

TITLE 16
BUREAU OF AUTOMOTIVE REPAIR

**NOTICE OF PROPOSED REGULATORY ACTION AND PUBLIC HEARING
CONCERNING**

STAR PROGRAM UPDATES

NOTICE IS HEREBY GIVEN that the Department of Consumer Affairs, Bureau of Automotive Repair (hereinafter “Bureau” or “BAR”) is proposing to take the 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 proposed regulatory action, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, to be considered by the Bureau, must be received by the Bureau at its office no later than **5:00 p.m. on Tuesday, August 10, 2021**, or must be received by the Bureau at any hearing, if one is held.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Section 9882 of the Business and Professions Code, and Sections 44001.5, 44002, 44010.5, 44014.2, 44014.5, 44072.10, and 44095 of the Health and Safety Code, to implement, interpret or make specific sections 44001.3, 44005, 44010, 44010.5, 44011, 44012, 44013, 44014, 44014.2, 44014.4, 44014.5, 44014.6, 44014.7, 44015, 44016, 44017, 44017.1, 44030, 44033, 44036, 44037.1, 44050, 44051.5, 44056, 44062.1, 44070, 44072.10, 44092, 44093, 44094, and 44103 of the Health and Safety Code, the Bureau is proposing to adopt the following changes to California Code of Regulations Title 16, Division 33, Chapter 1, Article 5.5 and Article 10.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking action clarifies and makes specific some elements of the Smog Check Program, in what was formerly the Gold Shield Program and is now the STAR Program. The STAR Program provides a voluntary certification process and incentivizes improved Smog Check inspection accuracy by allowing stations meeting tighter station performance criteria the exclusive ability to inspect the vehicles most likely to fail their next Smog Check inspection. The effect of this proposed rulemaking will be greater compliance with the Smog Check Program because it clarifies service and equipment requirements, eligibility and performance standards, and invalidation or reinstatement procedures for STAR-certified stations. It also will remove outdated remnants of the Gold Shield Program while updating the terminology of the STAR Program.

Pursuant to and within the Smog Check Program, BAR established the Gold Shield Program to certify licensed test-and-repair stations thereby allowing them to provide additional services to consumers. That program eventually became the STAR Program, which is the subject of this rulemaking.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

BENEFITS OF THE REGULATION TO THE HEALTH AND WELFARE OF CALIFORNIA RESIDENTS:

BAR has made an initial determination that the proposed regulatory action will have a positive impact on the health and welfare of California citizens to the extent it promotes compliance with air quality laws and regulations.

The Bureau's 2019 Smog Check Performance Report¹ indicates that poor performance by inspectors during Smog Check inspections costs the state an additional 60 to 70 tons per day of reactive organic gases and oxides of nitrogen that would have been removed had all Smog Check stations and inspectors performed accurate inspections. By enacting these regulatory changes, BAR can help to close the gap, ensuring better compliance with the Smog Check Program, which directly translates to cleaner air for California residents.

BENEFITS OF THE REGULATION TO THE STATE'S ENVIRONMENT:

BAR has made an initial determination the proposed regulatory action will likely benefit the environment, specifically air quality. The proposal updates existing requirements to improve STAR performance standards that will promote accurate, high quality testing. This would result in identifying an increased number of gross polluting vehicles and either requiring repairs to pass a biennial inspection, or removal from the road altogether. When repaired, vehicles contribute less pollution and greenhouse gas to the environment.

¹ https://smogcheck.ca.gov/pdf/2019_Smog_Check_Performance_Report.pdf

BENEFITS OF THE REGULATION TO WORKER SAFETY:

BAR has determined the proposed regulatory action will have a positive effect on worker safety because the workforce will be breathing cleaner air.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

During the process of developing these regulations and amendments, 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.

DOCUMENTS INCORPORATED BY REFERENCE

None.

DISCLOSURES REGARDING THE PROPOSED ACTION

MANDATED BY FEDERAL LAW OR REGULATIONS:

No.

LOCAL MANDATE:

None.

FISCAL IMPACT ESTIMATES

COSTS TO ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH GOVERNMENT CODE SECTIONS 17500-17630 REQUIRE REIMBURSEMENT:

None.

FISCAL IMPACT ON PUBLIC AGENCIES INCLUDING COSTS OR SAVINGS TO STATE AGENCIES AND COSTS/SAVINGS IN FEDERAL FUNDING TO THE STATE:

The Bureau will be required to ensure compliance with the proposed regulations through its inspection programs. Any enforcement-related workload and costs are anticipated to be minor and absorbable within existing resources.

This proposal will result in no costs or savings in federal funding to the state.

NONDISCRETIONARY COSTS/SAVINGS TO LOCAL AGENCIES:

None.

EFFECT ON HOUSING COSTS:

None.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE:

Although the proposed action will directly affect businesses statewide, including small businesses, and including that it potentially increases the profitability for STAR-certified stations, the Bureau concludes that the adverse economic impact, including the ability of California businesses to compete with businesses in other states, will not be significant because the program is voluntary and is limited to California.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Bureau has determined that this regulatory proposal will have a minimal impact, if any, on the creation of jobs or new businesses or the elimination of jobs or existing businesses in the State of California. Participation in the STAR Program is voluntary, meaning licensed Smog Check stations must meet certain eligibility requirements to obtain certification, and agree to maintain compliance with Bureau-prescribed performance standards while operating as a certified STAR station.

In addition, the proposed action is not expected to expand or reduce existing business, because it has no impact on the state's population of directed- and gross-polluting vehicles that are required to undergo Smog testing at a STAR station.

For more on benefits of the regulatory proposal, see above in this notice.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:

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

BUSINESS REPORTING REQUIREMENTS

None.

EFFECT ON SMALL BUSINESS

Most businesses likely to be affected by this regulation are small businesses.

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, or 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 present statements orally or in writing relevant to the above determinations at the above-mentioned hearing.

CONTACT PERSON

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

Holly O'Connor
Bureau of Automotive Repair
10949 North Mather Blvd.
Rancho Cordova, CA 95670
Telephone: (916) 403-8627
E-mail: Holly.OConnor@dca.ca.gov

The backup contact person is:

Lusine Sarkisyan
Bureau of Automotive Repair
10949 North Mather Blvd.
Rancho Cordova, CA 95670
Telephone: (916) 403-8560
E-mail:
Lusine.Sarkisyan@dca.ca.gov

INITIAL STATEMENT OF REASONS AND INFORMATION

BAR has prepared an Initial Statement of Reasons of the proposed action and has available all the information upon which the proposal is based.

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 at the hearing or prior to the hearing upon request from the Bureau of Automotive Repair at 10949 North Mather Boulevard, Rancho Cordova, California 95670.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Bureau may adopt the proposed regulations substantially as described in this notice. If the Bureau makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Bureau adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Holly O'Connor at the address indicated above. The Bureau will accept written comments on the modified regulations for 15 days after the date on which they are made available.

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 above.

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 above, or by accessing the website listed below.

WEBSITE ACCESS

Materials regarding this proposal can also be found on BAR's Web site at www.bar.ca.gov.