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8
9 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
11 **STATE OF CALIFORNIA**

12
13 In the Matter of the Accusation Against:

Case No. 79/21-6742

14 **SERGIO RODAS RODRIGUEZ, OWNER,**
15 **DOING BUSINESS AS 2020 SMOG**
16 **CHECK**

8429 S. Figueroa St.
Los Angeles, CA 90003

17 Automotive Repair Dealer Registration
No. ARD 296781
18 Smog Check, Test Only, Station License
No. TC 296781,

19 and

20 **CELIA MARIA RAMIREZ CORTEZ**

807 E. 95th Street
Los Angeles, CA 90002

22 Smog Check Inspector License No. EO 636510

23
24 Respondents.

ACCUSATION

25 **PARTIES**

26
27 1. Patrick Dorais (“Complainant”) brings this Accusation solely in his official capacity
28 as the Chief of the Bureau of Automotive Repair (“Bureau”), Department of Consumer Affairs.

1 ***Sergio Rodas Rodriguez, Owner, doing business as 2020 Smog Check***

2 2. On or about February 26, 2020, the Bureau issued Automotive Repair Dealer
3 Registration (“ARD”) Number ARD 296781 to Respondent Sergio Rodas Rodriguez, Owner,
4 doing business as 2020 Smog Check (Respondent Rodriguez”). The ARD was in full force and
5 effect at all times relevant to the charges brought herein and will expire on February 28, 2022,
6 unless renewed.

7 3. On or about March 19, 2020, the Bureau issued Smog Check, Test Only, Station
8 License Number TC 296781 to Respondent Rodriguez. The Smog Check, Test Only, Station
9 License was in full force and effect at all times relevant to the charges brought herein and will
10 expire on February 28, 2022, unless renewed.

11 4. On or about July 31, 2020, the Bureau certified Respondent as a STAR certified
12 station. The certification will remain active unless the ARD registration and/or Smog Check
13 Station license is revoked, canceled, licenses become delinquent, or certification is invalidated.

14 ***Celia Maria Ramirez Cortez.***

15 5. On or about January 30, 2014, the Bureau issued Smog Check Inspector License
16 Number EO 636510 to Respondent Celia Maria Ramirez Cortez (“Respondent Cortez”).¹ The
17 Smog Check Inspector License was in full force and effect at all times relevant to the charges
18 brought herein and will expire on March 31, 2022, unless renewed.

19 **JURISDICTION**

20 6. This Accusation is brought before the Director of the Department of Consumer
21 Affairs (“Director”) for the Bureau, under the authority of the following laws.

22 7. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
23 surrender, or cancellation of a license shall not deprive the Bureau or Director of jurisdiction to
24 proceed with a disciplinary action during the period within which the license may be renewed,
25 restored, reissued or reinstated.

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¹ Respondent Rodriguez and Respondent Cortez are referred to collectively as “Respondents”
herein.

1 (4) Any other conduct which constitutes fraud.

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3 (6) Failure in any material respect to comply with the provisions of this chapter
4 or regulations adopted pursuant to it.

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6 (c) Notwithstanding subdivision (b), the director may suspend, revoke, or place
7 on probation the registration for all places of business operated in this state by an
8 automotive repair dealer upon a finding that the automotive repair dealer has, or is,
9 engaged in a course of repeated and willful violations of this chapter, or regulations
10 adopted pursuant to it.

11 14. Health and Safety Code section 44012 provides, in pertinent part, that tests at smog
12 check stations shall be performed in accordance with procedures prescribed by the department.

13 15. Health and Safety Code section 44015, subdivision (b), provides that a certificate
14 of compliance shall be issued if a vehicle meets the requirements of Health and Safety Code section
15 44012.

16 16. Section 44032 of the Health and Safety Code states:

17 No person shall perform, for compensation, tests or repairs of emission control
18 devices or systems of motor vehicles required by this chapter unless the person
19 performing the test or repair is a qualified smog check technician and the test or
20 repair is performed at a licensed smog check station. Qualified technicians shall
21 perform tests of emission control devices and systems in accordance with Section
22 44012.

23 17. Section 44072.2 of the Health and Safety Code states:

24 The director may suspend, revoke, or take other disciplinary action against a
25 license as provided in this article if the licensee, or any partner, officer, or director
26 thereof, does any of the following:

27 (a) Violates any section of this chapter [the Motor Vehicle Inspection Program
28 (Health and Saf. Code, “ 44000, et seq.)] and the regulations adopted pursuant to it,
which related to the licensed activities.

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30 (c) Violates any of the regulations adopted by the director pursuant to this
31 chapter.

32 (d) Commits any act involving dishonesty, fraud, or deceit whereby another is
33 injured.

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35 (h) Violates or attempts to violate the provisions of this chapter relating to the
36 particular activity for which he or she is licensed.

1 18. Health and Safety Code section 44072.10 states, in pertinent part:

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3 (c) The department shall revoke the license of any smog check
4 technician or station licensee who fraudulently certifies vehicles or
5 participates in the fraudulent inspection of vehicles. A fraudulent
6 inspection includes, but is not limited to, all of the following:

7 (1) Clean piping, as defined by the department

8 (2) Tampering with a vehicle emission control system
9 or test analyzer system.

10 (3) Tampering with a vehicle in a manner that would
11 cause the vehicle to falsely pass or falsely fail an
12 inspection.

13 (4) Intentional or willful violation of this chapter or
14 any regulation, standard, or procedure of the department
15 implementing this chapter

16 **REGULATORY PROVISIONS**

17 19. California Code of Regulations, title 16, section 3340.24, states:

18 (a) Any disciplinary or reinstatement proceeding under this article involving
19 licensed stations, licensed technicians, or fleet owners licensed pursuant to section
20 44020 of the Health and Safety Code shall be conducted in accordance with chapter 5
21 (commencing with section 11500) of division 3, Title 2 of the Government Code.

22

23 (c) The bureau may suspend or revoke the license of or pursue other legal
24 action against a licensee, if the licensee falsely or fraudulently issues or obtains a
25 certificate of compliance or a certificate of noncompliance.

26

27 20. California Code of Regulations, title 16, section 3340.30, states:

28 A smog check technician shall comply with the following requirements at all
times while licensed.

(a) A licensed technician shall inspect, test and repair vehicles in accordance
with section 44012 of the Health and Safety Code, section 44035 of the Health and
Safety Code, and section 3340.42 of this article.

. . . .

1 21. California Code of Regulations, title 16, section 3340.35, states:

2

3 (c) A licensed station shall issue a certificate of compliance or noncompliance
4 to the owner or operator of any vehicle that has been inspected in accordance with the
5 procedures specified in section 3340.42 of this article and has all the required
6 emission control equipment and devices installed and functioning correctly. The
7 following conditions shall apply:

8

9 22. California Code of Regulations, title 16, section 3340.41, states:

10

11 (c) No person shall enter into the emissions inspection system any vehicle
12 identification information or emission control system identification data for any
13 vehicle other than the one being tested. Nor shall any person knowingly enter into the
14 emissions inspection system any false information about the vehicle being tested.

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16 23. California Code of Regulations, title 16, section 3340.42, sets forth specific emissions
17 test methods and procedures which apply to all vehicles inspected in the State of California.

18 24. California Code of Regulations, title 16, section 3340.45, states:

19 (a) All Smog Check inspections shall be performed in accordance
20 with requirements and procedures prescribed in the following:

21

22 (2) Smog Check Manual, dated November 2, 2017, which
23 is hereby incorporated by reference. This manual shall
24 become effective on August 2, 2018.

25 25. California Code of Regulations, title 16, section 3373, states:

26 No automotive repair dealer or individual in charge shall, in filling
27 out an estimate, invoice, or work order, or record required to be
28 maintained by section 3340.15(e) of this chapter, withhold
therefrom or insert therein any statement or information which will
cause any such document to be false or misleading, or where the
tendency or effect thereby would be to mislead or deceive
customers, prospective customers, or the public.

COST RECOVERY

26 26. Section 125.3 of the Code provides, in pertinent part, that a Board may request the
27 administrative law judge to direct a licentiate found to have committed a violation or violations of
28

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **CALIFORNIA SMOG CHECK INSPECTION PROGRAM**

4 27. California's Smog Check Program requires the owners of most motor vehicles in
5 the State to subject their vehicles to and pass a Smog Check inspection and receive a Certificate
6 of Compliance every two years when renewing their registration and when the vehicle's title is
7 transferred. These inspections are performed by Smog Check inspectors at Smog Check
8 Stations, both of which are licensed by the Bureau. The Smog Check Program is designed and
9 intended to reduce air pollution by identifying and requiring the repair of polluting motor
10 vehicles.

11 28. A smog check inspection of a pre-2000 model year vehicle includes three
12 portions: tailpipe, visual, and functional tests. A vehicle must pass all three portions to pass the
13 overall inspection and receive a Certificate of Compliance. The Certification of Compliance is
14 then transmitted electronically to the Vehicle Information Database (“VID”).

15 29. The tailpipe inspection measures levels of hydrocarbons, carbon monoxide,
16 oxides of nitrogen, carbon dioxide, and oxygen emitted by a vehicle.

17 a. Pre-2000 model year vehicles registered in certain Enhanced Areas² must
18 undergo an Acceleration Simulation Mode (“ASM”) inspection using an Emission Inspection
19 System (“EIS”), also known as the BAR-97. The BAR-97 is a computer-based, five-gas
20 analyzer that measures hydrocarbons, carbon monoxide, nitrogen oxide, carbon dioxide, and
21 oxygen. During the ASM inspection, a vehicle undergoes a loaded mode test on a dynamometer.
22 The vehicle’s drive wheels are placed on rollers and the vehicle is driven at speeds of 15 and 25
23 miles per hour to simulate driving conditions while the emissions are sampled by the EIS. Mode
24 1 begins when the vehicle speed stabilizes at 15 miles per hour, and Mode 2 begins when the
25 vehicle speed stabilizes at 25 miles per hour.

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28 ² Enhanced Areas do not meet federal or state air quality standards for ozone and carbon monoxide. Vehicles in Enhanced Areas are required to pass biennial smog check inspections.

1 b. Pre-2000 model year vehicles registered in Basic Areas and vehicles that
2 are incompatible with the ASM inspection must undergo a Two Speed Idle (“TSI”) inspection.
3 Rather than applying a load to the vehicle's drive wheels with a dynamometer, the EIS measures
4 the emissions of hydrocarbons, carbon monoxide, carbon dioxide, and oxygen at two test
5 sequences — 2500 revolutions per minute and idle.

6 30. During the visual inspection, the technician must inspect emission control
7 components to verify that they are present and properly connected.

8 31. The functional test, depending on the vehicle, may include checking the ignition
9 timing, malfunction indicator light, and Exhaust Gas Recirculation system, as well as conducting
10 a low-pressure test of the evaporative emissions controls, a visible smoke test, and a pressure test
11 of the fuel cap. An On-Board Diagnostics (“OBD II”) functional test is also performed on most
12 1996 to 1999 model year vehicles. The OBD II system monitors the vehicle’s emission control
13 system performance and includes self-diagnostic and reporting functions. During an OBD II
14 functional test, the technician connects a test cable from EIS to the vehicle’s Diagnostic Link
15 Connector. Through the Diagnostic Link Connector, the EIS retrieves information from the
16 vehicle's on-board computer about its ability to communicate, the status of the readiness
17 monitors and the malfunction indicator light command, as well as diagnostic trouble codes. The
18 readiness monitors indicate whether the OBD II system has run a sufficient number of self-tests
19 on the vehicle’s emission and engine control systems. A failure of one or more of the OBD II
20 functional criteria, depending on model year of the vehicle, will result in the vehicle failing its
21 smog check inspection. In addition to reporting the outcome of the OBD II functional test, the
22 smog check inspection results also show diagnostic trouble codes if there are any in the vehicle's
23 on-board computer memory.

24 32. The technician must enter the results of the visual and functional inspections into
25 the EIS. The EIS determines whether the vehicle passed the inspection based on the results of
26 the tailpipe, visual, and functional tests. A vehicle must pass all three parts to pass the overall
27 inspection and receive a Certificate of Compliance. The EIS generates a Vehicle Inspection
28 Report (“VIR”), which includes the test results and the Certificate of Compliance number issued

1 to a passing vehicle. An electronic copy of the VIR is transmitted to the VID.³ A physical copy
2 is printed, which the technician must sign under penalty of perjury, indicating that the inspection
3 was performed in accordance with Bureau guidelines.

4 CLEAN GASSING

5 33. The Bureau has become aware of methods some Smog Check stations and Smog
6 Check inspectors use to fraudulently issue smog certificates to vehicles that will not pass a Smog
7 Check test on their own, or in some instances, are not even present during the time the test is
8 performed.

9 34. “Clean gassing” is a method by which surrogate gases are introduced into a Smog
10 Check analyzer, or EIS, in order to dilute the exhaust of pollution-causing emissions. This alters
11 the vehicle exhaust samples and causes the EIS to issue a passing test result based on a fraudulent
12 reading of exhaust emissions rather than the actual vehicle emissions. Unlike clean piping or clean
13 plugging, where another car is substituted for the failing car, another car is not involved in clean
14 gassing.

15 35. On or around May 27 through June 4, 2021, a Bureau Representative and a
16 Bureau Air Quality conducted a detailed review of second-by-second⁴ data for smog check
17 inspections performed at Respondent Rodriguez’ station and found that they revealed a pattern of
18 readings consistent with clean gassing. The Bureau Representative and Air Quality Engineer
19 identified the allowable emission levels or “cutpoints” for Mode 1 and Mode 2 of the ASM
20 inspection of a particular vehicle. The cutpoints were then compared to second-by-second data
21 obtained from inspection data from Respondent Rodriguez’ station. Based on discrepancies in
22 the second-by-second test data, the Bureau Representative and Bureau Air Quality Engineer

23 ³ The VID contains data from the DMV, emission standards, smog check inspections, smog check
24 stations and technicians, and Certificates of Compliance. The VID receives passing smog check
25 results immediately following the inspection. During the vehicle registration process, the DMV
26 accesses the VID to verify that the vehicle has been tested and certified. The Bureau can also
27 access the VID to view test data on smog check inspections performed at any smog check station,
28 or search for, retrieve, and print a test record for a particular vehicle that has been tested.

⁴ Second-by-second data refers to vehicle emissions and speed data recorded on a second-by-second basis throughout the smog check ASM tests.

1 determined that ten (10) pre-2000 model year vehicles⁵ received fraudulent Smog Check
2 Certificates of Compliance by way of clean gassing.

3 36. The tailpipe portion of the inspections for all ten vehicles were performed using
4 the BAR 97-ASM test at two loaded mode sequences of 15 and 25 miles per hour. All ten
5 vehicles failed the first inspection for failing at least the tailpipe portion of the inspection. Most
6 vehicles underwent their second inspection at Respondent Rodriguez' station within days after
7 their failing first inspection. All ten vehicles passed the tailpipe portion of their second
8 inspections and were issued fraudulent electronic Smog Check Certificates of Compliance. All
9 ten inspections, performed by way of clean gassing, were conducted by Respondent Cortez.

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28 ⁵ The Bureau's initial investigation consisted of 11 vehicles. For the purposes of Complainant's
Accusation, vehicle 2 (1989 Toyota Pickup) has been omitted.

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a. Vehicle 1: 1992 Mitsubishi 3000 GT

37. On August 11, 2020, at 11:01:41 a.m., a 1996 Ford Aerostar (CA License #8W81630; VIN 1FTDA14U5TZB25674) was inspected by Respondent Cortez at Respondent Rodriguez' station. The vehicle passed the inspection and Respondent Rodriguez issued Certificate of Compliance No. RM730362C.

38. Second-by-second data shows the emission readings are inconsistent with a legitimate smog check inspection. A Bureau Representative identified two or more sharp, simultaneous drops and at least one sharp, simultaneous rise in the concentrations of hydrocarbons ("HC"), carbon monoxide ("CO"), and/or nitrogen oxides ("NO_x):

- i. At 39 seconds, during a period of continued steady-state vehicle speed, levels of HC, CO, and NO_x began to drop. At 55 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior levels.
- ii. At 83 seconds, levels of HC, CO, and NO_x began to drop sharply again. At 100 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior levels.

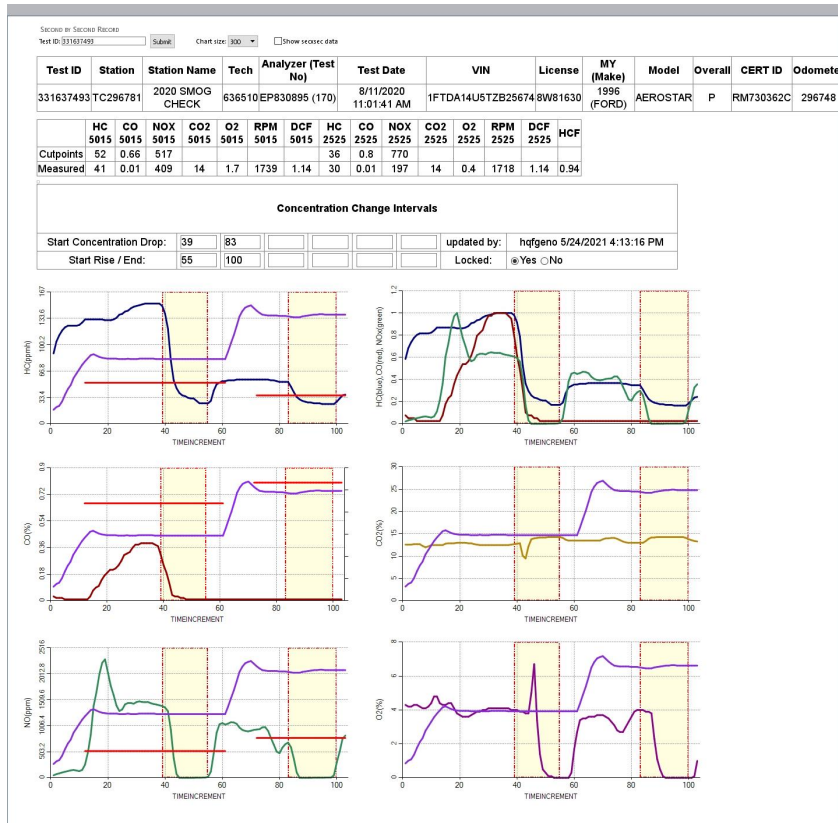
39. Clean gassing is the only plausible explanation for this testing pattern.

40. The Bureau Representative found that the same vehicle was tested by Respondent Cortez at Respondent Rodriguez' station just four days prior on August 7, 2020. This vehicle failed the previous inspection. Second-by-second data from the previous inspection shows that levels of HC, CO, and NO_x exceeded the cutpoints during both loaded mode sequences of the ASM test.

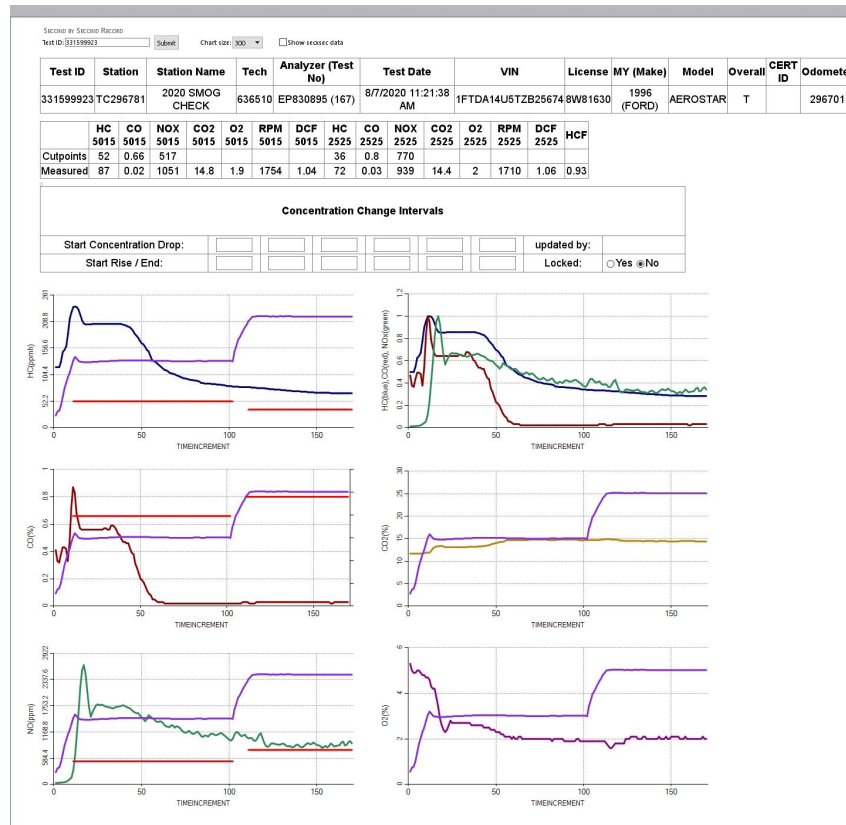
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41. The following is a summary of the passing test on August 11, 2020:



42. The following is a summary of the failing test on August 7, 2020:



1 **b. Vehicle 2: 1997 Chevrolet S10 Pickup**

2 43. On August 21, 2020, at 4:11:35 p.m., a 1997 Chevrolet S10 Pickup (CA License #
3 8D92132; VIN 1GCCS19XXVK248149) was inspected by Respondent Cortez at Respondent
4 Rodriguez' station. The vehicle passed the inspection and Respondent Rodriguez issued
5 Certificate of Compliance No. RM730382C.

6 44. Second-by-second data shows the emission readings are inconsistent with a
7 legitimate smog check inspection. A Bureau Representative identified two or more sharp,
8 simultaneous drops and at least one sharp, simultaneous rise in the concentrations of HC, CO,
9 and/or NO_x:

- 10 i. At 30 seconds, during a period of continued steady-state vehicle speed, levels of
11 HC, CO, and NO_x began to drop. At 44 seconds, levels of HC, CO, and NO_x
12 began to simultaneously rise toward prior levels.
- 13 ii. At 55 seconds, levels of HC, CO, and NO_x began to drop sharply again. At 76
14 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior
15 levels.

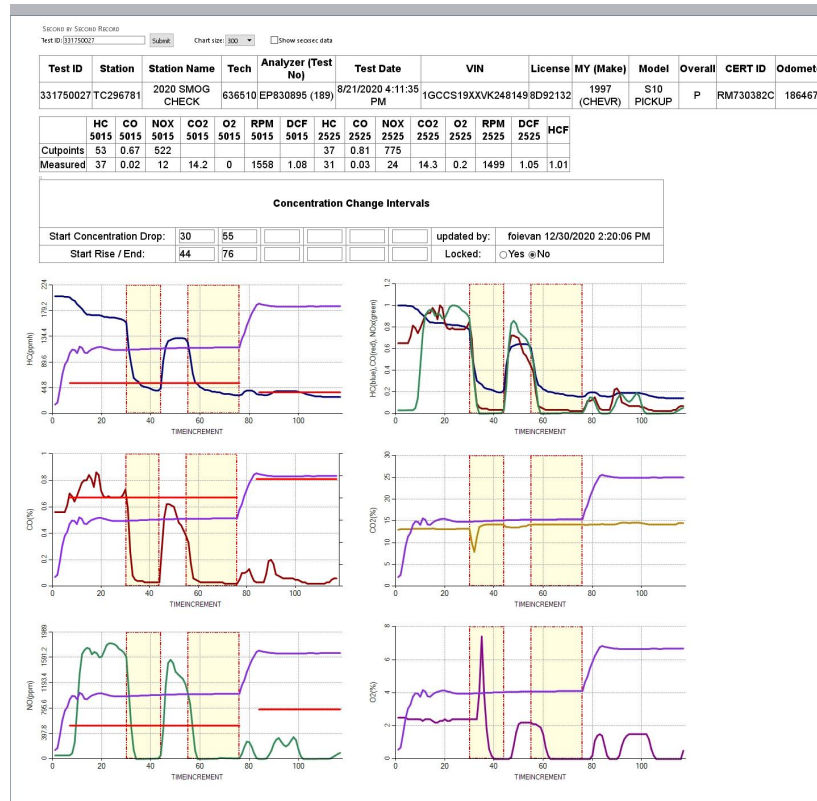
16 45. Clean gassing is the only plausible explanation for this testing pattern.

17 46. The Bureau Representative found that the same vehicle was tested by Respondent
18 Cortez at Respondent Rodriguez' station just three days prior on August 18, 2020. This vehicle
19 failed the previous inspection. Second-by-second data from the previous inspection shows that
20 levels of HC, CO, and NO_x exceeded the cutpoints during both loaded mode sequences of the
21 ASM test.

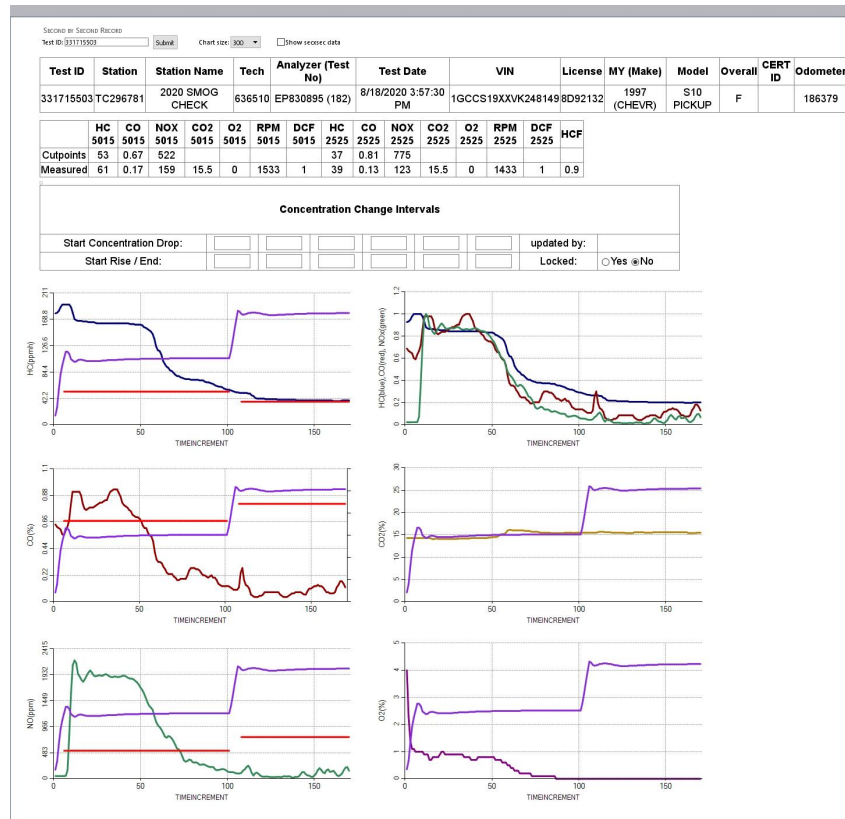
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47. The following is a summary of the passing test on August 21, 2020:



48. The following is a summary of the failing test on August 18, 2020:



1 **c. Vehicle 3: 1998 Ford E350**

2 49. On August 24, 2020, at 9:43:35 a.m., a 1998 Ford E350 (CA License # 8COZ658;
3 VIN 1FBSS31L3WHC09115) was inspected by Respondent Cortez at Respondent Rodriguez’
4 station. The vehicle passed the inspection and Respondent Rodriguez issued Certificate of
5 Compliance No. RM730386C.

6 50. Second-by-second data shows the emission readings are inconsistent with a
7 legitimate smog check inspection. A Bureau Representative identified two or more sharp,
8 simultaneous drops and at least one sharp, simultaneous rise in the concentrations of HC, CO,
9 and/or NO_x:

- 10 i. At 34 seconds, during a period of continued steady-state vehicle speed, levels of
11 HC, CO, and NO_x began to drop. At 51 seconds, levels of HC, CO, and NO_x
12 began to simultaneously rise toward prior levels.
- 13 ii. At 72 seconds, levels of HC, CO, and NO_x began to drop sharply again. At 87
14 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior
15 levels.

16 51. Clean gassing is the only plausible explanation for this testing pattern.

17 52. The Bureau Representative found that the same vehicle was tested by Respondent
18 Cortez at Respondent Rodriguez’ station just three days prior on August 21, 2020. This vehicle
19 failed the previous inspection. Second-by-second data from the previous inspection shows that
20 levels of HC, CO, and NO_x exceeded the cutpoints during both loaded mode sequences of the
21 ASM test. This vehicle failed as a “gross polluter.”⁶

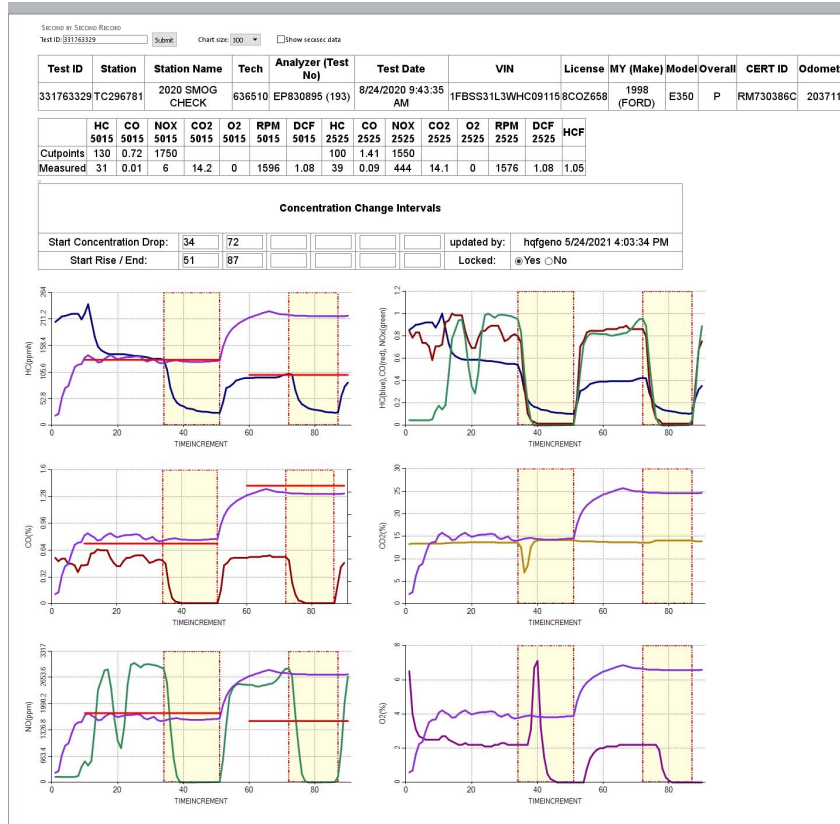
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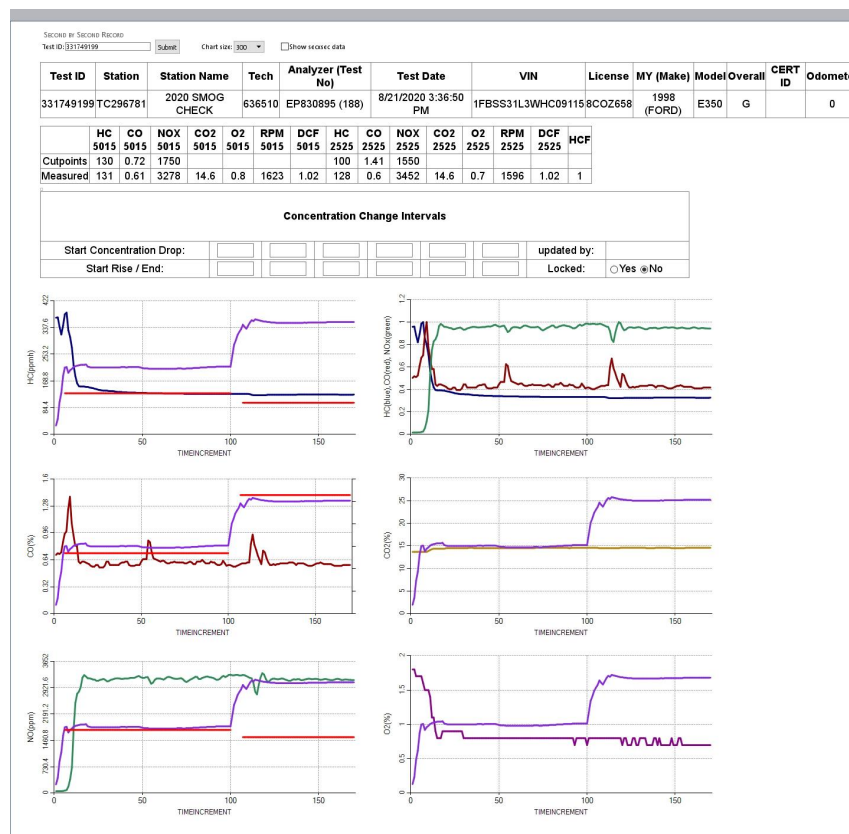
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⁶ A “gross polluter” is a vehicle that is a significant source of smog emissions by exceeding one or more of the emissions standards by at least twice the standard.

53. The following is a summary of the passing test on August 24, 2020:



54. The following is a summary of the failing test on August 21, 2020:



1 **d. Vehicle 4: 1997 Toyota T100**

2 55. On September 21, 2020, at 3:54:14 p.m., a 1997 Toyota T100 (CA License #
3 5L46807; VIN JT4TN14D7V0029696) was inspected by Respondent Cortez at Respondent
4 Rodriguez' station. The vehicle passed the inspection and Respondent Rodriguez issued
5 Certificate of Compliance No. RQ086316C.

6 56. Second-by-second data shows the emission readings are inconsistent with a
7 legitimate smog check inspection. A Bureau Representative identified two or more sharp,
8 simultaneous drops and at least one sharp, simultaneous rise in the concentrations of HC, CO,
9 and/or NO_x:

- 10 i. At 32 seconds, during a period of continued steady-state vehicle speed, levels of
11 HC, CO, and NO_x began to drop. At 51 seconds, levels of HC, CO, and NO_x
12 began to simultaneously rise toward prior levels.
- 13 ii. At 54 seconds, levels of HC, CO, and NO_x began to drop sharply again. At 63
14 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior
15 levels.
- 16 iii. At 78 seconds, levels of HC, CO, and NO_x began to drop sharply again. At 99
17 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior
18 levels.

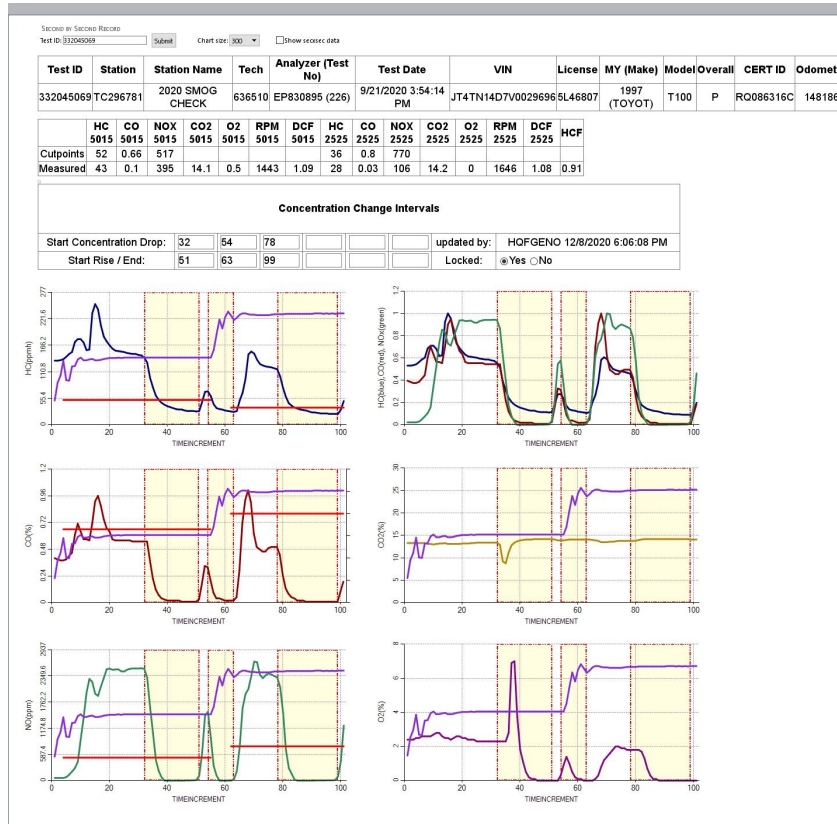
19 57. Clean gassing is the only plausible explanation for this testing pattern.

20 58. The Bureau Representative found that the same vehicle was tested by Respondent
21 Cortez at Respondent Rodriguez' station just ten days prior on September 11, 2020. This vehicle
22 failed the previous inspection. Second-by-second data from the previous inspection shows that
23 levels of HC, CO, and NO_x exceeded the cutpoints during both loaded mode sequences of the
24 ASM test. This vehicle failed as a "gross polluter."

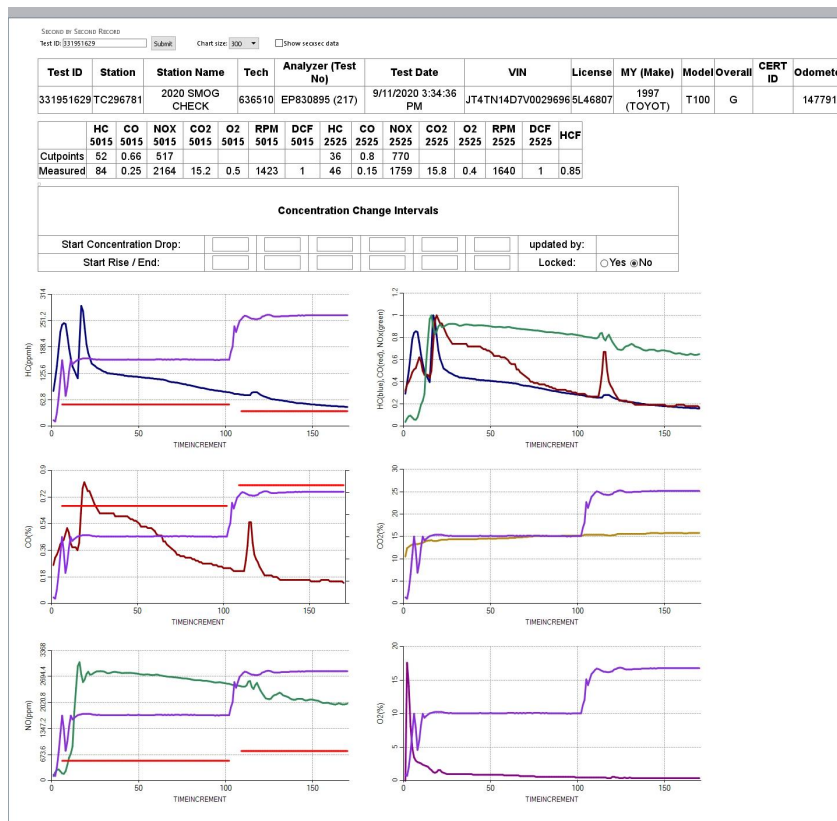
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59. The following is a summary of the passing test on September 21, 2020:



60. The following is a summary of the failing test on September 11, 2020:



1 **e. Vehicle 5: 1995 Toyota Tacoma 2WD**

2 61. On November 11, 2020, at 3:08:43 p.m., a 1995 Toyota Tacoma 2WD (CA
3 License # 7V12586; VIN 4TAUN53B7SZ039398) was inspected by Respondent Cortez at
4 Respondent Rodriguez' station. The vehicle passed the inspection and Respondent Rodriguez
5 issued Certificate of Compliance No. RS242042C.

6 62. Second-by-second data shows the emission readings are inconsistent with a
7 legitimate smog check inspection. A Bureau Representative identified two or more sharp,
8 simultaneous drops and at least one sharp, simultaneous rise in the concentrations of HC, CO,
9 and/or NO_x:

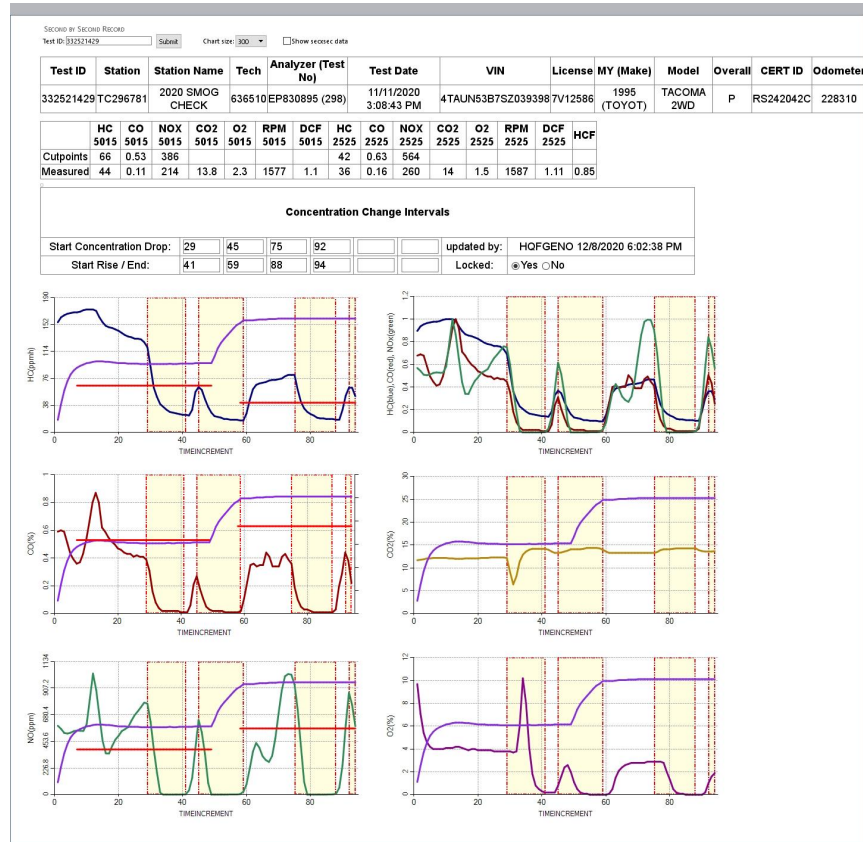
- 10 i. At 29 seconds, during a period of continued steady-state vehicle speed, levels of
11 HC, CO, and NO_x began to drop. At 41 seconds, levels of HC, CO, and NO_x
12 began to simultaneously rise toward prior levels.
- 13 ii. At 45 seconds, levels of HC, CO, and NO_x began to drop sharply again. At 59
14 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior
15 levels.
- 16 iii. At 75 seconds, levels of HC, CO, and NO_x began to drop sharply again. At 88
17 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior
18 levels.
- 19 iv. At 92 seconds, levels of HC, CO, and NO_x began to drop sharply again. At 94
20 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior
21 levels.

22 63. Clean gassing is the only plausible explanation for this testing pattern.

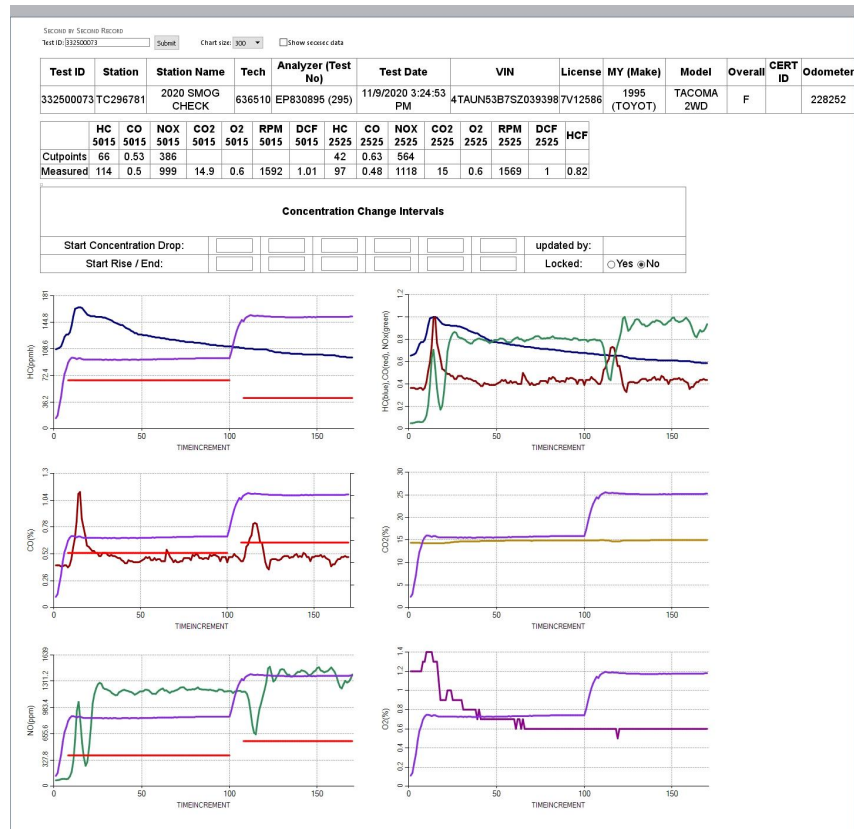
23 64. The Bureau Representative found that the same vehicle was tested by Respondent
24 Cortez at Respondent Rodriguez' station just two days prior on November 9, 2020. This vehicle
25 failed the previous inspection. Second-by-second data from the previous inspection shows that
26 levels of HC, CO, and NO_x exceeded the cutpoints during both loaded mode sequences of the
27 ASM test.

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65. The following is a summary of the passing test on November 11, 2020:



66. The following is a summary of the failing test on November 9, 2020:



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f. Vehicle 6: 1990 Toyota Pickup

67. On November 30, 2020, at 4:43:11 p.m., a 1990 Toyota Pickup (CA License # 98706G2; VIN JT4VN82N2L5002841) was inspected by Respondent Cortez at Respondent Rodriguez' station. The vehicle passed the inspection and Respondent Rodriguez issued Certificate of Compliance No. RS982613C.

68. Second-by-second data shows the emission readings are inconsistent with a legitimate smog check inspection. A Bureau Representative identified two or more sharp, simultaneous drops and at least one sharp, simultaneous rise in the concentrations of HC, CO, and/or NO_x:

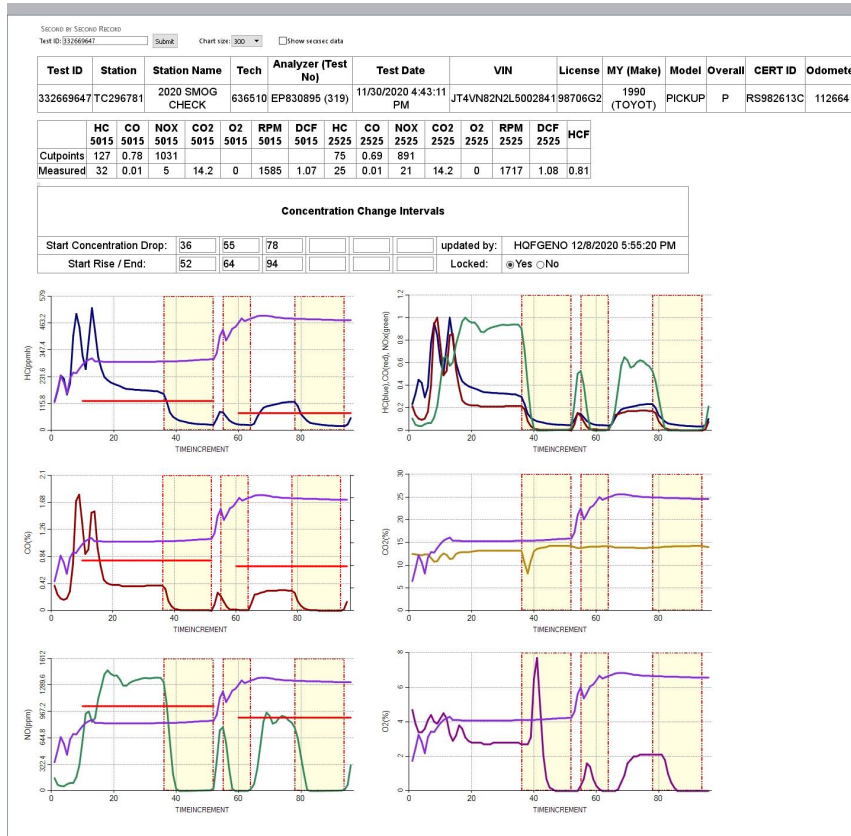
- i. At 36 seconds, during a period of continued steady-state vehicle speed, levels of HC, CO, and NO_x began to drop. At 52 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior levels.
- ii. At 55 seconds, levels of HC, CO, and NO_x began to drop sharply again. At 64 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior levels.
- iii. At 78 seconds, levels of HC, CO, and NO_x began to drop sharply again. At 94 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior levels.

69. Clean gassing is the only plausible explanation for this testing pattern.

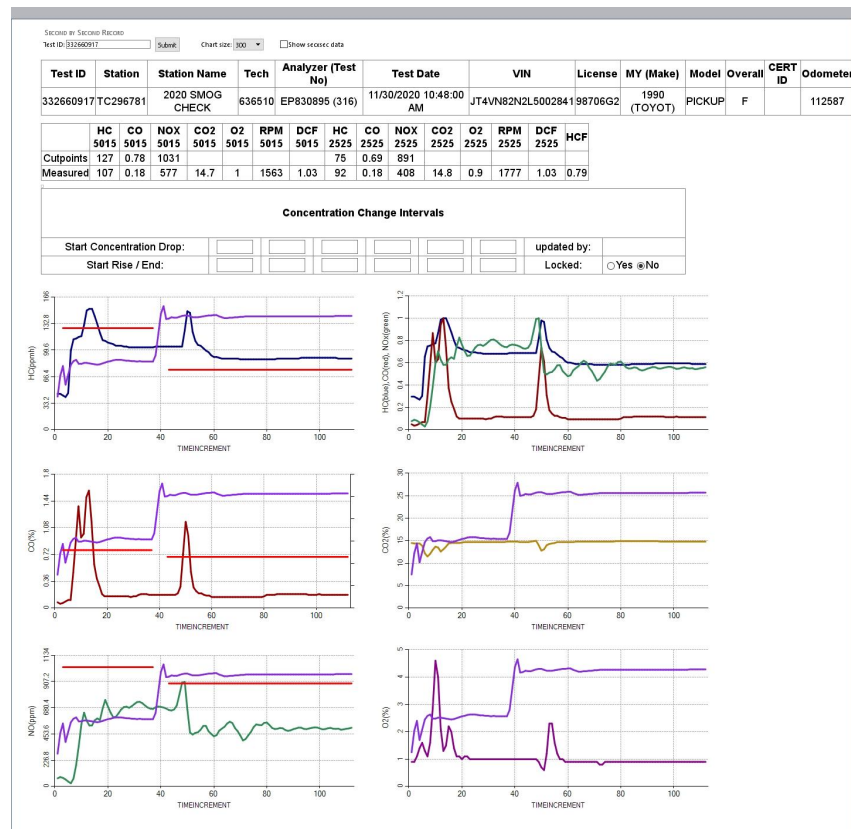
70. The Bureau Representative found that the same vehicle was tested by Respondent Cortez at Respondent Rodriguez' station the same day on November 30, 2020. This vehicle failed the previous inspection. Second-by-second data from the previous inspection shows that levels of HC, CO, and NO_x exceeded the cutpoints during both loaded mode sequences of the ASM test.

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71. The following is a summary of the passing test on November 30, 2020:



72. The following is a summary of the failing test on November 30, 2020:



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g. Vehicle 7: 1997 Honda Civic

73. On February 27, 2021, at 1:08:43 p.m., a 1997 Honda Civic (CA License # 6AHV788; VIN 2HGEJ6323VH111455) was inspected by Respondent Cortez at Respondent Rodriguez' station. The vehicle passed the inspection and Respondent Rodriguez issued Certificate of Compliance No. RW722082C.

74. Second-by-second data shows the emission readings are inconsistent with a legitimate smog check inspection. A Bureau Representative identified two or more sharp, simultaneous drops and at least one sharp, simultaneous rise in the concentrations of HC, CO, and/or NO_x:

- i. At 37 seconds, during a period of continued steady-state vehicle speed, levels of HC, CO, and NO_x began to drop. At 50 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior levels.
- ii. At 55 seconds, levels of HC, CO, and NO_x began to drop sharply again. At 70 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior levels.
- iii. At 85 seconds, levels of HC, CO, and NO_x began to drop sharply again. At 100 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior levels.

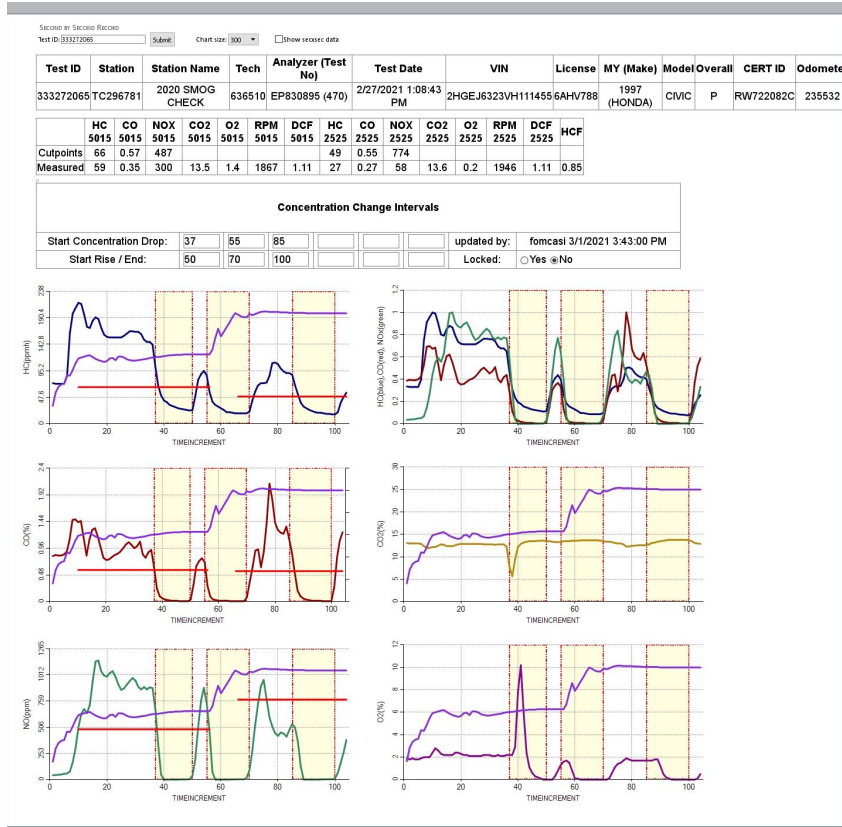
75. Clean gassing is the only plausible explanation for this testing pattern.

76. The Bureau Representative found that the same vehicle was tested by Respondent Cortez at Respondent Rodriguez' station just two days prior on February 25, 2021. This vehicle failed the previous inspection. Second-by-second data from the previous inspection shows that levels of HC, CO, and NO_x exceeded the cutpoints during both loaded mode sequences of the ASM test.

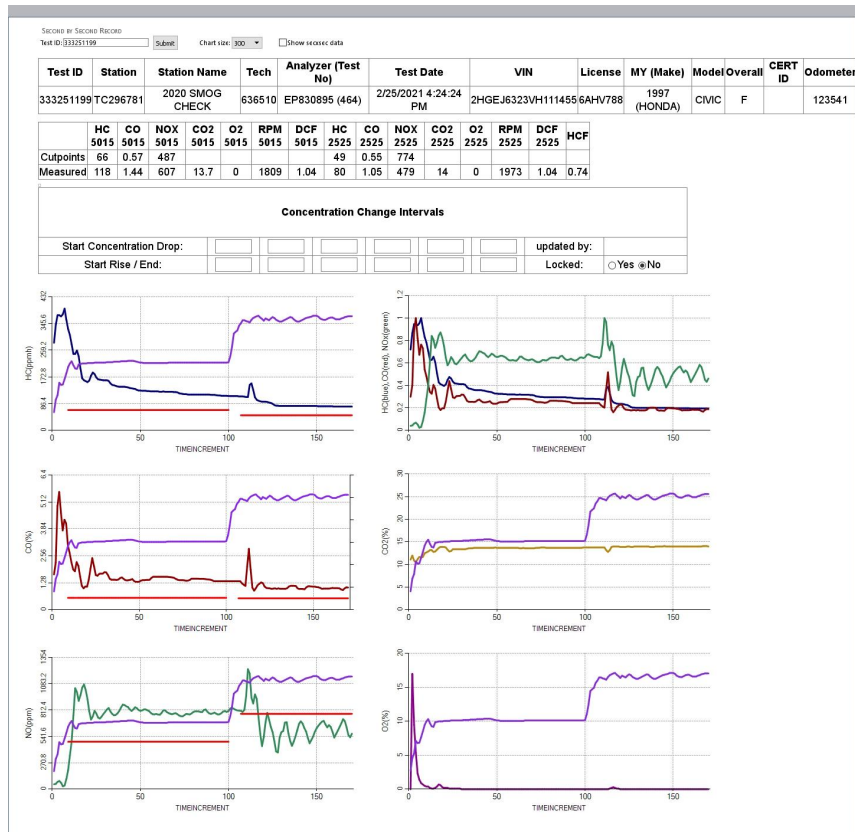
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77. The following is a summary of the passing test on February 27, 2021:



78. The following is a summary of the failing test on February 25, 2021:



1 **h. Vehicle 8: 1991 Mazda 626**

2 79. On March 31, 2021, at 11:44:18 a.m., a 1991 Mazda 626 (CA License #
3 2WCD385; VIN 1YVGD22B8M5117308) was inspected by Respondent Cortez at Respondent
4 Rodriguez' station. The vehicle passed the inspection and Respondent Rodriguez issued
5 Certificate of Compliance No. RY696808C.

6 80. Second-by-second data shows the emission readings are inconsistent with a
7 legitimate smog check inspection. A Bureau Representative identified two or more sharp,
8 simultaneous drops and at least one sharp, simultaneous rise in the concentrations of HC, CO,
9 and/or NO_x:

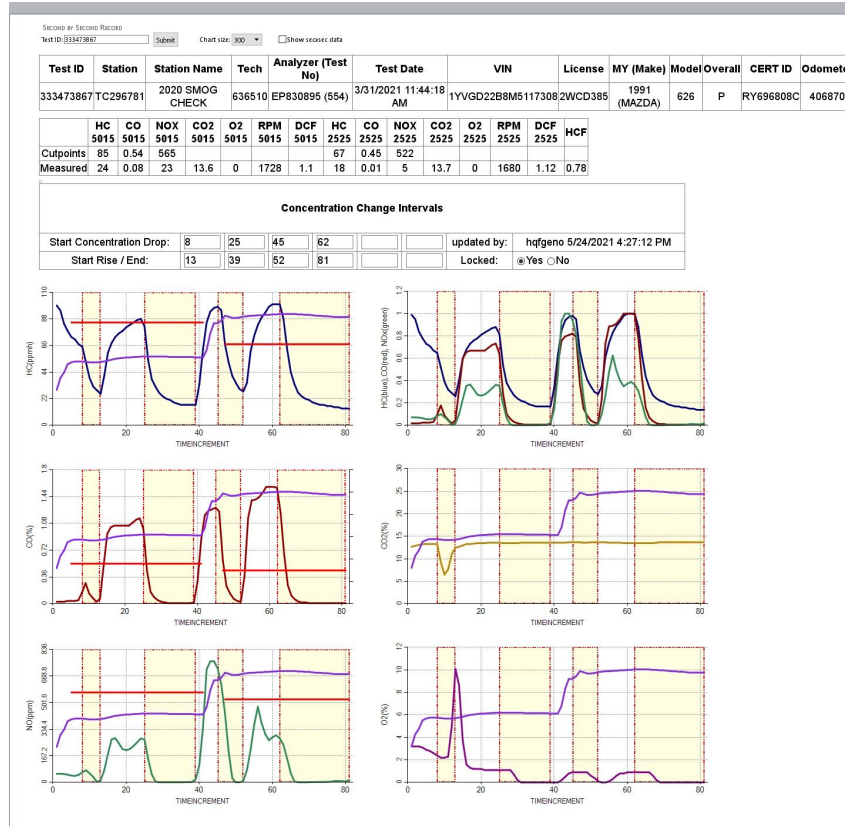
- 10 i. At 8 seconds, during a period of continued steady-state vehicle speed, levels of
11 HC, CO, and NO_x began to drop. At 13 seconds, levels of HC, CO, and NO_x
12 began to simultaneously rise toward prior levels.
- 13 ii. At 25 seconds, levels of HC, CO, and NO_x began to drop sharply again. At 39
14 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior
15 levels.
- 16 iii. At 45 seconds, levels of HC, CO, and NO_x began to drop sharply again. At 52
17 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior
18 levels.
- 19 iv. At 62 seconds, levels of HC, CO, and NO_x began to drop sharply again. At 81
20 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior
21 levels.

22 81. Clean gassing is the only plausible explanation for this testing pattern.

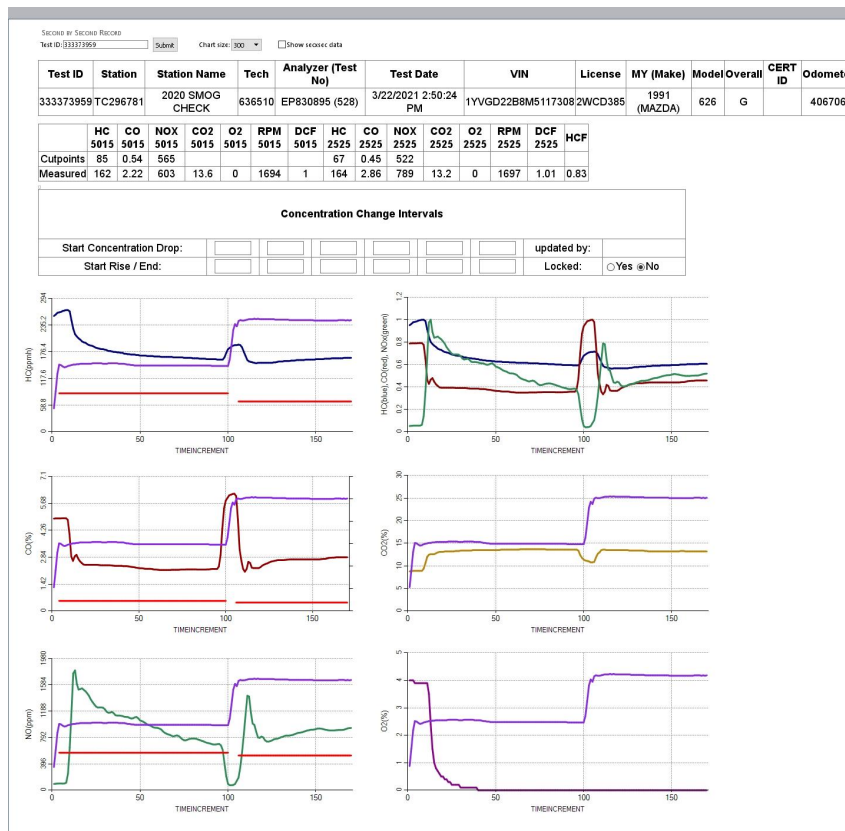
23 82. The Bureau Representative found that the same vehicle was tested by Respondent
24 Cortez at Respondent Rodriguez' station just nine days prior on March 22, 2021. This vehicle
25 failed the previous inspection. Second-by-second data from the previous inspection shows that
26 levels of HC, CO, and NO_x exceeded the cutpoints during both loaded mode sequences of the
27 ASM test. This vehicle failed as a "gross polluter."

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83. The following is a summary of the passing test on March 31, 2021:



84. The following is a summary of the failing test on March 22, 2021:



1 **i. Vehicle 9: 1997 Ford E150 Club Wagon**

2 85. On April 30, 2021, at 2:16:26 p.m., a 1997 Ford E150 Club Wagon (CA License #
3 6GWA433; VIN 1FMEE11L9VHB34032) was inspected by Respondent Cortez at Respondent
4 Rodriguez' station. The vehicle passed the inspection and Respondent Rodriguez issued
5 Certificate of Compliance No. SA470324C.

6 86. Second-by-second data shows the emission readings are inconsistent with a
7 legitimate smog check inspection. A Bureau Representative identified two or more sharp,
8 simultaneous drops and at least one sharp, simultaneous rise in the concentrations of HC, CO,
9 and/or NO_x:

- 10 i. At 32 seconds, during a period of continued steady-state vehicle speed, levels of
11 HC, CO, and NO_x began to drop. At 59 seconds, levels of HC, CO, and NO_x
12 began to simultaneously rise toward prior levels.
- 13 ii. At 71 seconds, levels of HC, CO, and NO_x began to drop sharply again. At 86
14 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior
15 levels.

16 87. Clean gassing is the only plausible explanation for this testing pattern.

17 88. The Bureau Representative found that the same vehicle was tested by another
18 technician at another station on February 11, 2021. This vehicle failed the previous inspection.
19 Second-by-second data from the previous inspection shows that levels of HC, CO, and NO_x
20 exceeded the cutpoints during both loaded mode sequences of the ASM test.

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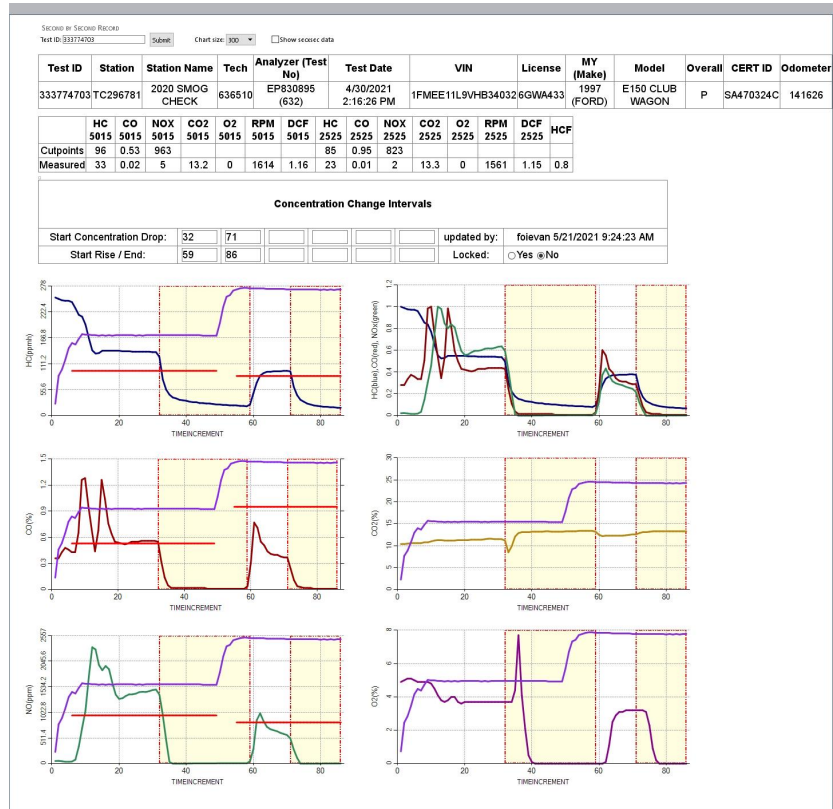
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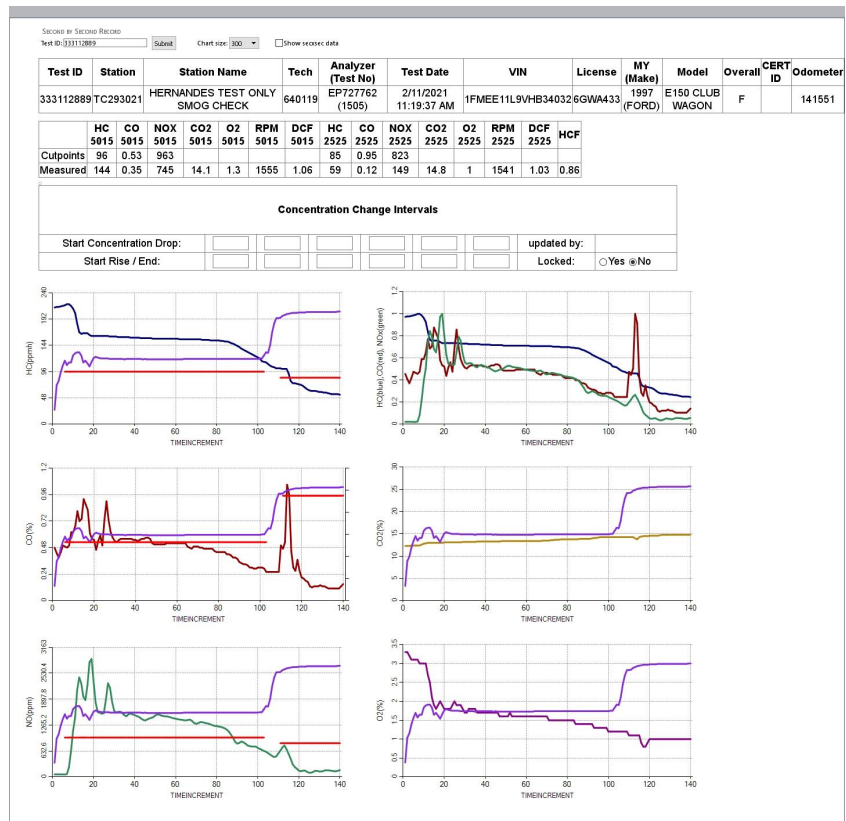
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89. The following is a summary of the passing test on April 30, 2021:



90. The following is a summary of the failing test on February 11, 2021:



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j. Vehicle 10: 1993 Plymouth Voyager

91. On April 30, 2021, at 2:41:37 p.m., a 1993 Plymouth Voyager (CA License # 6JSF713; VIN 1P4GH44R5PX627197) was inspected by Respondent Cortez at Respondent Rodriguez' station. The vehicle passed the inspection and Respondent Rodriguez issued Certificate of Compliance No. SA470325C.

92. Second-by-second data shows the emission readings are inconsistent with a legitimate smog check inspection. A Bureau Representative identified two or more sharp, simultaneous drops and at least one sharp, simultaneous rise in the concentrations of HC, CO, and/or NO_x:

- i. At 28 seconds, during a period of continued steady-state vehicle speed, levels of HC, CO, and NO_x began to drop. At 42 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior levels.
- ii. At 69 seconds, levels of HC, CO, and NO_x began to drop sharply again. At 83 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior levels.

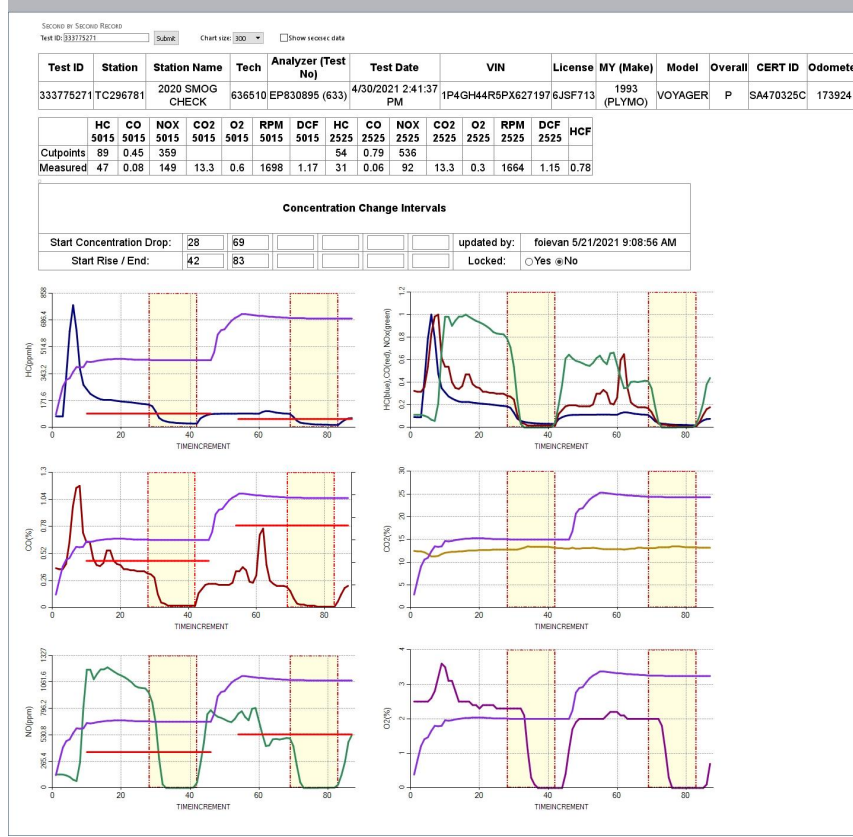
93. Clean gassing is the only plausible explanation for this testing pattern.

94. The Bureau Representative found that the same vehicle was tested by Respondent Cortez at Respondent Rodriguez' station just two days prior on April 28, 2021. This vehicle failed the previous inspection. Second-by-second data from the previous inspection shows that levels of HC, CO, and NO_x exceeded the cutpoints during both loaded mode sequences of the ASM test.

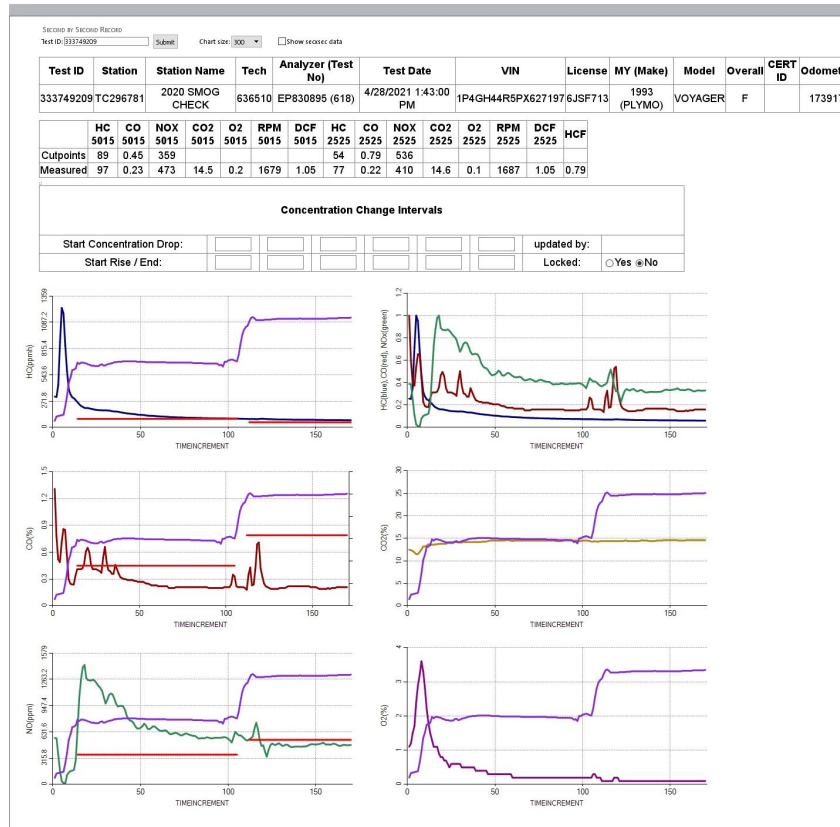
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95. The following is a summary of the passing test on April 30, 2021:



96. The following is a summary of the failing test on April 28, 2021:



1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements:**

3 **Automotive Repair Dealer Registration - Respondent Rodriguez)**

4 97. Respondent Rodriguez' Automotive Repair Dealer Registration is subject to
5 disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(1),
6 in that between August 11, 2020, and April 30, 2021, Respondent Rodriguez made or authorized
7 statements which he knew or in the exercise of reasonable care should have known to be untrue
8 or misleading, as follows: Respondent Rodriguez certified that the ten vehicles set forth above,
9 had passed inspection and were in compliance with applicable laws and regulations. In fact,
10 Respondent Rodriguez used the clean gassing method in order to issue smog certificates of
11 compliance, and did not test or inspect the vehicles as required by Health and Safety Code
12 section 44012. Complainant refers to, and by this reference incorporates, the allegations set forth
13 above in paragraphs 27 through 96, inclusive, as though set forth fully herein.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Fraud: Automotive Repair Dealer Registration - Respondent Rodriguez)**

16 98. Respondent Rodriguez' Automotive Repair Dealer Registration is subject to
17 disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(4),
18 in that between August 11, 2020, and April 30, 2021, Respondent Rodriguez committed acts
19 which constitute fraud by issuing electronic certificates of compliance for the ten vehicles set
20 forth above without performing bona fide inspections of the emission control devices and
21 systems on those vehicles, thereby depriving the People of the State of California of the
22 protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this
23 reference incorporates, the allegations set forth above in paragraphs 27 through 96, inclusive, as
24 though set forth fully herein.

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THIRD CAUSE FOR DISCIPLINE

(Material Violation of Automotive Repair Act:

Automotive Repair Dealer Registration - Respondent Rodriguez)

99. Respondent Rodriguez’ Automotive Repair Dealer Registration is subject to disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(6), in that between August 11, 2020, and April 30, 2021, he failed in a material respect to comply with the provisions of this chapter or regulations adopted pursuant to it when she issued electronic certificates of compliance for the vehicles identified above without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 27 through 96, inclusive, as though set forth fully herein.

FOURTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program:

Smog Check Test Only Station License - Respondent Rodriguez)

100. Respondent Rodriguez’ Smog Check Test Only Station License is subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that between August 11, 2020, and April 30, 2021, regarding the ten vehicles set forth above, Respondent Rodriguez failed to comply with the following sections of the Health and Safety Code:

a. **Section 44012:** Respondent Rodriguez failed to ensure that the emission control tests were performed on the vehicles in accordance with procedures prescribed by the department.

b. **Section 44015:** Respondent Rodriguez issued ten electronic smog certificates of compliance for the vehicles identified above, without ensuring that the vehicles were properly tested and inspected to determine if they were in compliance with Health and Safety Code section 44012.

1 Complainant refers to, and by this reference incorporates, the allegations set forth above in
2 paragraphs 27 through 96, inclusive, as though set forth fully herein.

3 **SIXTH CAUSE FOR DISCIPLINE**

4 **(Dishonesty, Fraud or Deceit:**

5 **Smog Check Test Only Station License - Respondent Rodriguez)**

6 102. Respondent Rodriguez' Smog Check Test Only Station License is subject to
7 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that
8 between August 11, 2020, and April 30, 2021, regarding the vehicles set forth above,
9 Respondent Rodriguez committed acts involving dishonesty, fraud, or deceit whereby another
10 was injured, by issuing electronic certificates of compliance for those vehicles without
11 performing bona fide inspections of the emission control devices and systems on the vehicles,
12 thereby depriving the People of the State of California of the protection afforded by the Motor
13 Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the
14 allegations set forth above in paragraphs 27 through 96, inclusive, as though set forth fully
15 herein.

16 **SEVENTH CAUSE FOR DISCIPLINE**

17 **(Violations of the Motor Vehicle Inspection Program:**

18 **Smog Check Inspector License - Respondent Cortez)**

19 103. Respondent Cortez' Smog Check Inspector License is subject to discipline
20 pursuant to Health and Safety Code section 44072.2, subdivision (a), in that between August 11,
21 2020, and April 30, 2021, regarding the vehicles set forth above, Respondent Cortez failed to
22 comply with section 44012 of the Health and Safety Code in a material respect, as follows:
23 Respondent Cortez failed to perform the emission control tests on those vehicles in accordance
24 with procedures prescribed by the department. Complainant refers to, and by this reference
25 incorporates, the allegations set forth above in paragraphs 27 through 97, inclusive, as though set
26 forth fully herein.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Violations of the Motor Vehicle Inspection Program:**
3 **Smog Check Inspector License - Respondent Cortez)**

4 104. Respondent Cortez' Smog Check Inspector License is subject to discipline
5 pursuant to Health and Safety Code section 44072.2, subdivision (a), in that between August 11,
6 2020, and April 30, 2021, regarding the vehicles set forth above, Respondent Cortez failed to
7 comply with Health and Safety Code section 44072.10, subdivision (c)(2) through (c)(4).
8 Respondent Cortez issued electronic smog certificates of compliance for the vehicles identified
9 above, by way of tampering with the vehicles' emission control systems or test analyzer systems,
10 causing them to falsely pass the inspection, in intentional and willful violation of this chapter or
11 any regulation, standard, or procedure of the department implementing this chapter. Complainant
12 refers to, and by this reference incorporates, the allegations set forth above in paragraphs 27
13 through 96, inclusive, as though set forth fully herein.

14 **NINTH CAUSE FOR DISCIPLINE**

15 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program:**
16 **Smog Check Inspector License - Respondent Cortez)**

17 105. Respondent Cortez' Smog Check Inspector License is subject to discipline
18 pursuant to Health and Safety Code section 44072.2, subdivision (c), in that between August 11,
19 2020, and April 30, 2021, regarding the vehicles set forth above, she failed to comply with
20 provisions of California Code of Regulations, title 16, as follows:

- 21 a. **Section 3340.24, subdivision (c):** Respondent Cortez falsely or
22 fraudulently issued electronic smog certificates of compliance for the ten vehicles identified
23 above.
- 24 b. **Section 3340.30, subdivision (a):** Respondent Cortez failed to inspect
25 and test the vehicles identified above, in accordance with Health and Safety Code sections 44012
26 and 44035, and California Code of Regulations, title 16, section 3340.42.
- 27 c. **Section 3340.41, subdivision (c):** Respondent Cortez knowingly entered
28 false information into the emissions inspection system for the vehicles identified above.

1 Health and Safety Code in the name of said licensee may be likewise revoked or suspended by
2 the Director.

3 109. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector
4 License Number EO 636510, issued to Respondent Cortez, is revoked or suspended following a
5 hearing, any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and
6 Safety Code in the name of said licensee may be likewise revoked or suspended by the Director.

7 **PRAYER**

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the Director of the Department of Consumer Affairs issue a
10 decision:

11 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
12 296781, issued to Sergio Rodas Rodriguez, Owner, doing business as 2020 Smog Check;

13 2. Revoking or suspending any other Automotive Repair Dealer Registration issued to
14 Sergio Rodas Rodriguez;

15 3. Revoking or suspending Smog Check, Test Only, Station License Number TC
16 296781, issued to Sergio Rodas Rodriguez, Owner, doing business as 2020 Smog Check;

17 4. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
18 Division 26 of the Health and Safety Code in the name of Sergio Rodas Rodriguez;

19 5. Revoking or suspending Smog Check Inspector License Number EO 636510, issued
20 to Celia Maria Ramirez Cortez;

21 6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
22 Division 26 of the Health and Safety Code in the name of Celia Maria Ramirez Cortez;

23 7. Ordering Sergio Rodas Rodriguez and Celia Maria Ramirez Cortez to pay the Bureau
24 of Automotive Repair the reasonable costs of the investigation and enforcement of this case,
25 pursuant to Business and Professions Code section 125.3; and,

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8. Taking such other and further action as deemed necessary and proper.

DATED: As of Digital Signature Date

PATRICK DORAIS
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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