AND REFERENCE**

Pursuant to the authority vested by Business and Professions Code (BPC) section 9882 and Health and Safety Code (HSC) sections 44001.5, 44002, 44003, 44013, and 44036, and to implement, interpret, and make specific BPC sections 9884.8 and 9884.9 and HSC sections 39032.5, 44002, 44003, 44005, 44010, 44011, 44013, 44014, 44015, 44032, 44033, 44036, 44037.1 and 44062.1, the Bureau is proposing to adopt the following changes to California Code of Regulations Title 16, Division 33, Chapter 1, Article 5.5.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The Department of Consumer Affairs, Bureau of Automotive Repair (BAR or Bureau) is the state agency 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 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.

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 OF THE PROPOSED REGULATION**

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.

### **Evaluation of Consistency and Compatibility with Existing State Regulations**

During the process of developing this regulatory proposal, BAR has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

### **DISCLOSURES REGARDING THE PROPOSED ACTION**

#### **FISCAL IMPACT ESTIMATES**

The Bureau has made the following determinations:

#### **Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:**

The regulations do not result in a fiscal impact to the state.

The Bureau anticipates the implementation, administration, and enforcement of the proposed regulatory changes will have no fiscal impact.

There is no fiscal impact to the State in the form of federal funding or any cost or savings to any state agency. This proposal will prevent vehicles from passing smog checks with not-complete readiness monitors, which will help reduce pollution. The Bureau does not anticipate additional workload or costs resulting from the proposed regulations.

**Nondiscretionary Costs/Savings to Local Agencies:** None.

**Cost to Any Local Agency or School District for Which Government Code Sections 17500 – 17630 Require Reimbursement:** None.

**Mandate Imposed on Local Agencies or School Districts:** None.

**Significant Effect on Housing Costs:** None.

**BUSINESS IMPACT ESTIMATES:**

BAR made the initial determination that the proposed regulations will have no 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.

Cost Impact on Representative Private Person or Business:

The Bureau is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

BAR 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.

**Business Reporting Requirements**

The regulatory action does not require businesses to file a report with the Bureau.

**EFFECT ON SMALL BUSINESS**

The Bureau has determined that the proposed regulations will not affect small businesses. Although small businesses owned by licensees of the Bureau may be impacted the Bureau does not maintain data relating to the number or percentage of licensees who own a small business; therefore, the number or percentage of small businesses that may be impacted cannot be predicted.

### **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5(a)(13), BAR must determine that no reasonable alternative to this proposed regulatory action it considered, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may submit comments to the Bureau in writing relevant to the above determinations at 10949 North Mather Boulevard, Rancho Cordova, California 95670 during the written comment period, or at the hearing if one is scheduled or requested.

### **AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE**

The Bureau has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

### **TEXT OF PROPOSAL**

Copies of the exact language of the proposed regulations, any document incorporated by reference, the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Bureau of Automotive Repair, 10949 North Mather Boulevard, Rancho Cordova, California 95670.

### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After considering all timely and relevant comments, the Bureau, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those

persons who submit written comments or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

### **AVAILABILITY AND LOCATION OF THE RULEMAKING FILE AND THE FINAL STATEMENT OF REASONS**

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the person named below.

You may obtain a copy of the Final Statement of Reasons, once it has been prepared, by making a written request to the contact person named below, or by accessing the website listed below.

### **CONTACT PERSON**

Inquiries or comments concerning the proposed administrative action may be addressed to:

Holly Helsing  
Bureau of Automotive Repair  
10949 North Mather Blvd.  
Rancho Cordova, CA 95670  
Telephone: (916) 403-8600  
E-mail: [Holly.Helsing@dca.ca.gov](mailto:Holly.Helsing@dca.ca.gov)

The backup contact person is:

Kayla Shelton  
Bureau of Automotive Repair  
10949 North Mather Blvd.  
Rancho Cordova, CA 95670  
Telephone: (916) 403-8600  
E-mail: [Kayla.Shelton@dca.ca.gov](mailto:Kayla.Shelton@dca.ca.gov)

### **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications noted, as well as the Final Statement of Reasons when completed, and modified text ,if any, can be accessed through the [Board/Bureau/Commission/Committee's] website at [https://www.bar.ca.gov/About BAR/Regulatory Actions.aspx](https://www.bar.ca.gov/About%20BAR/Regulatory%20Actions.aspx).