

**TITLE 16. BUREAU OF AUTOMOTIVE REPAIR
DEPARTMENT OF CONSUMER AFFAIRS**

INITIAL STATEMENT OF REASONS

Hearing Date: No hearing scheduled

Subject Matter of Proposed Regulations: Biometric Device Updates

Sections Affected: 3311.1 and 3340.45 of Chapter 1 of Division 33 of Title 16 of the California Code of Regulations (CCR)

Background and Statement of the Problem:

The Department of Consumer Affairs (DCA), Bureau of Automotive Repair (BAR or Bureau), serves as the state agency responsible for licensing automotive repair dealers (ARDs), Smog Check stations, STAR stations, Vehicle Safety Systems Inspection (VSSI) stations, and their respective inspectors, repair technicians, and adjusters. The mission of both DCA and the Bureau—and therefore the main purpose of any regulatory proposal—is consumer protection, which includes ensuring “all Californians are informed, empowered, and protected.” (DCA, About Us https://www.dca.ca.gov/about_us/index.shtml [as of July 30, 2025].)

The Bureau administers and implements the Smog Check Program and the VSSI Program.

The Smog Check Program aims to reduce air pollution from mobile sources, including passenger vehicles, by requiring vehicles to meet specific Smog Check inspection standards. Licensed testing locations determine whether vehicles meet these standards through inspections that include an emissions test. Smog Check inspectors, who are also licensed through the Bureau, conduct these inspections.

Smog Check inspectors use one of two different inspection systems depending on a vehicle’s age, weight, and fuel type. The BAR-97 Emissions Inspection System (BAR-97 EIS) primarily measures tailpipe emissions from model year 1999 and older vehicles. The On-Board Diagnostic Inspection System (BAR-OIS) primarily collects electronic emissions control system data from model year 2000 and newer vehicles.

Certified vendors build the BAR-97 EIS and BAR-OIS hardware and software to BAR’s specifications, in accordance with Health and Safety Code section 44036 and 16 CCR section 3340.17. BAR certifies inspection equipment that passes its testing for use by Smog Check stations. Certified hardware for both systems includes a biometric component, specifically a palm vein scanner. This scanner prevents unauthorized use of inspection equipment and verifies the identity of the inspector conducting the inspection. Inspectors submit their biometric data to BAR at a station or a BAR field office. BAR encrypts this data immediately upon collection, in accordance with industry best practices, to prevent misuse. The Smog Check Manual requires a camera and

biometric device for each BAR-97 EIS and BAR-OIS and lists the required model number for biometric equipment.

The VSSI Program verifies that vehicle safety systems operate as designed. According to the authorizing statute (AB 471, Low, Chapter 372, Statutes of 2021), the VSSI program “promote[s] the safe and uniform installation, maintenance, and servicing of vehicle safety systems and components”. The program establishes inspection criteria and standards for specific vehicle safety systems and components, and the issuance of vehicle safety systems inspection licenses to stations and technicians who conduct these inspections.

The VSSI program also uses biometric security measures to prevent fraud. Technicians begin inspections by scanning their palm using a biometric scanner. As with the Smog Check inspection process, this step ensures that the licensed technician associated with the inspection is the individual who actually performs it. VSSI technicians submit their biometric data to the Bureau at a station or a Bureau field office. BAR encrypts the data upon collection, in line with industry best practices, to prevent unauthorized access or misuse.

Fujitsu, the manufacturer of the biometric palm vein scanner listed in the Smog Check Manual and VSSI Manual (Manuals), has developed a new model of the palm vein scanner. The model currently listed in the Manuals is no longer being manufactured.

The Bureau proposes amending the Manuals and existing sections 3311.1 and 3340.45 of Chapter 1 of Division 33 of Title 16 of the California Code of Regulations as follows:

- Update the Smog Check Manual and the VSSI Manual, incorporated by reference in the regulation sections, to read “Fujitsu palm vein scanner sensor model FAT13FPS01 or newer...”, which will allow for the use of both the existing/current model (no longer manufactured but still available and in use) and the new model, as well as the use of any subsequent models Fujitsu makes in the future.
- Amend the regulation sections (CCR sections 3311.1 and 3340.45) to update the version dates of the VSSI Manual and Smog Check Manual, both of which are incorporated by reference.

Anticipated benefits from this regulatory action:

The Bureau has determined that this regulatory proposal will have the following benefits to the welfare of California residents:

By implementing these regulatory changes, Smog Check and VSSI stations will have the ability to use available approved palm vein scanner models to comply with the biometric equipment standards.

Existing stations will have the option to continue using the original model and will also be able to use a new model if their original one breaks and they are unable to obtain a

replacement in the currently approved model, or if they just chose to upgrade to the new model. New stations will be able to choose which version to acquire based on station needs and preferences, as well as availability. The current model is still effective and available, but with the new release, BAR wants to ensure that stations have the option to use the new model as well as the currently approved model.

This regulatory proposal does not affect the health of California residents, worker safety, or the state's environment.

Specific purpose of, and rationale for, each adoption, amendment, or repeal:

1. Manual Updates:

- a. Adding to the Smog Check Manual (page 26) and the VSSI Manual (page 37) that newer models of the palm vein scanner are also approved for use.**

The Bureau proposes adding “or newer” to the currently listed model, FAT13GPS01, of the required Fujitsu palm vein scanner sensor.

Purpose: To add any newer model of the palm vein scanner to the required equipment list so that a station may use the original model number or the new one(s).

Necessity: This is necessary to allow Smog Check and VSSI stations to use the available palm vein scanner models to comply with the biometric equipment standards. This will provide flexibility by allowing ARDs to use any available approved model, easing the burden on licensees if one approved model is unavailable.

- b. Amend the version identified in the title and footers of the Smog Check Manual and the VSSI Manual, which are incorporated by reference in sections 3340.45 and 3311.1(c), respectively.**

The Bureau proposes changing the version of the Smog Check Manual from “January 2021” to “April 2025” and changing the version of the VSSI Manual from “September 2023 [NEW]” to “April 2025”.

Purpose: To update the title and footers of the manuals to reflect the revised versions which incorporate the change to the permitted palm vein scanner models.

Necessity: This is necessary for clarity so that inspectors know which manual versions to use, ensuring they use the version that contains the most current equipment information.

2. Amend CCR section 3340.45. Smog Check Manual.

The Bureau proposes changing the version of the Smog Check Manual from “January 2021” to “April 2025”.

Purpose: To update the title and footers of the manuals to reflect the revised version, which incorporates the change to the permitted palm vein scanner models.

Necessity: This is necessary for clarity so that inspectors know which manual version to use, ensuring they use the version that contains the most current equipment information.

3. Amend CCR section 3311.1(c) (of section 3311.1. Vehicle Safety Systems Inspection Station Performance and Work Area, and Vehicle Safety Systems Technician Requirement).

The Bureau proposes changing the version of the VSSI Manual from “September 2023 [NEW]” to “April 2025”.

Purpose: To update the title and footers of the manuals to reflect the revised version, which incorporates the change to the permitted palm vein scanner models.

Necessity: This is necessary for clarity so that inspectors know which manual version to use, ensuring they use the version that contains the most current equipment information.

Underlying Data:

None.

Business Impact:

BAR has made the initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

The initial determination is based on the fact that this proposal is designed to simply add that any newer models of the palm vein scanner are approved for use. The newer scanners cost the same as the original, so there will be no economic impact.

Economic Impact Assessment:

The Bureau has determined that this regulatory proposal will not:

- (1) Create jobs within California because this proposal adds additional

- scanners without increasing costs.
- (2) Eliminate jobs within California because this proposal adds additional scanners without increasing costs.
 - (3) Create new businesses within California because this proposal adds additional scanners without increasing costs.
 - (4) Eliminate existing businesses within California because this proposal adds additional scanners without increasing costs.
 - (5) Expand businesses currently doing business in the State of California because this proposal adds additional scanners without increasing costs.
 - (6) Affect worker safety because this proposal adds additional scanners without increasing costs.
 - (7) Affect the state's environment because this proposal adds additional scanners without increasing costs.

The newer scanners cost the same as the currently approved model, so there will be no economic impact.

Specific Technologies or Equipment:

This regulation mandates the use of specific biometric equipment and minimum performance requirements for web camera technology, meeting minimum performance standards.

Such mandates are required to ensure inspectors use an accurate biometric device that is suited for the environment and to ensure the remote access audio and video are of a sufficient quality to support BAR's business needs.

Consideration of Alternatives:

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Bureau would be more effective in carrying out the purpose for which it was proposed or would be as effective and less burdensome to affected private persons, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the adopted regulation.

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

Alternative 1: The Bureau considered taking no action. However, with no action, the regulations would not allow for the use of the most current available equipment.

Description of reasonable alternatives to the regulation that would lessen any adverse impact on small business:

No such alternatives have been proposed, however, the Bureau welcomes comments from the public.