

DEPARTMENT OF CONSUMER AFFAIRS

# BAR

## Bureau of Automotive Repair



# SUNSET REVIEW

DECEMBER 2017

STATE OF CALIFORNIA  
**dca**  
DEPARTMENT OF CONSUMER AFFAIRS

# **BUREAU OF AUTOMOTIVE REPAIR (BAR)**

## **BACKGROUND INFORMATION AND OVERVIEW OF THE CURRENT REGULATORY PROGRAM**

### **As of December 1, 2017**

#### **Section 1**

#### **Background and Description of the Bureau and Regulated Profession**

**Provide a short explanation of the history and function of the bureau. Describe the occupations/profession that are licensed and/or regulated by the bureau (Practice Acts vs. Title Acts).**

In 1972, the Bureau of Automotive Repair (BAR) was established within the California Department of Consumer Affairs (DCA) following enactment of the Automotive Repair Act (Act) (Senate Bill (SB) 51, Beilenson, Chapter 1578, Statutes of 1971), Business and Professions Code, Chapter 20.3, Section 9880, et seq. The Act mandated a statewide automotive repair consumer protection program, including the requirement that Automotive Repair Dealers (ARDs)<sup>1</sup> be registered and regulated by BAR. The Act also gave BAR authority to license and regulate stations and individuals that perform services in the areas of lamp and brake inspection and repair.

The Act requires BAR to mediate complaints, investigate violations, and initiate action against ARDs, and Brake and Lamp stations and adjusters, that fail to comply with the Act or its regulations. In accordance with the Act, a customer is entitled to a written estimate for repair work, a detailed invoice of work done and parts supplied, and return of replaced parts, if requested at the time a work order is placed.

In 1984, BAR also implemented a biennial Smog Check Program pursuant to SB 33 (Presley, Chapter 892, Statutes of 1982), which created Health and Safety Code, Chapter 5, Section 44000, et seq. The legislation authorized BAR to implement, maintain, and enforce the Smog Check Program through the licensure of Smog Check stations and technicians. The Smog Check Program is an interagency effort administered by BAR and involving the Department of Motor Vehicles (DMV) and Air Resources Board (ARB). The Smog Check Program achieves emissions reductions through biennial inspection and repair of 1976 model-year and newer vehicles. In response to Assembly Bill (AB) 2289 (Eng, Chapter 258, Statutes of 2010), BAR implemented the STAR Program in 2013 to establish performance standards for Smog Check stations and inspectors.

BAR also administers the Consumer Assistance Program (CAP), which is designed to help improve air quality by providing income-eligible consumers whose vehicles fail a Smog Check up to \$500 in emissions-related repairs. CAP also provides income-eligible consumers \$1,500, and all others \$1,000, to retire a vehicle that fails Smog Check. In 2010, CAP began administration of the retirement-only portion of the Enhanced Fleet Modernization Program (EFMP), created by AB 118 (Núñez, Chapter 750, Statutes of 2007), which offers income-eligible consumers \$1,500 to retire their vehicle regardless of Smog Check history. In the South Coast and San Joaquin Valley air

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<sup>1</sup> An automotive repair dealer is a person or entity who, for compensation, engages in the business of diagnosing or repairing malfunctions of motor vehicles.

districts, the ARB offers consumers who retire their vehicle an EFMP voucher worth up to \$2,500 toward the purchase of a newer, cleaner vehicle.

BAR is led by a Chief, appointed by the Governor and confirmed by the State Senate. The Chief serves at the pleasure of the Governor and under the direction and supervision of the Director of DCA. BAR actively seeks the advice of consumers, educators, the automotive repair and Smog Check industries, and other governmental agencies through the formation of two voluntary, informal advisory groups – the BAR Advisory Group (BAG) and the Educational Advisory Group (EAG).

**1. Describe the make-up and functions of each of the bureau’s committees (cf., Section 12, Attachment B).**

BAR established the BAG to increase the level of communication between BAR, the automotive repair and Smog Check industries, education providers, and consumers. The BAG is currently comprised of 16 members and meets quarterly to provide input to the Chief on BAR programs. BAG meetings are announced on BAR’s website and are open to the public. BAG meetings are also webcast live for individuals unable to attend the meetings in public. The webcast enables interested parties to participate by electronically submitting questions during the meeting. Webcasts are also archived on BAR’s website. The most recent BAG meeting was held on October 19, 2017.

BAR established the EAG to discuss educational needs and make recommendations to BAR on training needs of licensed Smog Check Inspectors and Repair Technicians. The EAG is currently comprised of nine members: five educators, three shop owners, and one technician. The EAG meets one to two times per year based upon ongoing issues and needs of BAR.

See Attachment A for the current organizational chart showing the relationship of the advisory groups to BAR. Membership of each advisory group is shown in Tables 1a.1. and 1b.1.

<b>Table 1a.1. BAG Member Roster</b>					
Member Name (Include Vacancies)	Date First Appointed	Date Re-appointed	Date Term Expires	Appointing Authority	Type
Louis J. Anapolsky <i>Knox Lemmon, Anapolsky &amp; Schrimp, LLP</i>	1/12/04	N/A	N/A	BAR	Industry
Denny Bowen <i>Automotive Maintenance and Repair Association/Motorist Assurance Program</i>	10/20/16	N/A	N/A	BAR	Consumer/ Industry
Johan Gallo <i>California Automotive Business Coalition</i>	5/7/09	N/A	N/A	BAR	Industry
Keith Going <i>Inter-Industry Conference on Auto Collision Repair</i>	1/19/17	N/A	N/A	BAR	Education/ Industry
Vince Gregory <i>AAA Northern California</i>	4/21/15	N/A	N/A	BAR	Consumer/ Industry
George Hritz <i>California Automotive Teachers</i>	10/20/03	N/A	N/A	BAR	Education/ Industry
Joanna Johnson <i>Automotive Oil Change Association</i>	6/2/17	N/A	N/A	BAR	Industry
Brian Maas <i>California New Car Dealers Association</i>	4/20/14	N/A	N/A	BAR	Industry

<b>Table 1a.1. BAG Member Roster (continued)</b>					
Member Name (Include Vacancies)	Date First Appointed	Date Re-appointed	Date Term Expires	Appointing Authority	Type
Jon McConnel <i>Independent Automotive Professionals Association</i>	10/10/07	N/A	N/A	BAR	Industry
Megan McKernan <i>Automobile Club of Southern California</i>	4/20/17	N/A	N/A	BAR	Consumer/ Industry
Jack Molodanof <i>California Auto Body Association</i>	7/25/03	N/A	N/A	BAR	Industry
Jonathan Morrison <i>Automotive Advisory Services</i>	9/17/13	N/A	N/A	BAR	Education/ Industry
Susan Monser Ward <i>California Emissions Testing Industries Association</i>	1/20/09	N/A	N/A	BAR	Industry
Ruben Parra <i>California Automotive Teachers</i>	4/20/17	N/A	N/A	BAR	Education/ Industry
Tracy Renee <i>Automotive Service Councils of California</i>	10/20/14	N/A	N/A	BAR	Industry
Rosemary Shahan <i>Consumers for Auto Reliability and Safety</i>	7/25/03	N/A	N/A	BAR	Consumer

<b>Table 1a.2. BAG Meetings and Member Attendance</b>																	
	2/13/13	9/17/13	1/9/14	4/16/14	7/9/14	10/14/14	1/15/15	4/22/15	7/23/15	10/21/15	1/14/16	4/21/16	7/21/16	10/20/16	1/19/17	4/20/17	7/20/17
<b>CURRENT MEMBERS</b>																	
Louis J. Anapolsky	X	X	X		X		X	X	X	X	X	X	X			X	X
Denny Bowen														X	X	X	X
Johan Gallo	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Keith Going															X	X	X
Vince Gregory								X	X	X	X	X	X		X	X	
George Hritz	X	X	X	X		X	X	X	X	X		X	X	X	X		X
Joanna Johnson																	
Brian Maas					X	X						X					
Jon McConnel	X	X	X		X		X	X		X	X	X					
Megan McKernan																X	X
Jack Molodanof		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Jonathan Morrison			X	X	X	X	X	X	X	X	X	X	X	X	X		X
Susan Monser Ward	X			X					X								
Ruben Parra																X	
Tracy Renee							X	X	X	X	X	X		X	X	X	X
Rosemary Shahan		X	X	X			X										X

<b>Table 1b.1. EAG Member Roster</b>					
Member Name (Include Vacancies)	Date First Appointed	Date Re-appointed	Date Term Expires	Appointing Authority	Type
Jim Custeau	5/8/2012	N/A	N/A	BAR	Educator
Phil Fournier	5/8/2012	N/A	N/A	BAR	Educator
Gary Houseman	5/8/2012	N/A	N/A	BAR	Technician
Craig Johnson	5/8/2012	N/A	N/A	BAR	Station Owner
Mike Morse	5/8/2012	N/A	N/A	BAR	Educator
Mike Palmer	5/8/2012	N/A	N/A	BAR	Station Owner
Bud Rice	5/8/2012	N/A	N/A	BAR	Station Owner
Kevin Rogers	5/8/2012	N/A	N/A	BAR	Educator
Steve Tomory	5/8/2012	N/A	N/A	BAR	Educator

<b>Table 1b.2. EAG Meetings and Member Attendance</b>						
	11/2/13	11/15/14	6/27/15	1/23/16	7/9/16	7/8/17
<b>CURRENT MEMBERS</b>						
Jim Custeau	X	X	X	X	X	
Phil Fournier	X	X	X	X	X	X
Gary Houseman	X				X	
Craig Johnson	X		X	X	X	X
Mike Morse	X	X	X	X	X	
Mike Palmer				X	X	X
Bud Rice	X	X	X	X	X	X
Kevin Rogers		X	X	X	X	
Steve Tomory		X	X		X	X

**2. In the past four years, was the bureau unable to hold any meetings due to lack of quorum? If so, please describe. Why? When? How did it impact operations?**

No, BAR has not cancelled any meetings due to lack of quorum. The BAG and EAG are voluntary advisory groups that do not decide or vote on any BAR business functions or policies, and therefore do not require a quorum.

**3. Describe any major changes to the bureau since the last Sunset Review, including, but not limited to:**

- **Internal changes (i.e., reorganization, relocation, change in leadership, strategic planning)**

Since BAR's last Sunset Review in 2013, there have been several leadership changes. BAR's current executive leadership team consists of the following staff:

- Patrick Dorais, Chief  
Appointed November 8, 2013
- Douglas Balatti, Assistant Chief  
Appointed August 2, 2011
- Patty Wohl, Acting Deputy Chief  
Licensing, Administration and Consumer Assistance Division  
Appointed January 3, 2017
- Tim Corcoran, Deputy Chief  
Field Operations and Enforcement Division  
Appointed February 1, 2017
- Clay Leek, Deputy Chief  
Smog Check Operations, Engineering and Information Services Division  
Appointed March 6, 2017

BAR's Strategic Plan identifies goals and objectives based on BAR's statutory mandates, and responds to changes in the automotive repair and Smog Check industries. The plan is generally updated every four years and includes goals for educating and protecting consumers in automotive repair transactions and reducing vehicular emissions through the Smog Check Program. Refer to Attachment B for BAR's 2018 – 2022 Strategic Plan.

In Fiscal Year 2016/17, BAR utilized existing resources to restructure its Field Operations and Enforcement Division (FOED) to improve consistency and operational efficiency. Staff and management positions were reallocated within the field offices and headquarters. BAR also closed one of its forensic documentation labs, realigned the field operations management structure, and augmented staffing levels in headquarters. The restructure allowed FOED to address increased workloads resulting from the implementation of the STAR Program, the BAR On-Board Diagnostic Inspection System (BAR-OIS), and citations for unlicensed activity.

- All legislation sponsored by the bureau and affecting the bureau since the last sunset review.

BAR has not sponsored any legislation since the previous sunset hearing. Enacted bills related to BAR are identified in the table below.

<b>Enacted BAR Legislation 2014-2017</b>				
<b>Year</b>	<b>Bill Number</b>	<b>Subject(s)</b>	<b>Code(s) Affected</b>	<b>Section(s) Affected</b>
2014	AB 1702	Licensure: Delaying Due to Incarceration	Business and Professions	480.5
2014	AB 2396	Licensure: Denial Based on Expunged Convictions	Business and Professions	480
2014	SB 1159	Licensure Applications: Use of ITINs	Business and Professions; Family; Revenue and Taxation	30, 2103, 2111, 2112, 2113, 2115, 3624, 6533, and 135.5; 17520; 19528
2014	SB 1226	Licensure: Expediting Applicants from Military	Business and Professions	7574.18 and 115.4
2014	SB 1242	Automotive Repair	Business and Professions	9882 and 9882.2
2014	SB 1275	Vehicle Retirement and Replacement: Charge Ahead California Initiative	Health and Safety	44125, 44258, and 44258.4
2015	AB 1222	Tow Trucks	Vehicle	22513 and 22513.1
2016	AB 2153	Lead-Acid Battery Recycling Act of 2016	Health and Safety	25215, 25215.1, 25215.15, 25215.2, 25215.25, 25215.35, 25215.45, 25215.47, 25215.5, 25215.56, 25215.59, 25215.65, 25215.72, 25215.74, 25215.75, and 25215.5.5
2016	AB 2167	Towed Vehicles	Vehicle	22513 and 22513.1
2016	AB 2387	Supplemental Restraint Systems	Vehicle	27317
2016	SB 1046	Ignition Interlock Devices	Business and Professions; Vehicle	9807, 9848, and 9882.14; 23702, 13352, 13352.4, 13353.3, 13353.4, 13353.5, 13386, 23103.5, 23247, 23573, 23575, 23576, 23597, 13353.6, 13353.75, 13390, 23575.3, and 23575.5
2016	SB 1348	Licensure Applications: Military Experience	Business and Professions	114.5
2017	AB 188	Vehicle Retirement and Replacement	Health and Safety	44125
2017	AB 630	Vehicle Retirement and Replacement	Health and Safety	44124, 44124.5, 44125, 44125.5, 44127, and 44258.4
2017	AB 1069	Local Government: Taxicab Transportation Services	Government; Vehicle	53075.5
2017	AB 1274	Smog Check: Exemption	Health and Safety	44011, 44060, 44060.5, and 44091.1
2017	SB 547	Professions and Vocations	Business and Professions	9882.6

- **All regulation changes approved by the bureau since the last sunset review. Include the status of each regulatory change approved by the bureau.**

Regulatory actions adopted, amended, and repealed since 2013 are identified in the table below.

<b>BAR Regulatory Actions 2014-2017</b>		
<b>OAL Reg. Action #</b>	<b>Subject(s)</b>	<b>California Code of Regulations, Title 16, Section(s) Affected</b>
<u>2016-0909-01S</u>	Windshield Replacement Standards	<u>Adopt:</u> 3365.1
<u>2016-0615-04S</u>	Disciplinary Guidelines	<u>Adopt:</u> 3395.5 <u>Amend:</u> 3340.1, 3340.10, 3340.28, and 3395.4
<u>2014-0523-06S</u>	Ignition Interlock Devices	<u>Amend:</u> 3363.1, 3363.2, 3363.3, and 3363.4
<u>2014-0515-02S</u>	Consumer Assistance Program	<u>Amend:</u> 3394.2, 3394.3, and 3394.4

**4. Describe any major studies conducted by the bureau (cf., Section 12, Attachment C).**

BAR conducted the following studies since the 2013 Sunset Review:

- Enhanced Fleet Modernization Program Assessment (November 2013)

BAR and ARB jointly conducted a study to evaluate the benefits and effectiveness of the Enhanced Fleet Modernization Program (EFMP). The key findings from the study confirm that vehicles entering EFMP retirement are generally high emitters, but also generally at the end of their useful life. As a result of the study, EFMP now requires a Smog Check to be completed to determine functionality and help quantify the emissions benefit for each retired vehicle. Refer to Attachment C for a copy of the report.

- Annual Smog Check Performance Report (2014-2017)

AB 2289 (Eng, Chapter 258, Statutes of 2010) marked the first major update to the Smog Check Program since the mid-1990s. The legislation requires BAR to implement: 1) inspection-based performance standards (i.e., STAR Program) for Smog Check stations; and 2) improved On-Board Diagnostic (OBD II) inspections for newer vehicles. It also requires BAR, in cooperation with ARB, to perform annual evaluations of the Smog Check Program.

In the most recent report published June 30, 2017, BAR analyzed roadside data collected between January 2015 and December 2016. The 2017 Smog Check Performance Report illustrated a significant improvement for vehicles that failed their initial Smog Check inspection since implementation of the STAR Program in January 2013. See Attachment D for a copy of the report.

**5. List the status of all national associations to which the bureau belongs.**

- **Does the bureau’s membership include voting privileges?**
- **List committees, workshops, working groups, task forces, etc., on which bureau participates.**
- **How many meetings did bureau representative(s) attend? When and where?**
- **If the bureau is using a national exam, how is the bureau involved in its development, scoring, analysis, and administration?**

BAR belongs to the Inspection and Maintenance (I/M) Solutions Training Forum. This national association provides an annual forum for states to discuss the current status and implementation strategies of vehicle emissions I/M programs, such as the California Smog Check Program. The forum also provides an opportunity for I/M states to talk with the United States Environmental Protection Agency (USEPA) about compliance with federal rules and guidelines. BAR does not have voting privileges. BAR attended I/M Solutions Training Forums in April 2014, May 2015, May 2016, and May 2017 in Salt Lake City, Utah, Virginia Beach, Virginia, Pittsburgh, Pennsylvania, and Denver, Colorado, respectively.

BAR does not utilize a national exam. However, Smog Check Inspector and Smog Check Repair Technician license applicants may elect to take nationally sponsored Automotive Service Excellence (ASE) courses as one option to meet skill, knowledge, and experience requirements for the California examination.

## **Section 2**

### **Performance Measures and Customer Satisfaction Surveys**

**6. Provide each quarterly and annual performance measure report for the bureau as published on the DCA website.**

Refer to Attachment E for copies of these reports.

**7. Provide results for each question in the bureau’s customer satisfaction survey broken down by fiscal year. Discuss the results of the customer satisfaction surveys.**

In 2010, BAR began directing consumers to an online satisfaction survey provided in each complaint closure letter. However, the response rate for this methodology was less than desired. To increase the response rate, in January 2015 BAR began including survey postcards with the closure letter and inserted a “QR Code” to allow consumers to use their smartphones to respond to the survey. As a result, the response rate nearly doubled from 574 responses received in Fiscal Year (FY) 2012/13 to 1,021 responses received in FY 2016/17. For both fiscal years shown in the table below, BAR received 83 percent or greater positive responses to survey questions 1-5.

<b>Complaint Mediation Consumer Survey Results</b>				
	<b>FY 2015/16</b>		<b>FY 2016/17</b>	
<b>Number of Surveys Mailed:</b>	14,588		14,203	
<b>Number of Survey Responses:</b>	1,084		1,021	
<b>Questions</b>	<b>Total Responses</b>	<b>%</b>	<b>Total Responses</b>	<b>%</b>
<b>1. How well did we explain the complaint process to you?</b>				
Very Poor	72	6%	63	6%
Poor	38	4%	63	6%
Good	144	13%	136	13%
Very Good	829	77%	759	75%
Total	1,083	100%	1,021	100%
<b>2. How clearly was the outcome of your complaint explained to you?</b>				
Very Poor	98	9%	103	10%
Poor	47	4%	48	5%
Good	153	14%	126	12%
Very Good	786	73%	739	73%
Total	1,084	100%	1,016	100%
<b>3. How well did we meet the timeframe provided to you?</b>				
Very Poor	67	6%	77	8%
Poor	49	5%	55	5%
Good	173	16%	145	14%
Very Good	789	73%	743	73%
Total	1,078	100%	1,020	100%
<b>4. How courteous and helpful was staff?</b>				
Very Poor	57	5%	50	5%
Poor	34	3%	42	4%
Good	102	10%	87	9%
Very Good	890	82%	842	82%
Total	1,083	100%	1,021	100%
<b>5. Overall, how well did we handle your complaint?</b>				
Very Poor	118	11%	128	13%
Poor	49	5%	39	4%
Good	119	11%	109	11%
Very Good	788	73%	732	72%
Total	1,074	100%	1,008	100%
<b>6. If we were unable to assist you, were alternatives provided to you?</b>				
Yes	222	60%	228	59%
No	148	40%	161	41%
N/A	0	0%	0	0%
Total	370	100%	389	100%
<b>7. Did you verify the provider's license prior to service?</b>				
Yes	297	30%	297	31%
No	398	39%	376	40%
N/A	308	31%	273	29%
Total	1,003	100%	946	100%

**Fiscal Issues**

**8. Is the bureau's fund continuously appropriated? If yes, please cite the statute outlining this continuous appropriation.**

No, BAR is funded by three special funds that, upon annual appropriation, provide revenue to maintain BAR's programs. BAR's current revenue sources are listed below.

- **Vehicle Inspection and Repair Fund (VIRF)**
  - SB 51, Beilenson, Chapter 1578, Statutes of 1971
  - Business and Professions Code section 9886
  
- **High Polluter Repair or Removal Account (HPRRA)**
  - SB 198, Kopp, Chapter 28, Statutes of 1994
  - Health and Safety Code section 44091
  - HPRRA is an account within the VIRF
  
- **Enhanced Fleet Modernization Subaccount (EFMS)**
  - AB 118, Núñez, Chapter 750, Statutes of 2007
  - Health and Safety Code section 44126
  - EFMS is a sub-account within the HPRRA

**9. Describe the bureau's current reserve level, spending, and if a statutory reserve level exists.**

Each special fund is shown below in a table identifying reserve level and spending. No statutory reserve level exists for these funds.

**Vehicle Inspection and Repair Fund (VIRF)**

Approximately 91 percent of VIRF revenue is derived from an \$8.25 Smog Check certification fee, and a portion of the annual smog abatement fee charged to newer vehicles during their temporary exemption from Smog Check.<sup>2</sup> License and registration fees generate about 8 percent of VIRF revenue, with the remainder coming from litigation pursued by BAR. The VIRF funds all BAR operations, except CAP and EFMP, which are funded by HPRRA and EFMS, respectively.

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<sup>2</sup> See response to Item 10.

<b>Table 2.a. Fund Condition (VIRF)<sup>1</sup></b>						
(Dollars in Thousands)	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18 <sup>6</sup>	FY 2018/19 <sup>6</sup>
Beginning Balance <sup>2</sup>	\$76,195	\$53,699	\$38,709	\$96,007	\$99,147	\$93,528
Revenues and Transfers	\$78,628	\$104,358	\$175,554	\$126,802	\$127,607	\$128,880
<b>Total Revenue</b>	\$154,823	\$158,057	\$214,263	\$232,809	\$226,754	\$222,409
Budget Authority	\$114,783	\$115,191	\$107,858	\$108,300	\$110,291	\$112,497
Expenditures <sup>3</sup>	\$117,844	\$122,684	\$118,256	\$133,662	\$133,226	\$129,086
Loans to General Fund <sup>4</sup>	\$0	\$0	\$0	\$0	\$0	\$0
Accrued Interest, Loans to General Fund <sup>5</sup>	\$0	\$22	\$9,342	\$1,981	\$0	\$0
Loans Repaid From General Fund	\$0	\$0	\$39,000	\$10,000	\$0	\$0
<b>Fund Balance</b>	\$36,979	\$35,373	\$96,007	\$99,147	\$93,528	\$93,323
<b>Months in Reserve</b>	3.6	3.6	8.6	8.9	8.7	8.5

1 VIRF figures do not include HPRRA or EFMS funds.

2 Beginning balance includes prior year adjustments.

3 Expenditures include direct appropriations to State Controller's Office (SCO), Fi\$Cal, and ARB.

4 Loans to General Fund are included in revenues and transfers.

5 Accrued interest from loans to General Fund is included in revenues and transfers.

6 FY 2017/18 and FY 2018/19 amounts are projected.

### **High Polluter Repair or Removal Account (HPRRA)**

HPRRA funds all CAP activities. CAP is designed to provide financial assistance to qualified consumers for the voluntary repair or retirement of vehicles failing Smog Check. HPRRA revenue comes from all \$6.00 of the annual smog abatement fee in year one and \$4.00 in years two through six of the model-year exemption for newer vehicles.<sup>3</sup> To a much lesser extent, HPRRA also is funded by a portion of revenue generated from the sale of vehicles impounded by local law enforcement agencies and temporary operating permits issued by the DMV.

<b>Table 2.b. Fund Condition (HPRRA)</b>						
(Dollars in Thousands)	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18 <sup>5</sup>	FY 2018/19 <sup>6</sup>
Beginning Balance <sup>2</sup>	\$17,036	\$23,631	\$28,902	\$37,825	\$47,879	\$52,224
Revenues and Transfers	\$35,304	\$37,856	\$44,449	\$47,471	\$44,873	\$45,184
<b>Total Revenue</b>	\$52,340	\$61,487	\$73,351	\$85,296	\$92,752	\$90,786
Budget Authority	\$41,467	\$40,684	\$40,207	\$40,792	\$40,119	\$40,119
Expenditures <sup>3</sup>	\$29,629	\$32,454	\$35,862	\$37,367	\$40,528	\$40,528
Loans to General Fund <sup>4</sup>	\$0	\$0	\$0	\$0	\$0	\$0
Accrued Interest, Loans to General Fund <sup>5</sup>	\$0	\$0	\$0	\$0	\$0	\$0
Loans Repaid From General Fund	\$0	\$0	\$0	\$0	\$0	\$0
<b>Fund Balance</b>	\$22,712	\$29,033	\$37,489	\$47,879	\$52,224	\$56,880
<b>Months in Reserve</b>	8.4	9.7	11	12.2	15.5	16.8

1 HPRRA figures do not include EFMS funds.

2 Beginning balance includes prior year adjustments.

3 Expenditures include direct appropriations to SCO, Fi\$Cal, and ARB.

4 Loans to General Fund are included in revenues and transfers.

5 Accrued interest from loans to General Fund is included in revenues and transfers.

6 FY 2017/18 and FY 2018/19 amounts are projected.

<sup>3</sup> See response to Item 10.

**Enhanced Fleet Modernization Subaccount (EFMS)**

EFMS augments the state’s existing statewide vehicle retirement program. EFMS is currently funded by \$1.00 collected from each vehicle registration.

<b>Table 2.c. Fund Condition (EFMS)</b>						
(Dollars in Thousands)	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18 <sup>5</sup>	FY 2018/19 <sup>5</sup>
Beginning Balance <sup>1</sup>	\$17,348	\$12,260	\$13,775	\$30,185	\$28,135	\$20,591
Revenues and Transfers	\$31,186	\$41,794	\$53,175	\$42,852	\$33,181	\$33,512
<b>Total Revenue</b>	\$48,534	\$54,054	\$66,950	\$73,037	\$61,316	\$54,103
Budget Authority	\$44,399	\$40,633	\$37,861	\$37,774	\$37,787	\$37,787
Expenditures <sup>2</sup>	\$36,477	\$40,445	\$36,765	\$45,222	\$40,725	\$40,667
Loans to General Fund <sup>3</sup>	\$0	\$0	\$0	\$0	\$0	\$0
Accrued Interest, Loans to General Fund <sup>4</sup>	\$0	\$225	\$544	\$320	\$0	\$0
Loans Repaid From General Fund	\$0	\$10,000	\$20,000	\$10,000	\$0	\$0
<b>Fund Balance</b>	\$12,057	\$13,609	\$30,185	\$28,135	\$20,591	\$13,452
<b>Months in Reserve</b>	3.6	4.4	8	8.3	6	4

1 Beginning balance includes prior year adjustments.  
 2 Expenditures include direct appropriations to SCO, Fi\$Cal, and ARB.  
 3 Loans to General Fund are included in revenues and transfers.  
 4 Accrued interest from loans to General Fund is included in revenues and transfers.  
 5 FY 2017/18 and FY 2018/19 amounts are projected.

**10. Describe if/when a deficit is projected to occur and if/when fee increase or reduction is anticipated. Describe the fee changes (increases or decreases) anticipated by the bureau.**

BAR does not project any deficits in the next four fiscal years. However, the current spending authorization for EFMS exceeds the \$1 registration fee collected. By Fiscal Year 2021/22, EFMP (vehicle retirement) will not be sustainable unless the \$1 fee is increased or spending is reduced.

In addition, AB 1274 (O’Donnell, Chapter 633, Statutes of 2017) extends the 6-model year exemption from a biennial Smog Check to model years 7 and 8 beginning January 1, 2019, and increases the smog abatement fee from \$20 in the first six years to \$25 in years 7 and 8. The table below depicts the distribution of the smog abatement fee for vehicles during the years of Smog Check exemption.

<b>Smog Abatement Fee Distribution</b>								
Fund	Year							
	1	2	3	4	5	6	7	8
VIRF (BAR)	\$0	\$2	\$2	\$2	\$2	\$2	\$4	\$4
HPRRA (BAR)	\$6	\$4	\$4	\$4	\$4	\$4	\$0	\$0
APCF <sup>1</sup> (ARB)	\$6	\$6	\$6	\$6	\$6	\$6	\$21	\$21
AQIF <sup>2</sup> (ARB)	\$4	\$4	\$4	\$4	\$4	\$4	\$0	\$0
ARFTF <sup>3</sup> (ARB)	\$4	\$4	\$4	\$4	\$4	\$4	\$0	\$0

1 Air Pollution Control Fund  
 2 Air Quality Improvement Fund  
 3 Alternative and Renewable Fuel and Technology Fund

Finally, AB 630 (Cooper, Chapter 636, Statutes of 2017) allows for the redirection of VIRF, HPRRA, and EFMS funds to ARB’s Clean Cars 4 All Program as needed. Therefore, BAR is unable to determine the future impact on these funds.

**11. Describe the history of general fund loans. When were the loans made? When have payments been made to the bureau? Has interest been paid? What is the remaining balance?**

See the tables below for a history of general fund loans and repayments.

General Fund Loans <sup>1</sup>								
Fund	Loan Amounts							Total Loans To General Fund
	FY 2002/03	FY 2003/04	FY 2008/09	FY 2010/11	FY 2015/16	FY 2016/17	FY 2017/18	
VIRF	\$100,000	\$14,000	\$25,000	\$0	\$0	\$0	\$0	\$139,000
HPRA	\$0	\$0	\$20,000	\$0	\$0	\$0	\$0	\$20,000
EFMS	\$0	\$0	\$0	\$60,000	\$0	\$0	\$0	\$60,000
<b>Total</b>	<b>\$100,000</b>	<b>\$14,000</b>	<b>\$45,000</b>	<b>\$60,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$219,000</b>

<sup>1</sup> Amounts in thousands of dollars

General Fund Loan Repayments <sup>1</sup>							
Fund	Repayment Amounts						Remaining Loan Balances <sup>3</sup>
	FY 2010/11	FY 2011/12	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18 <sup>2</sup>	
VIRF	\$0	\$0	\$0	\$39,000	\$10,000	\$0	\$90,000
Interest	\$0	\$0	\$0	\$9,342	\$1,981	\$0	\$0
HPRA	\$20,000	\$0	\$0	\$0	\$0	\$0	\$0
Interest	\$1,422	\$0	\$0	\$0	\$0	\$0	\$0
EFMS	\$0	\$20,000	\$10,000	\$20,000	\$10,000	\$0	\$0
Interest	\$0	\$87	\$225	\$544	\$320	\$0	\$0
<b>Total</b>	<b>\$20,000</b>	<b>\$20,000</b>	<b>\$10,000</b>	<b>\$59,000</b>	<b>\$20,000</b>	<b>\$0</b>	<b>\$90,000</b>

<sup>1</sup> Amounts in thousands of dollars

<sup>2</sup> Projected

<sup>3</sup> Excludes interest

**12. Describe the amounts and percentages of expenditures by program component. Use Table 3. Expenditures by Program Component to provide a breakdown of the expenditures by the bureau in each program area. Expenditures by each component (except for pro rata) should be broken out by personnel expenditures and other expenditures.**

Table 3. Expenditures by Program Component												
Expenditures by Program Component <sup>1</sup>												
VIRF	FY 2013/14			FY 2014/15			FY 2015/16			FY 2016/17 <sup>2</sup>		
	Personnel Services	OE&E	%	Personnel Services	OE&E	%	Personnel Services	OE&E	%	Personnel Services	OE&E	%
Administration <sup>3</sup>	\$12,537,999	\$35,284,287	49%	\$13,602,886	\$35,973,784	50%	\$11,733,680	\$28,949,725	44%	\$14,622,657	\$28,402,001	44%
Licensing	\$2,039,159	\$250,550	2%	\$1,976,213	\$143,863	2%	\$2,153,724	\$172,952	3%	\$2,218,662	\$194,383	2%
Enforcement	\$34,252,215	\$13,123,913	49%	\$34,714,810	\$13,895,618	48%	\$35,621,399	\$13,395,136	53%	\$35,292,791	\$16,741,273	53%
DCA Pro Rata <sup>4</sup>		\$15,140,278			\$15,697,628			\$12,291,842			\$11,981,860	
Total PS & OE&E		\$97,488,123			\$100,307,174			\$92,026,616			\$97,471,767	
<b>TOTALS</b>	<b>\$48,829,373</b>	<b>\$48,658,750</b>	<b>100%</b>	<b>\$50,293,909</b>	<b>\$50,013,265</b>	<b>100%</b>	<b>\$49,508,803</b>	<b>\$42,517,813</b>	<b>100%</b>	<b>\$52,134,110</b>	<b>\$45,337,657</b>	<b>100%</b>

<sup>1</sup> Collected reimbursements are not included in expenditures.

<sup>2</sup> Based on FM 13 CALSTARS reports.

<sup>3</sup> Administration includes costs for executive staff, board, administrative support, and fiscal services.

<sup>4</sup> DCA Pro Rata included in OE&E (Operating Expense and Equipment).

Expenditures by Program Component												
HPRRA	FY 2013/14			FY 2014/15			FY 2015/16			FY 2016/17 <sup>1</sup>		
	Personnel Services	OE&E	%	Personnel Services	OE&E	%	Personnel Services	OE&E	%	Personnel Services	OE&E	%
Program	\$4,582,267	\$23,913,183	100%	\$3,993,442	\$28,274,555	100%	\$3,814,252	\$30,536,028	100%	\$4,634,797	\$32,731,931	100%
DCA Pro Rata <sup>2</sup>		\$1,567,552			\$1,571,777			\$1,231,899			\$1,487,150	
Total PS & OE&E		\$28,495,450			\$32,267,997			\$34,350,280			\$37,366,728	
<b>TOTALS</b>	<b>\$4,582,267</b>	<b>\$23,913,183</b>		<b>\$3,993,442</b>	<b>\$28,274,555</b>		<b>\$3,814,252</b>	<b>\$30,536,028</b>		<b>\$4,634,797</b>	<b>\$32,731,931</b>	

1 Based on FM 13 CALSTARS reports.

2 DCA Pro Rata included in OE&E.

Expenditures by Program Component												
EFMS	FY 2013/14			FY 2014/15			FY 2015/16			FY 2016/17 <sup>1</sup>		
	Personnel Services	OE&E	%	Personnel Services	OE&E	%	Personnel Services	OE&E	%	Personnel Services	OE&E	%
Program	\$343,593	\$33,322,058	100%	\$397,706	\$39,579,167	100%	\$428,019	\$32,119,482	100%	\$505,225	\$37,095,376	100%
DCA Pro Rata <sup>2</sup>		\$220,816			\$308,871			\$156,815			\$161,212	
Total PS & OE&E		\$33,665,651			\$39,976,873			\$32,547,501			\$37,600,601	
<b>TOTALS</b>	<b>\$343,593</b>	<b>\$33,322,058</b>		<b>\$397,706</b>	<b>\$39,579,167</b>		<b>\$428,019</b>	<b>\$32,119,482</b>		<b>\$505,225</b>	<b>\$37,095,376</b>	

1 Based on FM 13 CALSTARS reports.

2 DCA Pro Rata included in OE&E.

**13. Describe the amount the bureau has contributed to the BreEZe program. What are the anticipated BreEZe costs the bureau has received from DCA?**

BAR's contribution to the BreEZe program costs are provided in the table below.

BreEZe Costs				
FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18 <sup>1</sup>
\$286,561	\$149,949	\$146,192	\$381,558	\$317,000

1 Projected

**14. Describe license renewal cycles and history of fee changes in the last 10 years. Give the fee authority (Business and Professions Code and California Code of Regulations citation) for each fee charged by the bureau.**

BAR has not had any fee changes for licenses, registrations, or renewals in the last 20 years. Effective August 1, 2012, BAR separated the Smog Check Technician license into two license types: Smog Check Inspector and Smog Check Repair Technician. The fee amounts are unchanged, and one fee is required for both license types with an initial application, but separate renewal fees are required for each of the license types. The renewal cycle and authority for each license fee charged are as follows:

Fee Authority and Renewal Cycle				
License Type	Renewal Cycle	Business and Professions Code	Health and Safety Code	California Code of Regulations (Title 16)
Automotive Repair Dealer <sup>1</sup>	Annually	9884.1, 9884.2, 9884.3, 9886.3	-	3351, 3351.1
Smog Check Test-and-Repair Station	Annually	-	44030, 44034	3340.10
Smog Check Test-Only Station	Annually	-	44030, 44034	3340.10
Smog Check Repair-Only Station	Annually	-	44030, 44034	3340.10
Brake Station	Annually	9887.2	-	3306
Lamp Station	Annually	9887.2	-	3306
Smog Check Inspector	Biennially	-	44031.5, 44034, 44034.1, 44045.5	3340.29
Smog Check Repair Technician	Biennially	-	44031.5, 44034, 44034.1, 44045.5	3340.29
Brake Adjuster	Every four years	9887.2	-	3310
Lamp Adjuster	Every four years	9887.2	-	3310

<sup>1</sup> Registration

Table 4. Fee Schedule and Revenue							
Fee	Current Fee Amount	Statutory Limit	FY 2013/14 Revenue	FY 2014/15 Revenue	FY 2015/16 Revenue	FY 2016/17 Revenue	% of Total Revenue
Automotive Repair Dealer (Initial)	\$200	\$200	\$831,550	\$816,900	\$800,500	\$850,750	9.48%
Automotive Repair Dealer (Renewal)	\$200	\$200	\$6,824,825	\$6,834,480	\$6,894,725	\$7,024,792	78.27%
Smog Check Test-and-Repair Station (Initial)	\$100	\$100	\$57,700	\$72,800	\$59,700	\$59,200	0.66%
Smog Check Test-and-Repair Station (Renewal)	\$100	\$100	\$463,200	\$471,400	\$488,200	\$504,000	5.62%
Smog Check Test-Only Station (Initial)	\$100	\$100	\$41,800	\$44,800	\$43,000	\$40,800	0.45%
Smog Check Test-Only Station (Renewal)	\$100	\$100	\$197,500	\$192,200	\$192,400	\$179,500	2.00%
Smog Check Repair-Only Station (Initial)	\$100	\$100	\$3,200	\$3,100	\$2,100	\$2,000	0.02%
Smog Check Repair-Only Station (Renewal)	\$100	\$100	\$3,000	\$4,300	\$5,900	\$6,900	0.08%
Brake and Lamp Station (Initial)	\$10	\$10	\$2,800	\$3,690	\$3,585	\$4,100	0.05%
Brake and Lamp Station (Renewal)	\$5	\$5	\$9,680	\$9,825	\$9,905	\$9,705	0.11%
Smog Check Inspector (Initial)	\$20	\$20	\$44,251	\$46,724	\$43,844	\$42,806	0.48%
Smog Check Inspector (Renewal)	\$20	\$20	\$79,186	\$126,547	\$136,471	\$139,072	1.55%
Smog Check Repair Technician (Initial)	\$20	\$20	\$7,809	\$8,636	\$9,236	\$13,444	0.15%
Smog Check Repair Technician (Renewal)	\$20	\$20	\$56,174	\$90,515	\$89,474	\$82,028	0.91%
Brake and Lamp Adjuster (Initial) <sup>1</sup>	\$10	\$10	\$17,850	\$16,710	\$17,870	\$16,120	0.18%

<sup>1</sup> Licenses for Brake and Lamp Adjusters are valid for four years.

## 15. Describe Budget Change Proposals (BCPs) submitted by the bureau in the past four fiscal years.

The Finance Letter contained in Table 5 below was for EFMP. BAR did not submit any BCPs during this time.

Table 5. Budget Change Proposals (BCPs)								
BCP ID #	Fiscal Year	Description of Purpose of BCP	Personnel Services				OE&E	
			# Staff Requested (include classification)	# Staff Approved (include classification)	\$ Requested	\$ Approved	\$ Requested	\$ Approved
1111-01	2014/15	Fund augmentation of \$40.372 million and 9.0 positions in Finance Letter for EFMP.	9.0	9.0	\$572,000	\$572,000	\$39,800,000	\$39,800,000

## Staffing Issues

### 16. Describe any bureau staffing issues/challenges, i.e., vacancy rates, efforts to reclassify positions, staff turnover, recruitment and retention efforts, succession planning.

BAR's Personnel Office works diligently with DCA's Office of Human Resources and the California Department of Human Resources (CalHR) to successfully navigate any challenges related to recruitment and retention.

#### Vacancy Rates

BAR's average annual vacancy rate is under 10 percent. Recruitment and retention efforts by BAR include continuous online testing for various classifications, such as the Program Representative I and Program Representative II series. This continuous online testing was developed in conjunction with DCA and CalHR.

#### Efforts to Reclassify Positions

BAR has successfully reclassified positions to ensure that appropriate civil service classifications are utilized to meet operational needs. One example was the reclassification of an Associate Programmer Analyst to a System Software Specialist III (SSSIII) to ensure the continuity and security of California's Smog Check Program. The SSSIII's responsibilities include establishing appropriate security controls for the California Vehicle Inspection System, the database and communication system that supports the Smog Check Program. The position also performs information technology security and configuration audits of the system.

#### Recruitment and Retention Efforts

BAR is successful in recruiting and retaining employees, as evidenced by an average annual vacancy rate of less than 10 percent. However, Southern California and Bay Area vacancies are disproportionately more challenging to fill, possibly due to the higher cost of living in those geographical locations. To increase candidate pools, BAR now advertises job opportunities on its public website and has advertised on other consumer websites, as necessary.

#### Staff Turnover

BAR has identified key positions occupied by incumbents with less than two years until retirement. These incumbents are currently training staff to retain institutional knowledge that could be lost upon retirement from state service.

Historically, BAR does not experience high rates of turnover in staff, other than in entry-level clerical support classifications, primarily in CAP and the Licensing Unit. However, BAR has experienced an increase in retirements in the Program Representative series, which has resulted in increased vacancies.

## Succession Planning

BAR utilizes DCA's Workforce and Succession Plan and recently submitted a survey to DCA for assistance in making appropriate updates. BAR uses office desk procedure manuals as training tools for succession planning and knowledge transfer. BAR also participates in DCA's Employee Career Empowerment & Mentorship Pilot program, which assists staff in meeting career goals and preparing individuals for future leadership positions.

### **17. Describe the bureau's staff development efforts and how much is spent annually on staff development (cf., Section 12, Attachment D).**

Refer to Attachments F, G, H, and I for BAR's last four year-end organizational charts. Over the last four fiscal years, BAR's Technical Training Unit and contracted training vendors provided training at an average annual cost of \$54,000. Class topics included law and regulation enforcement procedures, bargaining unit mandates, automotive technical courses, professional development, and other job-related training. In addition, BAR utilized the services of DCA's SOLID Training Unit, which offers training on topics such as career development, communication, customer service, presentations, time management, technology, leadership, and workplace awareness.

## Section 4 Licensing Program

### **18. What are the bureau's performance targets/expectations for its licensing<sup>4</sup> program? Is the bureau meeting those expectations? If not, what is the bureau doing to improve performance?**

BAR's licensing processing goal is 30 days from receipt of a complete application. Currently, BAR meets this goal. Applicants for ARD registration, individual and station licenses for the Smog Check, Brake, and Lamp Programs, and STAR station certification are notified of application approval, deficiency, or denial within two weeks.

### **19. Describe any increase or decrease in the bureau's average time to process applications, administer exams and/or issue licenses. Have pending applications grown at a rate that exceeds completed applications? If so, what has been done by the bureau to address them? What are the performance barriers and what improvement plans are in place? What has the bureau done and what is the bureau going to do to address any performance issues, i.e., process efficiencies, regulations, BCP, legislation?**

BAR's average application processing times are approximately the same as reported in the last sunset review. BAR currently processes complete applications well below processing times established in California Code of Regulations, Title 16, Section 3303.2. BAR does not have a backlog and has no performance issues.

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<sup>4</sup> The term "license" in this document includes a license, registration, or certificate.

**20. How many licenses or registrations does the bureau issue each year? How many renewals does the bureau issue each year?**

The number of ARD registrations and individual and station licenses issued and renewed for each of the past three fiscal years is provided below.

Fiscal Year	Initial Licenses <sup>1</sup>	Renewals <sup>1</sup>
2014/15	6,739	53,306
2015/16	6,469	55,027
2016/17	7,102	53,558

<sup>1</sup> Initial licenses and renewals do not include STAR Program certifications.

Table 6. Licensee Population					
License Type		FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
Automotive Repair Dealer <sup>1</sup>	Active	36,559	36,689	36,788	36,790
	Out-of-State	0	0	0	0
	Out-of-Country	0	0	0	0
	Delinquent	3,257	3,127	2,732	3,997
Smog Test-and-Repair Station	Active	5,001	5,237	5,306	5,208
	Out-of-State	0	0	0	0
	Out-of-Country	0	0	0	0
	Delinquent	351	365	344	475
Smog Test-Only Station	Active	2,199	2,158	2,146	2,141
	Out-of-State	0	0	0	0
	Out-of-Country	0	0	0	0
	Delinquent	275	265	210	210
Smog Repair-Only Station	Active	58	41	42	46
	Out-of-State	0	0	0	0
	Out-of-Country	0	0	0	0
	Delinquent	2	7	8	8
Brake and Lamp Station	Active	2,128	2,157	2,096	2,079
	Out-of-State	0	0	0	0
	Out-of-Country	0	0	0	0
	Delinquent	177	193	218	254
Smog Check Inspector	Active	15,357	15,909	15,552	15,377
	Out-of-State	0	0	0	0
	Out-of-Country	0	0	0	0
	Delinquent	5	1,219	2,629	3,664
Smog Check Repair Technician	Active	12,063	11,268	9,889	9,103
	Out-of-State	0	0	0	0
	Out-of-Country	0	0	0	0
	Delinquent	2	1,593	3,245	4,261
Brake and Lamp Adjuster	Active	3,148	3,114	3,131	3,057
	Out-of-State	0	0	0	0
	Out-of-Country	0	0	0	0
	Delinquent	0	0	0	0
STAR Station <sup>2</sup>	Active	4,190	4,600	4,557	4,510
	Out-of-State	0	0	0	0
	Out-of-Country	0	0	0	0
	Delinquent	0	0	0	0

<sup>1</sup> Registration

<sup>2</sup> Certification

**Table 7a. Licensing Data by Type**

Application Type		Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
						Total (Close of FY)	Outside Bureau control*	Within Bureau control*	Complete Apps	Incomplete Apps	combined, IF unable to separate out
FY 2014/15	<b>Automotive Repair Dealer<sup>1</sup></b>	4,108	N/A	N/A	3,598	510	N/A	N/A	N/A	N/A	30 days
	Renewal	34,518	N/A	N/A	34,518	N/A	N/A	N/A	N/A	N/A	10-20 days
	<b>Smog Check Test-and-Repair Station</b>	726	N/A	N/A	704	22	N/A	N/A	N/A	N/A	40 days
	Renewal	4,739	N/A	N/A	4,739	N/A	N/A	N/A	N/A	N/A	45 days
	<b>Smog Check Test-Only Station</b>	452	N/A	N/A	372	80	N/A	N/A	N/A	N/A	30 days
	Renewal	1,958	N/A	N/A	1,958	N/A	N/A	N/A	N/A	N/A	10-20 days
	<b>Smog Check Repair-Only Station</b>	49	N/A	N/A	24	25	N/A	N/A	N/A	N/A	30 days
	Renewal	49	N/A	N/A	49	N/A	N/A	N/A	N/A	N/A	N/A
	<b>Brake and Lamp Station</b>	302	N/A	N/A	257	45	N/A	N/A	N/A	N/A	25 days
	Renewal	1,985	N/A	N/A	1,985	N/A	N/A	N/A	N/A	N/A	10-20 days
	Business Renewals	43,200	N/A	N/A	43,200	N/A	N/A	N/A	N/A	N/A	N/A
	<b>Smog Check Inspector</b>	2,455	N/A	N/A	1,264	1,191	N/A	N/A	N/A	N/A	75 days
	Renewal	5,866	N/A	N/A	5,866	N/A	N/A	N/A	N/A	N/A	10 days
	Exam	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	<b>Smog Check Repair Technician</b>	951	N/A	N/A	233	718	N/A	N/A	N/A	N/A	70 days
	Renewal	4,191	N/A	N/A	4,191	N/A	N/A	N/A	N/A	N/A	N/A
	Exam	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	<b>Brake and Lamp Adjuster</b>	2,233	N/A	N/A	287	1,946	N/A	N/A	N/A	N/A	40 days
	Exam	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	<b>STAR Station<sup>2</sup></b>	1,585	N/A	N/A	758	827	N/A	N/A	N/A	N/A	16 days

1 Registration  
2 Certification

**Table 7a. Licensing Data by Type (continued)**

Application Type	Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
					Total (Close of FY)	Outside Bureau control*	Within Bureau control*	Complete Apps	Incomplete Apps	combined, IF unable to separate out
<b>Automotive Repair Dealer<sup>1</sup></b>	4,047	N/A	N/A	3,392	655	N/A	N/A	N/A	N/A	25 days
Renewal	34,864	N/A	N/A	34,864	N/A	N/A	N/A	N/A	N/A	10-20 days
<b>Smog Check Test-and-Repair Station</b>	552	N/A	N/A	524	28	N/A	N/A	N/A	N/A	35 days
Renewal	4,933	N/A	N/A	4,933	N/A	N/A	N/A	N/A	N/A	N/A
<b>Smog Check Test-Only Station</b>	451	N/A	N/A	380	71	N/A	N/A	N/A	N/A	30 days
Renewal	1,976	N/A	N/A	1,976	N/A	N/A	N/A	N/A	N/A	N/A
<b>Smog Check Repair-Only Station</b>	14	N/A	N/A	9	N/A	N/A	N/A	N/A	N/A	30 days
Renewal	64	N/A	N/A	64	N/A	N/A	N/A	N/A	N/A	N/A
<b>Brake and Lamp Station</b>	352	N/A	N/A	265	87	N/A	N/A	N/A	N/A	25 days
Renewal	2,021	N/A	N/A	2,021	N/A	N/A	N/A	N/A	N/A	N/A
Business Renewals	43,794	N/A	N/A	43,794	N/A	N/A	N/A	N/A	N/A	N/A
<b>Smog Check Inspector</b>	2,615	N/A	N/A	1,335	1,280	N/A	N/A	N/A	N/A	65 days
Renewal	6,749	N/A	N/A	6,749	N/A	N/A	N/A	N/A	N/A	N/A
Exam	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<b>Smog Check Repair Technician</b>	895	N/A	N/A	282	613	N/A	N/A	N/A	N/A	60 days
Renewal	4,420	N/A	N/A	4,420	N/A	N/A	N/A	N/A	N/A	N/A
Exam	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<b>Brake and Lamp Adjuster</b>	2,228	N/A	N/A	282	1,946	N/A	N/A	N/A	N/A	35 days
Exam	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<b>STAR Station<sup>2</sup></b>	995	N/A	N/A	602	393	N/A	N/A	N/A	N/A	14 days

FY 2015/16  
<sup>1</sup> Registration  
<sup>2</sup> Certification

**Table 7a. Licensing Data by Type (continued)**

Application Type	Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
					Total (Close of FY)	Outside Bureau control*	Within Bureau control*	Complete Apps	Incomplete Apps	combined, IF unable to separate out
<b>Automotive Repair Dealer<sup>1</sup></b>	4,305	N/A	N/A	3,793	512	N/A	N/A	N/A	N/A	25 days
Renewal	34,242	N/A	N/A	34,242	N/A	N/A	N/A	N/A	N/A	N/A
<b>Smog Check Test-and-Repair Station</b>	590	N/A	N/A	516	74	N/A	N/A	N/A	N/A	34 days
Renewal	4,914	N/A	N/A	4,914	N/A	N/A	N/A	N/A	N/A	N/A
<b>Smog Check Test-Only Station</b>	411	N/A	N/A	359	52	N/A	N/A	N/A	N/A	30 days
Renewal	1,759	N/A	N/A	1,759	N/A	N/A	N/A	N/A	N/A	N/A
<b>Smog Check Repair-Only Station</b>	34	N/A	N/A	11	23	N/A	N/A	N/A	N/A	27 days
Renewal	38	N/A	N/A	38	N/A	N/A	N/A	N/A	N/A	N/A
<b>Brake and Lamp Station</b>	365	N/A	N/A	255	110	N/A	N/A	N/A	N/A	25 days
Renewal	1,890	N/A	N/A	1,890	N/A	N/A	N/A	N/A	N/A	N/A
Business Renewals	42,843	N/A	N/A	42,843	N/A	N/A	N/A	N/A	N/A	N/A
<b>Smog Check Inspector</b>	2,169	N/A	N/A	1,033	1,136	N/A	N/A	N/A	N/A	60 days
Renewal	6,736	N/A	N/A	6,736	N/A	N/A	N/A	N/A	N/A	N/A
Exam	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<b>Smog Check Repair Technician</b>	913	N/A	N/A	324	589	N/A	N/A	N/A	N/A	60 days
Renewal	3,979	N/A	N/A	3,979	N/A	N/A	N/A	N/A	N/A	N/A
Exam	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<b>Brake and Lamp Adjuster</b>	1,978	N/A	N/A	811	1,167	N/A	N/A	N/A	N/A	30 days
Exam	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<b>STAR Station<sup>2</sup></b>	1,024	N/A	N/A	485	539	N/A	N/A	N/A	N/A	12 days

FY 2016/17  
<sup>1</sup> Registration  
<sup>2</sup> Certification

<b>Table 7b. Total Licensing Data</b>			
	FY 2014/15	FY 2015/16	FY 2016/17
<b>Initial Licensing Data:</b>			
Initial License/Exam Applications Received	11,280	11,168	10,765
Initial License/Exam Applications Approved	6,739	6,469	7,102
Initial License/Exam Applications Closed	N/A	N/A	N/A
License Issued	6,739	6,469	7,102
<b>Initial License/Initial Exam Pending Application Data:</b>			
Pending Applications (total at close of FY)	N/A	N/A	N/A
Pending Applications (outside of bureau control)	N/A	N/A	N/A
Pending Applications (within bureau control)	N/A	N/A	N/A
<b>Initial License/Initial Exam Cycle Time Data (WEIGHTED AVERAGE):</b>			
Average Days to Application Approval (All - Complete/Incomplete) <sup>1</sup>	45 days	41 days	36 days
Average Days to Application Approval (incomplete applications)	N/A	N/A	N/A
Average Days to Application Approval (complete applications)	N/A	N/A	N/A
<b>License Renewal Data:</b>			
License Renewed	53,306	55,027	53,558

<sup>1</sup> Average Days to Application Approval includes delays due to deficient applications.

## 21. How does the bureau verify information provided by the applicant?

### a. What process does the bureau use to check prior criminal history information, prior disciplinary actions, or other unlawful acts of the applicant?

Applicants are required to disclose all prior criminal convictions and administrative discipline, including Smog Check citations, as part of the application process. If the application indicates a criminal conviction, BAR's Licensing Unit requests additional details before referring the application to BAR's Enforcement Operations Branch (EOB). EOB reviews prior disciplinary and/or criminal history provided by the applicant to determine if the initial or renewal license should be granted.

### b. Does the bureau fingerprint all applicants?

No, BAR is not statutorily authorized to fingerprint applicants.

### c. Have all current licensees been fingerprinted? If not, explain.

Not applicable.

### d. Is there a national databank relating to disciplinary actions?

No.

### Does the bureau check the national databank prior to issuing a license? Renewing a license?

Not applicable.

### e. Does the bureau require primary source documentation?

No.

**22. Describe the bureau's legal requirement and process for out-of-state and out-of-country applicants to obtain licensure.**

BAR's licensing requirements and application processes for out-of-state and out-of-country applicants are the same as for in-state applicants.

**23. Describe the bureau's process, if any, for considering military education, training, and experience for purposes of licensing or credentialing requirements, including college credit equivalency.**

**a. Does the bureau identify or track applicants who are veterans? If not, when does the bureau expect to be compliant with BPC § 114.5?**

Yes, BAR identifies and tracks applicants who are veterans. BAR also is in compliance with Business and Professions Code section 114.5.

**b. How many applicants offered military education, training or experience towards meeting licensing or credentialing requirements, and how many applicants had such education, training or experience accepted by the bureau?**

Since 2011, BAR has received and accepted 32 Smog Check Inspector and/or Repair Technician applicant requests to apply military education, training, or experience towards licensing requirements.

**c. What regulatory changes has the bureau made to bring it into conformance with BPC § 35?**

BAR has utilized its website to publicize information on the licensing application process for military veterans. BAR has published newsletter articles and mailed informational inserts with all renewal notices to licensees. In addition, BAR has updated the licensing applications to identify military veterans.

**d. How many licensees has the bureau waived fees or requirements for pursuant to BPC § 114.3, and what has the impact been on bureau revenues?**

Since 2011, BAR has waived application fees or requirements for all 14 applicants who requested the waiver pursuant to Business and Professions Code section 114.3, with nominal impact to BAR revenues.

**e. How many applications has the bureau expedited pursuant to BPC § 115.5?**

BAR has not received any applications that qualify for expedited review pursuant to Business and Professions Code section 115.5.

**24. Does the bureau send No Longer Interested notifications to DOJ on a regular and ongoing basis? Is this done electronically? Is there a backlog? If so, describe the extent and efforts to address the backlog.**

No, as BAR is not authorized under existing law to fingerprint applicants.

## Examinations

<b>Table 8. Examination Data</b>					
<b>California Examination (include multiple language) if any:</b>					
<b>License Type</b>		<b>Smog Check Inspector</b>	<b>Smog Check Repair Technician</b>	<b>Brake Adjuster</b>	<b>Lamp Adjuster</b>
<b>Exam Title</b>		<b>Smog Check Inspector</b>	<b>Smog Check Repair Technician</b>	<b>Brake Adjuster</b>	<b>Lamp Adjuster</b>
FY 2013/14	# of 1 <sup>st</sup> Time Candidates	1,764	428	654	716
	Pass %	64%	50%	77%	59%
FY 2014/15	# of 1 <sup>st</sup> Time Candidates	1,700	513	582	670
	Pass %	63%	49%	77%	59%
FY 2015/16	# of 1 <sup>st</sup> Time Candidates	1,582	465	554	647
	Pass %	60%	47%	75%	58%
FY 2016/17	# of 1 <sup>st</sup> time Candidates	1,419	490	474	535
	Pass %	54%	49%	76%	57%
Date of Last OA <sup>1</sup>		2016	2015	2011	2011
Name of OA Developer		OPES <sup>2</sup>	OPES	OPES	OPES
Target OA Date		2021	2020	TBD	TBD
<b>National Examination (include multiple language) if any:<sup>3</sup></b>					
License Type					
Exam Title					
FY 2013/14	# of 1 <sup>st</sup> Time Candidates				
	Pass %				
FY 2014/15	# of 1 <sup>st</sup> Time Candidates				
	Pass %				
FY 2015/16	# of 1 <sup>st</sup> Time Candidates				
	Pass %				
FY 2016/17	# of 1 <sup>st</sup> time Candidates				
	Pass %				
Date of Last OA					
Name of OA Developer					
Target OA Date					

<sup>1</sup> Occupational Analysis

<sup>2</sup> Office of Professional Examination Services

<sup>3</sup> BAR does not administer any national examinations. However, Smog Check Inspector and Smog Check Repair Technician license applicants may elect to take nationally sponsored Automotive Service Excellence (ASE) courses as one option to meet skill, knowledge, and experience requirements for the California examination.

### 25. Describe the examinations required for licensure. Is a national examination used? Is a California specific examination required? Are examinations offered in a language other than English?

The six California license examinations currently administered are:

- Smog Check Inspector – evaluates a candidate’s knowledge of Smog Check Program inspection requirements.

- Smog Check Repair Technician – evaluates a candidate’s knowledge of diagnoses and repairs.
- Brake Adjuster (A) – evaluates a candidate’s knowledge of brake inspection requirements, as well as adjustment and diagnoses, on all vehicles.
- Brake Adjuster (B) – evaluates a candidate’s knowledge of brake inspection requirements, as well as adjustment and diagnoses, on trucks over 10,000 pounds Gross Vehicle Weight Rating (GVWR), and trailers with air brakes.
- Brake Adjuster (C) – evaluates a candidate’s knowledge of brake inspection requirements, as well as adjustment and diagnoses, on vehicles under 10,000 GVWR, and trailers without air brakes.
- Lamp Adjuster – evaluates a candidate’s knowledge of lamp inspection requirements, as well as adjustment and diagnoses, on all vehicles, including motorcycles.

License examinations are developed by BAR in cooperation with DCA’s Office of Professional Examination Services (OPES) and paid subject matter experts. The examinations, which are administered by a DCA-contracted vendor, are multiple choice and are only offered in English. A national examination is not used. However, Smog Check Inspector and Smog Check Repair Technician license applicants may elect to take nationally sponsored Automotive Service Excellence (ASE) courses as one option to meet skill, knowledge, and experience requirements for the California examination.

**26. What are pass rates for first time vs. retakes in the past 4 fiscal years? (Refer to Table 8: Examination Data) Are pass rates collected for examinations offered in a language other than English?**

Examination statistics do not report first-time versus retest pass rates. Pass rates are not collected for examinations offered in other languages, as license examinations are only offered in English.

**27. Is the bureau using computer based testing? If so, for which tests? Describe how it works. Where is it available? How often are tests administered?**

BAR uses computer-based testing for all license examinations. Qualified applicants schedule their examination(s) directly with DCA’s contracted vendor, Psychological Services Incorporated (PSI). Examinations are administered throughout California, Monday through Saturday, excluding major holidays. Examinations are offered to candidates as requested.

**28. Are there existing statutes that hinder the efficient and effective processing of applications and/or examinations? If so, please describe.**

No. As previously noted, applicants for ARD registration, individual and station licenses for the Smog Check, Brake, and Lamp Programs, and STAR station certification are notified of application approval, deficiency, or denial within two weeks. Candidates can typically take an examination within two business days of the request.

## School Approvals

### 29. Describe legal requirements regarding school approval. Who approves your schools? What role does BPPE have in approving schools? How does the bureau work with BPPE in the school approval process?

California Code of Regulations, Title 16, Section 3340.32 establishes requirements for training institutions to obtain BAR certification. Bureau for Private Postsecondary Education (BPPE) approval or exemption is required to ensure the educational institution meets financial liability requirements. BAR reviews and approves all other certification requirements, including course content, instructor qualifications, and equipment.

### 30. How many schools are approved by the bureau? How often are approved schools reviewed? Can the bureau remove its approval of a school?

BAR has approved 104 schools to provide Smog Check Inspector training. Schools are currently required to re-certify annually with BAR. BAR performs biennial on-site school audits to ensure the necessary equipment and records are available and current. BAR has authority to deny a school's re-certification, as well as suspend approval pending a school's compliance with certification requirements.

### 31. What are the bureau's legal requirements regarding approval of international schools?

Not applicable.

## Continuing Education/Competency Requirements

### 32. Describe the bureau's continuing education/competency requirements, if any. Describe any changes made by the bureau since the last review.

Requirements are described in the table below. Training topics include changes in automotive technology, new and revised inspection procedures and/or repair practices, and updates to the laws and regulations impacting the specific license type.

There have been no changes in this area since the last sunset review.

License	CE/Competency Requirement	Provider	Renewal Cycle
Smog Check Inspector	4-hour online training	BAR	2 years
Smog Check Repair Technician	16 hours of training	BAR-certified schools	2 years
Brake Adjuster A	examination retest	PSI	4 years
Brake Adjuster B	examination retest	PSI	4 years
Brake Adjuster C	examination retest	PSI	4 years
Lamp Adjuster	examination retest	PSI	4 years

**a. How does the bureau verify CE or other competency requirements?**

Course completion for both Smog Check Inspector and Repair Technician training is entered into the California Automotive Resource Center (CalARC) database at [www.californiaarc.org](http://www.californiaarc.org). Brake and Lamp Adjusters are required to demonstrate continuing competency by passing an examination every four years.

**b. Does the bureau conduct CE audits of licensees? Describe the bureau's policy on CE audits.**

Audits are not necessary as BAR confirms each applicant's completion of required training through the CalARC database as part of the license renewal process for Smog Check Inspectors and Repair Technicians, which is mandated every two years. Licensees are notified of any deficiency and the license is not renewed until all requirements are met.

**c. What are consequences for failing a CE audit?**

Not applicable.

**d. How many CE audits were conducted in the past four fiscal years? How many fails? What is the percentage of CE failure?**

Not applicable.

**e. What is the bureau's course approval policy?**

BAR-certified Smog Check instructors submit course content for approval by BAR working in partnership with industry subject matter experts (SMEs).

**f. Who approves CE providers?**

BAR certifies both training institutions and instructors. Prior to BAR certification of an institution, BPPE approval or exemption is required. BAR certifies instructors with the assistance of contracted SMEs.

**Who approves CE courses?**

BAR approves training courses with the assistance of contracted SMEs.

**If the bureau approves them, what is the bureau application review process?**

BAR-certified instructors submit the proposed course to BAR. BAR then assigns assessment responsibilities to contracted SMEs to verify the course content and material meet industry standards. BAR certifies the course after any identified deficiencies are resolved.

**g. How many applications for CE providers and CE courses were received? How many were approved?**

Over the last four fiscal years, BAR received 18 school applications, of which 15 were approved.

During the same time, BAR received 113 instructor applications. Of those applicants, 38 were certified, 49 failed the written assessment or oral presentation, and 26 did not show up for or cancelled the written assessment.

In addition, BAR received requests for approval of 52 courses. Of those courses, 44 were approved, one is pending approval, four were rejected by BAR SMEs, and three were withdrawn.

**h. Does the bureau audit CE providers? If so, describe the bureau's policy and process.**

BAR conducts biennial audits of certified schools. Audits include a review of tool and equipment inventory, exam security inspection, and classroom reviews.

**i. Describe the bureau's effort, if any, to review its CE policy for purpose of moving toward performance based assessments of the licensee's continuing competence.**

BAR continuously refines training policies and utilizes course examinations to evaluate a licensee's competency. Additionally, the STAR Program evaluates the performance of licensed Smog Check Inspectors employed by STAR-certified stations.

## Section 5 Enforcement Program

**33. What are the bureau's performance targets/expectations for its enforcement program? Is the bureau meeting those expectations? If not, what is the bureau doing to improve performance?**

Performance measures for BAR's Field Operations and Enforcement Division are defined by both DCA's Consumer Protection Enforcement Initiative (CPEI) and BAR-established performance expectations. These goals focus on timely response to consumers and the pursuit of prompt disciplinary action against licensees in violation of BAR laws and regulations. The CPEI expectation is that all investigations are assigned within seven days; BAR assigns investigations within four days.

All investigations are expected to be closed on average within 60 days, which includes both consumer complaint mediation and complex disciplinary cases. For Fiscal Years (FY) 2014/15, FY 2015/16, and FY 2016/17, BAR averaged an investigation closure rate of 38 days, 43 days, and 45 days, respectively. For disciplinary cases, BAR's expectation is to complete the investigation within 180 days and consistently meets this goal. This is designed to allow partner agencies, such as the Office of the Attorney General and Office of Administrative Hearings, time to complete their portions of the adjudication process.

The CPEI goal for completion of formal disciplinary cases is 540 days from the date the investigation is opened by BAR. A formal disciplinary case includes BAR conducting the investigation, the Office of the Attorney General preparing an accusation, the Office of Administrative Hearings scheduling an administrative hearing, an Administrative Law Judge (ALJ) holding the hearing and rendering a proposed decision, DCA reviewing the ALJ's proposed decision, and DCA issuing a final decision and effective date of the order. In FY 2014/15, the average was 673 days; in FY 2015/16, the average was 736 days; and in FY 2016/17, the

average was 721 days. The longer timeframes are due to increased workload that is discussed in more detail in the next question.

In addition, since the last sunset review, BAR initiated contact with new probationers within six days; CPEI's goal is 10 days. CPEI's goal for initiating a response to a probation violation is 10 days. During the same period, BAR's response time was 38 days. BAR recently implemented an electronic case management system and realigned its case management operations to improve efficiency toward meeting this goal.

**34. Explain trends in enforcement data and the bureau's efforts to address any increase in volume, timeframes, ratio of closure to pending cases, or other challenges. What are the performance barriers? What improvement plans are in place? What has the bureau done and what is the bureau going to do to address these issues, i.e., process efficiencies, regulations, BCP, legislation?**

The most distinct trends in BAR's enforcement data since the last sunset review is a marked increase in both the number of citations issued and Attorney General cases initiated. The primary reason for this increase is the implementation of Smog Check testing using the BAR On-Board Diagnostic Inspection System (BAR-OIS). This inspection provides BAR with a wealth of data to identify improper inspections performed on the wrong emissions testing platform (BAR-97 instead of BAR-OIS) and fraudulent inspections through clean plugging.<sup>5</sup>

On March 9, 2015, BAR-OIS testing was required for most model year 2000 and newer gasoline-powered vehicles, most model year 1998 and newer diesel-powered vehicles, and all hybrid-powered vehicles.<sup>6</sup> During the initial implementation of BAR-OIS testing, many inspections (several hundred per month) were performed on the wrong (BAR-97) inspection platform. To ensure stations and technicians ceased these improper inspections, BAR issued citations, most with an order of abatement, to offending stations and technicians, effectively doubling the number of citations issued. This created an additional workload not only for BAR, but also for the Office of the Attorney General, Office of Administrative Hearings, and DCA staff to act on any formal administrative appeals of these citations. The increased level of enforcement was effective in correcting the behavior, dramatically reducing the number of instances of testing using the wrong equipment. Therefore, the enforcement workload should now begin to normalize.

BAR is also able to utilize BAR-OIS test data to identify clean-plugging activities. In FY 2015/16 and 2016/17, BAR forwarded many of these cases to the Office of the Attorney General, including requests for Interim Suspension Orders (ISOs). The workload for the Office of the Attorney General associated with ISOs is substantial. To mitigate and manage this workload, BAR implemented "certificate blocking" in Spring 2017, pursuant to Health and Safety Code section 44036(b)(3)(K). This enables BAR to block the certification of vehicles getting a fraudulent inspection immediately upon the capture of sufficient evidence to support an accusation against stations and technicians engaging in clean-plugging activities. Certificate blocking will result in a significant workload reduction at the Office of the Attorney General by substantially reducing the need for ISOs. The need for managing the workload sent to the Office of the Attorney General is

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<sup>5</sup> Clean plugging is a method by which another vehicle's properly functioning OBD system, or another source, is used to generate passing data readings or diagnostic information to fraudulently issue smog certificates to vehicles that are not smog compliant and/or not present for testing.

<sup>6</sup> AB 2289 (Eng, Chapter 258, Statutes of 2010) and California Code of Regulations, Title 16, Section 3340.42 authorized OBD testing for these vehicles.

evidenced by a dramatic increase in the number of cases initiated. BAR reported an annual average of 242 cases in the last sunset review report and an annual average of 455 cases in the current report, an 88 percent increase. In FY 2016/17 alone, BAR referred 737 cases to the Office of the Attorney General. (See AG Cases Initiated in Table 9b.)

This increase has resulted in a corresponding change in the number of accusations filed. The annual average of 176 accusations filed in the last sunset review report has increased to an annual average of 220 in the current report, a 25 percent increase. (See Accusations Filed in Table 9a.) In collaboration with the Office of the Attorney General, even though the volume has increased, BAR has lowered the average accusation completion time from 277 days to 177 days, a 36 percent decrease. (See Average Days Accusations in Table 9a.) Collaborative efforts include establishment within BAR's Enforcement Operations Branch of workgroups responsible for managing administrative cases within specific regions, and allowing BAR's case analysts to work directly with the Office of the Attorney General's Deputy Attorney Generals. BAR's expedited responses to the Office of the Attorney General's inquiries have improved inter-agency communication and reduced accusation completion times.

<b>Table 9a. Enforcement Statistics</b>			
	FY 2014/15	FY 2015/16	FY 2016/17
<b>COMPLAINT</b>			
Intake			
Received	19,793	19,549	18,395
Closed	18,413	18,960	18,455
Referred to Investigation	19,095	18,996	18,102
Average Time to Close	38	43	45
Pending (close of FY)	146	197	188
Source of Complaint			
Public	14,897	14,562	14,110
Licensee/Professional Groups	16	16	15
Governmental Agencies	6	2	4
Internal/Other	4,874	4,969	4,266
Conviction / Arrest			
Conviction Received	N/A	N/A	N/A
Conviction Closed	N/A	N/A	N/A
Average Time to Close	N/A	N/A	N/A
Conviction Pending (close of FY)	N/A	N/A	N/A
<b>LICENSE DENIAL</b>			
License Applications Denied	106	125	139
Statements of Issues (SOIs) Filed	40	43	20
SOIs Withdrawn	19	16	9
SOIs Dismissed	0	0	0
SOIs Declined	0	0	0
Average Days SOI	448	651	701
<b>ACCUSATION</b>			
Accusations Filed <sup>1</sup>	187	232	242
Accusations Withdrawn	3	2	7
Accusations Dismissed	2	3	3
Accusations Declined	1	0	0
Average Days Accusations <sup>2</sup>	138	185	208

<sup>1</sup> Accusations Filed represents cases where an accusation has been drafted by the Office of the Attorney General and served on the licensee.

<sup>2</sup> Average Days Accusations are the number of days from the date the case is forwarded to the Office of the Attorney General to the date the accusation is served on the licensee.

<b>Table 9b. Enforcement Statistics (continued)</b>			
	FY 2014/15	FY 2015/16	FY 2016/17
<b>DISCIPLINE</b>			
Disciplinary Actions			
Proposed/Default Decisions	79	86	71
Stipulations	108	118	86
Average Days to Complete	673	736	721
AG Cases Initiated <sup>1</sup>	285	342	737
AG Cases Pending (close of FY)	428	561	863
Disciplinary Outcomes			
Revocation	275	266	317
Voluntary Surrender	0	0	0
Suspension	0	1	2
Probation with Suspension	98	61	84
Probation	60	83	86
Probationary License Issued	0	0	5
Other	15	50	28
<b>PROBATION</b>			
New Probationers	167	152	186
Probations Successfully Completed	127	160	144
Probationers (close of FY)	355	347	389
Petitions to Revoke Probation	19	8	15
Probations Revoked	8	2	1
Probations Modified	3	2	0
Probations Extended	9	4	0
Probationers Subject to Drug Testing	N/A	N/A	N/A
Drug Tests Ordered	N/A	N/A	N/A
Positive Drug Tests	N/A	N/A	N/A
Petition for Reinstatement Granted	N/A	N/A	N/A
<b>DIVERSION</b>			
New Participants	N/A	N/A	N/A
Successful Completions	N/A	N/A	N/A
Participants (close of FY)	N/A	N/A	N/A
Terminations	N/A	N/A	N/A
Terminations for Public Threat	N/A	N/A	N/A
Drug Tests Ordered	N/A	N/A	N/A

<sup>1</sup> AG Cases Initiated represents the number of new cases referred to the Office of the Attorney General.

<sup>1</sup> See Item 43 for information on citation appeals.

<b>Table 9c. Enforcement Statistics (continued)</b>			
	FY 2014/15	FY 2015/16	FY 2016/17
<b>INVESTIGATION</b>			
All Investigations			
Opened (includes Smog Check citations)	4,817	4,896	4,151
Closed	4,330	4,867	4,515
Average days to close	38	60	74
Pending (close of FY)	860	889	525
Desk Investigations			
Closed	N/A	N/A	N/A
Average days to close	N/A	N/A	N/A
Pending (close of FY)	N/A	N/A	N/A
Non-Sworn Investigations	N/A	N/A	N/A
Sworn Investigations	N/A	N/A	N/A
<b>Note:</b> All BAR investigations are conducted by non-sworn Program Representatives and BAR does not conduct "desk investigations."			
<b>COMPLIANCE ACTION</b>			
ISO & Temporary Restraining Order Issued	10	40	79
Penal Code (PC) 23 Orders Requested	7	4	7
Citations with Order of Abatement for Unlicensed Activity	783	1,116	997
Amount of Fines Assessed for Unlicensed Activity	\$3,000	\$7,000	\$3,500
Amount Collected	\$1,150	\$5,000	\$3,500
<b>CITATION AND FINE<sup>1</sup></b>			
Citations Issued	2,940	4,298	3,657
Average Days to Complete	35	73	65
Amount of Fines Assessed	\$1,263,500	\$1,174,500	\$785,000
Reduced, Withdrawn, Dismissed	\$78,800	\$393,000	\$107,300
Amount Collected	\$486,000	\$605,000	\$653,500
<b>CRIMINAL ACTION</b>			
Referred for Criminal Prosecution	99	105	162

<b>Table 10. Enforcement Aging</b>						
	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	Cases Closed	Average %
<b>Attorney General Cases (Average %)</b>						
Closed Within:						
1 Year	54	43	17	19	<b>133</b>	15%
2 Years	115	97	106	80	<b>398</b>	45%
3 Years	70	54	86	61	<b>271</b>	30%
Over 3 Years	23	26	26	16	<b>91</b>	10%
Total Cases Closed	<b>262</b>	<b>220</b>	<b>235</b>	<b>176</b>	<b>893</b>	100%
<b>Investigations (Average %)</b>						
Closed Within:						
90 Days	91	84	87	158	<b>420</b>	30%
180 Days	77	57	123	116	<b>373</b>	27%
1 Year	117	68	107	151	<b>443</b>	32%
2 Years	29	22	25	72	<b>148</b>	11%
3 Years	0	1	0	1	<b>2</b>	0%
Over 3 Years	0	0	0	0	<b>0</b>	0%
Total Cases Closed	<b>314</b>	<b>232</b>	<b>342</b>	<b>498</b>	<b>1,386</b>	100%

**35. What do overall statistics show as to increases or decreases in disciplinary action since last review?**

Since the last sunset review, there has been an increase in the number of disciplinary actions taken by BAR. The introduction of OIS testing into the Smog Check Program has led to increases in both citations and formal disciplinary actions. In addition, the 2012 implementation of citations for unlicensed activity has contributed to the overall increase.

**36. How are cases prioritized? What is the bureau's complaint prioritization policy? Is it different from DCA's *Complaint Prioritization Guidelines for Health Care Agencies (August 31, 2009)*? If so, explain why.**

BAR assigns complaints on average within four days of receipt. Similar to DCA's complaint prioritization guidelines, BAR prioritizes prosecution based on the egregiousness of the act and the threat to public health, safety, and welfare. In cases where there is an imminent threat, such as clean plugging or clean piping<sup>7</sup>, BAR utilizes Interim Suspension Orders (ISOs) and Smog Check certificate blocking to protect the public.

**37. Are there mandatory reporting requirements? For example, requiring local officials or organizations, or other professionals to report violations, or for civil courts to report to the bureau actions taken against a licensee. Are there problems with the bureau receiving the required reports? If so, what could be done to correct the problems?**

External law enforcement entities are not statutorily required to notify BAR of violations related to its licensees.

<sup>7</sup> Clean piping is a method by which another vehicle's properly functioning exhaust system, or another source, is used to generate passing data readings to fraudulently issue smog certificates to vehicles that are not smog compliant and/or not present for testing.

**a. What is the dollar threshold for settlement reports received by the bureau?**

Not applicable.

**b. What is the average dollar amount of settlements reported to the bureau?**

Not applicable.

**38. Describe settlements the bureau, and Office of the Attorney General on behalf of the bureau, enter into with licensees.**

The Office of the Attorney General will often seek a settlement of BAR's administrative cases. In many cases, settlement terms will be a stipulated revocation of the registration and/or license. When appropriate, and if consumer protection can be achieved, BAR will stipulate to a stayed revocation and place the registration and/or license on probation for a period with specific terms and conditions.

**a. What is the number of cases, pre-accusation, that the bureau settled for the past four years, compared to the number that resulted in a hearing?**

BAR cases cannot be settled prior to filing an accusation.

**b. What is the number of cases, post-accusation, that the bureau settled for the past four years, compared to the number that resulted in a hearing?**

<b>Discipline</b>				
<b>Administrative Actions</b>	<b>FY 2013/14</b>	<b>FY 2014/15</b>	<b>FY 2015/16</b>	<b>FY 2016/17</b>
Proposed/Default Decisions	125	79	86	71
Stipulations	112	108	118	86
Stipulated Settlement Percentage	47%	58%	58%	55%

**c. What is the overall percentage of cases for the past four years that have been settled rather than resulted in a hearing?**

See table above.

**39. Does the bureau operate with a statute of limitations? If so, please describe and provide citation. If so, how many cases have been lost due to statute of limitations? If not, what is the bureau's policy on statute of limitations?**

Pursuant to Business and Professions Code section 9884.20, BAR has three years from the occurrence of fraud, or two years from becoming aware of fraud, to file an accusation against a licensee. Additionally, Business and Professions Code section 9889.8 limits the filing of any accusation to three years from the date of the act or omission alleged, except where the alleged act or omission is fraud or misrepresentation. In those cases, BAR has two years from discovery of the act or omission to file an accusation.

In 2015, BAR exceeded the statute of limitations in one case. BAR delayed the filing of the accusation at the request of a federal prosecutor who pursued federal Clean Air Act violations.

**40. Describe the bureau's efforts to address unlicensed activity and the underground economy.**

BAR is an active participant in the Governor's Labor Enforcement Task Force (LETF) and partners with other agencies in the LETF to perform compliance sweeps. BAR also continuously monitors online listings and advertisements such as Craigslist, Angie's List, Penny Saver, etc. to identify and target potential unlicensed activity. BAR sets up covert sting operations to engage these operators and take appropriate action, including local District Attorney referral.

The number of citations issued for unlicensed activity has increased since the October 2011 adoption of regulations.

BAR also recently adopted regulations to help consumers more easily identify and verify the license of a mobile automotive repair provider prior to enlisting their services. The regulations require mobile automotive repair dealers to include this identifying information in all forms of advertisements, both online and on the vehicle.

**Cite and Fine**

**41. Discuss the extent to which the bureau has used its cite and fine authority. Discuss any changes from last review and describe the last time regulations were updated and any changes that were made. Has the bureau increased its maximum fines to the \$5,000 statutory limit?**

BAR continuously utilizes its cite and fine authority to enforce the Smog Check Program. In July 2012, regulations became effective to expand the list of Smog Check violations for which a citation and fine are now authorized. Additionally, these regulations increased the maximum amount of fines up to the \$5,000 statutory limit. The number of citations issued has increased since the last sunset review to 2,940 in FY 2014/15, 4,298 in FY 2015/16, and 3,657 in FY 2016/17. As discussed in Item 34, citations increased during these years to address many stations and inspectors performing Smog Checks using the incorrect inspection equipment and in response to recently established citation authority for unlicensed activity. See Table 9b for more information on BAR-issued citations.

**42. How is cite and fine used? What types of violations are the basis for citation and fine?**

Most BAR citations and fines are issued as a result of improper inspections, unlicensed activity, and delinquent registrations.

**43. How many informal office conferences, Disciplinary Review Committees reviews and/or Administrative Procedure Act appeals of a citation or fine in the last 4 fiscal years?**

BAR offers, pursuant to statute, the opportunity for informal review of a citation by a Chief's designee, referred to as an informal citation conference. Additionally, a respondent may appeal a citation by requesting a formal hearing before an Administrative Law Judge (ALJ) pursuant to the Administrative Procedure Act (APA). The increase in the number of informal and formal appeals corresponds with the increase in citations issued during the same period. BAR does not have Disciplinary Review Committees. The table below details the appeals received for the last four fiscal years.

<b>Citation Appeals</b>				
<b>Appeal Type</b>	<b>FY 2013/14</b>	<b>FY 2014/15</b>	<b>FY 2015/16</b>	<b>FY 2016/17</b>
Informal Citation Conferences	283	898	1,446	682
Formal APA Appeals	118	449	523	350

**44. What are the 5 most common violations for which citations are issued?**

<b>Code/Section</b>	<b>Description</b>
HSC § 44012	Smog Test Procedures (Station)
HSC § 44032	Improper Test Procedures (Inspector)
BPC § 9884.6	Unlicensed Activity
HSC § 44015	Improper Issuance of Smog Check Certificate
HSC § 44036.5(b)	Unapproved Calibration Gases

**45. What is average fine pre- and post- appeal?**

<b>Citation Amounts</b>			
<b>Appeal Status</b>	<b>FY 2014/15</b>	<b>FY2015/16</b>	<b>FY 2016/17</b>
Average Fine Pre-Appeal	\$1,665	\$1,521	\$1,321
Average Fine Post-Appeal	\$1,561	\$909	\$1,140

**46. Describe the bureau’s use of Franchise Tax Bureau intercepts to collect outstanding fines.**

Effective January 1, 2011, Health and Safety Code section 44050(d) established unpaid citations as grounds for a civil judgment, enabling BAR to collect unpaid citations through the Franchise Tax Board (FTB) Intercept Program. BAR pursues collection of fines through all available means, including referral to the FTB Intercept Program as appropriate. It is important to note that most fines are assessed in the form of citations pursuant to the Smog Check Program. Collection of fines is far more successful than collection of cost recovery ordered as part of an administrative decision because the Smog Check station or technician’s failure to pay these fines may result in suspension or revocation of the applicable license. Additionally, BAR will not renew the license until the fine is paid.

**Cost Recovery and Restitution**

**47. Describe the bureau’s efforts to obtain cost recovery. Discuss any changes from the last review.**

BAR successfully secures orders for cost recovery in approximately 60 percent of its formal administrative cases. BAR maintains a contract with an outside agency when debt collection is necessary. However, very few of BAR’s cost recovery accounts require such collection because internal efforts are usually successful.

**48. How many and how much is ordered by the bureau for revocations, surrenders and probationers? How much do you believe is uncollectable? Explain.**

Since the last sunset review, cost recovery has been ordered in 460 cases, amounting to approximately \$6.25 million payable to BAR. Of that amount, \$2.72 million was ordered to be paid upon the effective date of the decision or during probation. The remaining \$3.53 million is due upon reapplication and will only be recovered if the respondent elects to apply for registration or

licensure. BAR reports this amount as uncollectable because it is not currently due. BAR has collected \$2.91 million since the last sunset review.

**49. Are there cases for which the bureau does not seek cost recovery? Why?**

BAR always seeks cost recovery. However, during settlement of cases, BAR and the respondent may agree that these costs are due upon the effective date of the decision, or only due if the respondent later applies for a BAR-issued registration or license.

**50. Describe the bureau’s use of Franchise Tax Bureau intercepts to collect cost recovery.**

BAR will attempt to collect investigative costs by sending collection notices to the respondent. If all reasonable efforts prove unsuccessful, BAR will send any outstanding accounts to the FTB Intercept Program.

<b>Table 11. Cost Recovery</b>				
	<b>FY 2013/14</b>	<b>FY 2014/15</b>	<b>FY 2015/16</b>	<b>FY 2016/17</b>
Total Cost of Investigation	\$5,225,000	\$5,271,000	\$4,963,000	\$5,217,408
Total Cost of Adjudication and Hearings	\$2,619,000	\$2,795,000	\$2,764,000	\$3,665,796
Total Enforcement Expenditures	\$7,844,000	\$8,066,000	\$7,727,000	\$8,883,204
Potential Cases for Recovery <sup>1</sup>	236	187	204	176
Cases Recovery Ordered	97	88	127	148
Amount of Cost Recovery Ordered Upon Reapplication	\$943,000	\$868,000	\$751,000	\$970,760
Amount of Cost Recovery Ordered (Not Upon Reapplication)	\$753,000	\$514,000	\$644,000	\$806,996
Total Costs Ordered	\$1,696,000	\$1,382,000	\$1,395,000	\$1,777,756
Amount Collected	\$705,000	\$763,000	\$680,000	\$764,010

<sup>1</sup> Potential Cases for Recovery are those in which disciplinary action has been taken based on violation of the License Practice Act.

**51. Describe the bureau’s efforts to obtain restitution for individual consumers, any formal or informal bureau restitution policy, and the types of restitution that the bureau attempts to collect, i.e., monetary, services, etc. Describe the situation in which the bureau may seek restitution from the licensee to a harmed consumer.**

Each year, BAR mediates approximately 15,000 consumer complaints against automotive repair dealers. Over the last four fiscal years, BAR’s mediation efforts have resulted in more than \$20 million in direct refunds, rework of vehicle repairs, and adjustments to a consumer’s final bill.

Court-ordered restitution also is sought by local District Attorneys as part of a civil or criminal filing. Restitution collected by courts is unavailable to BAR.

<b>Table 12. Restitution to Consumers</b>				
<b>Mediated Reimbursements</b>	<b>FY 2013/14</b>	<b>FY 2014/15</b>	<b>FY 2015/16</b>	<b>FY 2016/17</b>
Refunded to Consumers	\$2,940,000	\$2,697,000	\$2,556,000	\$2,874,587
Rework of Vehicle Repairs	\$1,398,000	\$1,395,000	\$1,363,000	\$1,448,332
Adjustments to Final Bill	\$725,000	\$950,000	\$1,094,000	\$1,036,557
Total Savings to Consumers	\$5,063,000	\$5,042,000	\$5,013,000	\$5,359,476
<b>Court-Ordered Restitution</b>				
Amount Ordered	\$35,000	\$30,000	\$60,000	\$63,263
Amount Collected	Not available	Not available	Not available	Not available

## Section 6 Public Information Policies

**52. How does the bureau use the internet to keep the public informed of bureau activities? Does the bureau post bureau meeting materials online? When are they posted? How long do they remain on the bureau's website? When are draft meeting minutes posted online? When does the bureau post final meeting minutes? How long do meeting minutes remain available online?**

BAR utilizes its public website to disseminate program-specific and general information to consumers, the automotive repair industry, and interested parties. Consumer information includes web-based services to find Smog Check inspection and repair stations and to verify the status and disciplinary history of licenses, Smog Check and vehicle maintenance assistance, and dispute resolution and complaint reporting materials. Industry web tools include information on licensing, training, and program updates.

BAR posts announcements of upcoming advisory group meetings on its public website at least ten days in advance of the meeting. BAG meeting agendas and presentation handouts are also made available in advance of the meeting. BAR does not produce meeting minutes, but meeting webcasts are posted on BAR's website.

**53. Does the bureau webcast its meetings? What is the bureau's plan to webcast future bureau and committee meetings? How long do webcast meetings remain available online?**

BAR webcasts advisory group meetings, workshops, and regulatory hearings at DCA and other facilities that have webcast capability to allow any member of the public to participate, regardless of geographic region. The webcast enables interested parties to electronically submit questions during the meeting. All webcasts are currently archived on BAR's website.

**54. Does the bureau establish an annual meeting calendar, and post it on the bureau's web site?**

Yes, BAR establishes an annual meeting calendar for its advisory groups and posts the meeting dates, as well as workshops and regulatory hearings, on its website.

**55. Is the bureau's complaint disclosure policy consistent with DCA's *Recommended Minimum Standards for Consumer Complaint Disclosure*? Does the bureau post accusations and disciplinary actions consistent with DCA's *Web Site Posting of Accusations and Disciplinary Actions* (May 21, 2010)?**

Yes, BAR's complaint disclosure policy is consistent with DCA's *Recommended Minimum Standards for Consumer Complaint Disclosure*. Accusations and disciplinary actions are posted on BAR's public website consistent with DCA's *Web Site Posting of Accusations and Disciplinary Actions*, dated May 21, 2010.

**56. What information does the bureau provide to the public regarding its licensees (i.e., education completed, awards, certificates, certification, specialty areas, disciplinary action, etc.)?**

BAR provides a variety of licensee information through its public website and other publications. This information includes, but is not limited to, licensee name and location, license status and type, STAR Program performance scores, and disciplinary actions.

**57. What methods are used by the bureau to provide consumer outreach and education?**

ARDs are required, per Business and Professions Code section 9884.17, to post a BAR-approved sign on the business premises in a place and manner conspicuous to the public. The sign includes the phone number and website of BAR and notifies consumers that any concern regarding service may be reported to the Bureau, and that customers are entitled to returned or replaced parts upon request when the work order is taken. BAR's website is the most comprehensive source of information for consumers. The website is organized in a user-friendly format that allows consumers to easily access information on programs and topics of interest, such as maintenance, warranties, and recalls. The website includes printable brochures in both English and Spanish, fact sheets, and various web services to assist consumers in filing complaints and locating a station or verifying the status of a license. Additional methods of consumer outreach are provided in partnership with DMV (e.g., registration renewal notices, field office posters, and brochures), through DCA's Consumer Information Center, letters to community-based organizations, consumer and industry events, some of which are accomplished through partnerships with members of the Legislature (e.g., Senior Scam Stopper Seminars), and local news stories.

## Section 7

### Online Practice Issues

**58. Discuss the prevalence of online practice and whether there are issues with unlicensed activity. How does the bureau regulate online practice? Does the bureau have any plans to regulate internet business practices or believe there is a need to do so?**

Online advertisement of automotive repair by unlicensed individuals/facilities is an ongoing challenge, particularly by those that offer mobile automotive repair services. Under existing law, these services are not required to include their BAR registration number in advertisements, placing consumers at risk of unwittingly inviting an unlicensed individual to their home address.

BAR recently adopted regulations to help consumers more easily identify and verify the license of a mobile automotive repair provider prior to enlisting their services. The new regulations require mobile automotive repair dealers to include this identifying information in all forms of

advertisements, including online and vehicle advertisements. This rule change also will assist BAR in proactively identifying unlicensed activity.

## **Section 8**

### **Workforce Development and Job Creation**

#### **59. What actions has the bureau taken in terms of workforce development?**

BAR monitors various industry demographics and collaborates with industry representatives to evaluate experience and skill level requirements for prospective licensees. The information gathered is relayed to BAR-certified training institutions to ensure training programs coincide with legitimate marketplace trends and best practices of the industry.

#### **60. Describe any assessment the bureau has conducted on the impact of licensing delays.**

BAR licenses are issued timely and therefore no studies have been necessary.

#### **61. Describe the bureau's efforts to work with schools to inform potential licensees of the licensing requirements and licensing process.**

BAR collaborates with public and private training institutions and various organizations to ensure the requirements for licensure are communicated to prospective licensees. BAR also participates in various educational and industry-sponsored workshops and training forums. These include the California Automotive Teachers Association, Automotive Service Councils of California, California community colleges and high schools, and private educational institutions.

In addition, information on licensing requirements and processes are available on BAR's public website and through a BAR-sponsored online California Automotive Resource Center.

#### **62. Describe any barriers to licensure and/or employment the bureau believes exist.**

BAR has not identified any significant barriers to licensure or employment since August 2012 when the Smog Check Technician license was separated into two license types: Smog Check Inspector and Smog Check Repair Technician. The current time and expense of education required for licensure is appropriate and minimal in comparison to other licensed professions.

#### **63. Provide any workforce development data collected by the bureau, such as:**

##### **a. Workforce Shortages**

BAR monitors several industry and marketplace metrics on the automotive workforce, including technician salary, inspection costs, and industry-sponsored web forums. BAR also conducts meetings with the industry and public to monitor this issue. BAR is not aware of any workforce shortages. No shortages have been reported by industry and automotive education trade associations, or through BAR's two advisory groups.

## **b. Successful Training Programs**

BAR has implemented new data collection processes to evaluate training programs offered by BAR-certified schools. BAR is currently collecting and evaluating the data.

### **Section 9 Current Issues**

#### **64. What is the status of the bureau's implementation of the Uniform Standards for Substance Abusing Licensees?**

The Uniform Standards for Substance Abusing Licensees is specific to healing arts and therefore does not apply to BAR.

#### **65. What is the status of the bureau's implementation of the Consumer Protection Enforcement Initiative (CPEI) regulations?**

Because BAR is not a healing arts program, the regulatory changes mandated by CPEI do not apply. However, BAR strives to achieve CPEI performance measures and reports the data to DCA on a quarterly basis.

#### **66. Describe how the bureau is participating in development of BreEZe and any other secondary IT issues affecting the bureau.**

##### **a. Is the bureau utilizing BreEZe? What Release was the bureau included in? What is the status of the bureau's change requests?**

No, BAR is not currently utilizing BreEZe. BAR was originally scheduled for Release 3, and therefore BAR has no BreEZe-related change requests.

##### **b. If the bureau is not utilizing BreEZe, what is the bureau's plan for future IT needs? What discussions has the bureau had with DCA about IT needs and options? What is the bureau's understanding of Release 3 bureaus? Is the bureau currently using a bridge or workaround system?**

BAR plans to perform a detailed analysis of its current business processes and needs prior to planning a technology response. In June 2017, BAR met with the DCA Chief Information Officer (CIO) and Executive Office and agreed on a phased-in approach beginning with an inventory and documentation of existing licensing and enforcement business processes. Outputs from this analysis will serve as key inputs to the Project Approval Lifecycle (PAL) process. BAR will work with DCA and the California Department of Technology (CDT) to evaluate all alternatives prior to selecting the best technology response. This strategy is consistent with DCA's Business Modernization Strategic Plan for all boards and bureaus not included in the initial two releases of BreEZe. Additionally, BAR is working with DCA to satisfy legislative reporting requirements per SB 547 (Hill, Chapter 429, Statutes of 2017). Although no "bridge system" is being utilized, several workarounds are currently being used to satisfy program requirements or needs that cannot be met by current legacy systems.

## Section 10

### Bureau Action and Response to Prior Sunset Issues

Include the following:

1. **Background information concerning the issue as it pertains to the bureau.**
2. **Short discussion of recommendations made by the Committees during prior sunset review.**
3. **What action the bureau took in response to the recommendation or findings made under prior sunset review.**
4. **Any recommendations the bureau has for dealing with the issue, if appropriate.**

The following issues were identified by the Joint Legislative Sunset Review Committee (JLSRC) during BAR's last sunset review in 2013.

#### **ADMINISTRATIVE ISSUES**

##### **ISSUE #1: Relationship between the BAR and the ARB.**

**Background:** The Smog Check Program is administered by the Bureau of Automotive Repair (BAR) within the California Department of Consumer Affairs. The Air Resources Board (ARB), within the California Environmental Protection Agency, establishes air quality standards. The two agencies work together to develop and ensure that the emission reduction goals of the Smog Check Program, as established in the State Implementation Plan (SIP), are achieved. ARB is responsible for submitting the SIP to the United States Environmental Protection Agency (USEPA).

**JLSRC Recommendation:** *The Bureau should advise the Committees about the roles that ARB and BAR play in the Smog Check Program, and in establishing Smog Check policies. In what ways do ARB and BAR work together to establish policies which protect California consumers?*

**Bureau Action:** BAR and ARB have established staff work groups that meet weekly to develop and implement various programs and studies. The two agencies also coordinate an annual evaluation of the Smog Check Program.

Additionally, BAR and ARB executive management meet quarterly to discuss program issues relating to both agencies.

BAR helps ensure that vehicle emissions standards set by the ARB are met on a biennial basis as a condition of vehicle registration. BAR and ARB have worked to protect California consumers through joint programs such outreach and management of the Enhanced Fleet Modernization Program (EFMP) that helps income-eligible consumers retire or replace their vehicles. The two agencies also collaborated on a study of On-Board Diagnostic (OBD) vehicles with pattern failures that in some cases resulted in manufacturer emissions recalls.

**Bureau Recommendation:** BAR has no further recommendation on this issue.

## **BUDGET ISSUES**

### **ISSUE #2: General fund loans.**

**Background:** Over the past 15 years, \$219 million has been loaned from BAR's three funds to the General Fund, of which \$129 million has been repaid. Refer to Section 3, Item 11 on the details involving these loans and repayments.

**JLSRC Recommendation:** *The Bureau should inform the Committees of the impact that the General Fund loans have had on the Bureau's operations. What is the current status of the outstanding General Fund loans, and what are the plans to repay them to the Special Funds administered by BAR?*

**Bureau Action:** DCA, working in conjunction with the Department of Finance, continues to adjust BAR's fund condition based on loan repayments.

**Bureau Recommendation:** BAR has no further recommendation on this issue.

### **ISSUE #3: Pro rata.**

**Background:** Through its various divisions, DCA provides centralized administrative services to all boards and bureaus in the Department. Most of these services are funded through a pro rata calculation that is based on position counts and charged to each board and bureau. Each of BAR's three funds (VIRF, HPRRA, and EFMS) has a pro rata distribution.

**JLSRC Recommendation:** *The Bureau should advise the Committees about the bases upon which pro rata is calculated, and how it is determined how the pro rata charged will be paid from among three funds under the Bureau's jurisdiction.*

**Bureau Action:** DCA, in consultation with BAR, annually determines pro rata. The pro rata calculation is dependent upon the service; some services are distributed based on staffing levels at BAR and some are service-level based.

**Bureau Recommendation:** BAR has no further recommendation on this issue.

## **LICENSING ISSUES**

### **ISSUE #4: Verification of criminal conviction information.**

**Background:** BAR does not have authority to fingerprint applicants or obtain and receive criminal history information of applicants under Business and Professions Code section 144.

**JLSRC Recommendation:** *The Bureau should inform the Committees on how it verifies whether or not an applicant has been convicted of any crimes which are substantially related to the licensed practice. Does the Bureau feel that it would be helpful in its consumer protection efforts to fingerprint applicants, and existing licensees and registrants?*

**Bureau Action:** Applicants are required to disclose all prior criminal convictions and administrative discipline, including Smog Check citations, as part of the application process. If the application indicates a criminal conviction, BAR's Licensing Unit requests additional details before referring the

application to BAR's Enforcement Operations Branch (EOB). EOB reviews prior disciplinary and/or criminal history provided by the applicant to determine if the initial or renewal license should be granted.

**Bureau Recommendation:** BAR has no further recommendation on this issue.

#### **ISSUE #5: Tracking CE Failure Rates.**

**Background:** BAR-certified instructors conduct Smog Check update training and enter the licensee's name into a BAR database upon successful completion of the course. The license cannot be renewed without successful completion of the required update training.

**JLSRC Recommendation:** *The Bureau should update the Committees on the current status of the CE program for Smog Check Inspectors and Smog Check Repair Technicians. What is the current status of the Bureau's efforts to implement technology changes which give BAR the ability to track the CE failure rate for licensees?*

**Bureau Action:** In 2014, BAR implemented an online database known as the California Automotive Resource Center (ARC) to maintain records of successful completion of required training, which is verified by BAR upon application to renew the license. In 2015, BAR developed and began providing Smog Check Inspector training online to ensure that course material is current and relevant. Smog Check Repair Technicians receive training from BAR-certified schools and passing results are reported through the online database at [www.californiaarc.org](http://www.californiaarc.org). Typically, if a licensee wants to continue practicing in a trade, they will retake training until they are able to demonstrate competency. Therefore, tracking failure rates is no longer necessary.

**Bureau Recommendation:** BAR has no further recommendation on this issue.

#### **ISSUE #6: Should facilities that offer services that have been considered exempt areas of practice such as replacing spark plugs, batteries, fan belts and with tire pressure monitoring systems be required to register as automotive repair dealers?**

**Background:** As set forth in Business and Professions Code section 9880.1(e), the "repair of motor vehicles" excludes "minor services" that traditionally did not require mechanical expertise nor involve a part of the vehicle essential to its safe operation. Businesses that only perform these services are exempt from registration with BAR and not subject to the Automotive Repair Act. The statute further provides the Director with regulatory authority to expand the list of exempted services based on a determination that the services are "customarily performed by gasoline service stations." The statute also prohibits services from being designated as minor if the Director finds that performance of the service requires mechanical expertise, has given rise to a high incidence of fraud or deceptive practices, or involves a part of the vehicle essential to its safe operation.

**JLSRC Recommendation:** *The Bureau should discuss this issue with the Committees. What is the Bureau doing to appropriately protect consumers in this area? Is the Bureau considering regulatory changes to better protect consumers? Is BAR's regulatory authority sufficient in these areas? Does BAR recommend legislative changes to better enhance or clarify its regulatory authority in these areas?*

**Bureau Action:** During the 2015/16 legislative session, AB 873 (Jones) and SB 778 (Allen) were introduced to impose oil change notification requirements and revise the definition of "repair of motor vehicles" by deleting the list of services exempt from the definition and enabled the Director, through

regulation, to determine any exempted services. AB 873 was signed by the Governor. However, enactment of AB 873 was contingent upon the enactment of SB 778, which was vetoed by the Governor. Therefore, neither bill was enacted into law. SB 778 would have, among other provisions, established a new registration type under BAR for Automotive Maintenance Providers, which was defined as a person, who for compensation, engages in the business of the preventive automotive maintenance services associated with fluid and filter changes, fluid treatments, and belt and windshield wiper blade replacement. The Governor's veto message indicated, "This bill creates a new registration category for oil change stations under the Bureau of Automotive Repair. I believe that, before a new registration program is enacted, a more comprehensive review is needed. AB 873, which I signed, provides just that process."

**Bureau Recommendation:** BAR should continue to study and discuss this issue with industry representatives and the public. At a public workshop on July 20, 2017, BAR proposed regulatory changes to clarify the list of exempted services, including its non-application to the removal of propulsion batteries for electric and hybrid vehicles and the removal and installation of tires with tire pressure monitoring systems. In addition, the proposal aims to expand the list of exempted services to include services that do not require mechanical expertise, have not given rise to a high incidence of fraud or deceptive practices, and do not involve a part of the vehicle essential to its safe operation, as provided by statute. Based on public feedback from the workshop, BAR is in the process of finalizing the text and will soon file regulations with OAL to begin formal comment on the proposal.

## **ENFORCEMENT ISSUES**

### **ISSUE #7: Enforcement timeframes.**

**Background:** Even though it is not a healing arts program, BAR seeks to comply with DCA's Consumer Protection Enforcement Initiative (CPEI) goal of 540 days for formal disciplinary cases. The timeframe is the total time from the day BAR initiates an investigation until the final effective date of the administrative action. This includes BAR conducting the investigation, the Office of the Attorney General preparing an accusation, the Office of Administrative Hearings scheduling an administrative hearing, an Administrative Law Judge (ALJ) holding the hearing and rendering a proposed decision, DCA reviewing the ALJ's proposed decision, and DCA issuing a final decision and effective date of the order. BAR's internal goal for completion of an investigation is 180 days.

**JLSRC Recommendation:** *The Bureau should advise the Committees about where it believes the bottlenecks are in its investigation processes and disciplinary actions. What does the Bureau think are the causes of the delays? In the Bureau's opinion, what are viable solutions to the extensive timeframes in its enforcement processes?*

**Bureau Action:** BAR consistently meets its internal goal of 180 days for completion of investigations for disciplinary cases. Since the last sunset review, BAR has partnered with the Office of the Attorney General to reduce case cycle times. However, the introduction of BAR-OIS testing into the Smog Check Program led to a temporary increase in citations, formal disciplinary actions, and Interim Suspension Orders (ISOs), which has contributed to an overall increase in case adjudication processing times. The workload for the Office of the Attorney General associated with ISOs is substantial. To mitigate and manage this workload, BAR implemented "certificate blocking" in Spring 2017, pursuant to Health and Safety Code section 44036(b)(3)(K). This enables BAR to block the certification of vehicles immediately upon the capture of sufficient evidence to support an accusation against stations and technicians engaging in fraudulent inspections. Certificate blocking will result in a significant workload reduction at the Office of the Attorney General by substantially reducing the need for ISOs.

**Bureau Recommendation:** BAR recommends monitoring and analyzing the effect of its certificate blocking efforts to determine if further measures are needed to address enforcement timeframes.

#### **ISSUE #8: Implementation of the Administrative and Enforcement Monitor recommendations.**

**Background:** In 2005, DCA, under the provisions of SB 1542 (Figueroa, Chapter 572, Statutes of 2004) appointed a BAR Administration and Enforcement Monitor (Monitor). The Monitor evaluated BAR's disciplinary system and procedures, with specific concentration on improving the overall efficiency and assuring the fairness of the enforcement program, and the need for administrative structural changes. The Monitor submitted a written report in July 2005 and issued a final report, including 12 recommendations, in December 2006.

**JLSRC Recommendation:** *BAR should report to the Committee on the status of implementing the recommendations of the administrative and enforcement monitor. Are there recommendations that still have not been implemented? Why have they not been implemented? Does BAR recommend that the legislative changes proposed by the monitor should be made?*

**Bureau Action:** Since the last sunset review, BAR has completed the remaining administrative recommendations of the enforcement monitor with the adoption of regulations updating BAR's Disciplinary Guidelines and providing technical reviews of shop management software upon industry request. BAR does not recommend further action on the recommendations requiring legislation.

**Bureau Recommendation:** BAR has no further recommendation on this issue.

#### **ISSUE #9: Updating Disciplinary Guidelines.**

**Background:** Consistent with its mandated priority to protect consumers, BAR adopts disciplinary guidelines through its regulatory process. The guidelines are intended to bring consistency with how disciplinary actions are imposed upon licensees.

**JLSRC Recommendation:** *BAR should update the Committees on the current status of updating the disciplinary guidelines.*

**Bureau Action:** In July 2016, BAR adopted the new disciplinary guidelines and other regulations related to the disciplinary process.

**Bureau Recommendation:** BAR has no further recommendation on this issue.

#### **ISSUE #10: Why are there so few requests by the Bureau to suspend a license under Penal Code §23?**

**Background:** Penal Code section 23 authorizes a licensing agency under the Business and Professions Code to appear before the Court in any criminal proceeding against a licensee to furnish pertinent information, make recommendations regarding specific conditions of probation, or provide any other assistance necessary to promote the interests of justice and protect the public. In such matters, BAR is represented by the Office of Attorney General. The Court may issue an order pursuant to Penal Code section 23 regarding the suspension, probation or other conditions to be imposed on a criminal defendant licensee pending administrative action. Penal Code section 23 orders can be an effective way to remove a licensee from practice while criminal charges are pending

and while a licensing board or bureau is preparing an administrative disciplinary case against the licensee.

**JLSRC Recommendation:** *The Bureau should advise the Committees of the manner in which it finds out about pending criminal charges against licensees. Are there any impediments to the Bureau making requests under PC § 23? Why are there so few PC § 23 requests made by the Bureau? Are there ways the Bureau could more effectively use consumer protection tool available through the Courts?*

**Bureau Action:** BAR learns about criminal charges against licensees from District Attorneys, the Attorney General, law enforcement, other government agencies, and tips from the public and industry. A Penal Code section 23 action is contingent upon the District Attorney accepting BAR's request. BAR also petitions through the Office of the Attorney General for an Interim Suspension Order (ISO) when the criminal activity is substantially related to the duties of the license. The ISO achieves the same result of suspending a licensee from practice until the disciplinary action is adjudicated.

**Bureau Recommendation:** BAR has no further recommendation on this issue.

#### **ISSUE #11: Update on the use of the Bureau's new citation and fine authority.**

**Background:** In October 2011, BAR implemented regulations authorizing citations for unlicensed activity. BAR is an active participant in the Governor's Labor Enforcement Task Force (LETF) and partners with the other agencies in the LETF to perform compliance sweeps. BAR also continuously monitors online listings and advertisements to identify and target potential unlicensed activity. BAR sets up covert sting operations to engage these operators and take appropriate action.

**JLSRC Recommendation:** *BAR should update the Committees on the current status of its ability to issue citations and fines. Are the confidential undercover operators being used for enforcement activities relating to unlicensed or for licensed persons? Have the number of citations and fines increased or decreased as a result?*

**Bureau Action:** BAR issues citations to obtain compliance from delinquent Automotive Repair Dealers (ARDs) and unregistered automotive repair providers. Citations also are an effective enforcement tool for progressive discipline in Smog Check. Confidential undercover operators are utilized for the enforcement of laws pertaining to both unlicensed and licensed individuals. Since the last sunset review, the number of citations issued and total dollar amount of fines for unlicensed activity and Smog Check violations have increased.

**Bureau Recommendation:** BAR has no further recommendation on this issue.

#### **ISSUE #12: Cost recovery and reapplication of revoked licensees.**

**Background:** BAR seeks cost recovery under Business and Professions Code section 125.3 in all formal disciplinary cases. BAR is awarded cost recovery in approximately 60 percent of these cases, but many times it is due upon reapplication and will only be recovered if the respondent later chooses to apply for licensure or registration.

**JLSRC Recommendation:** *BAR should give the Committees its assessment of the current efforts to collect cost recovery amounts that are due to the Bureau. Are there additional steps that could be taken? Has BAR found instances of issues of a licensee who has been revoked applying for a new license under another name or different ownership in order to avoid paying costs?*

**Bureau Action:** BAR sends demand letters to businesses and individuals in default of administrative decisions with cost recovery orders. Upon exhaustion of all reasonable collection efforts, BAR reports the debt to the Franchise Tax Board Intercept Program and a contracted debt collection agency. BAR also places a hold on the license renewal. BAR has worked with the Office of the Attorney General to include language in decisions ordering payment prior to the end of the probationary period. Probation can be revoked for failure to pay as ordered.

Licensees who attempt to reapply under a different name or ownership to avoid penalties associated with formal disciplinary actions may have applications denied by BAR. BAR denies the application until payment is made in full or takes administrative action to revoke the license.

**Bureau Recommendation:** BAR has no further recommendation on this issue.

### **ISSUE #13: Regulations requiring ARD advertising to include registration number.**

**Background:** Online advertisement of auto repair services by unlicensed individuals/facilities is a recurring problem.

**JLSRC Recommendation:** *Bureau should update the Committees on the status of regulations which seek to fight unlicensed activity by requiring specified automotive repair dealers to publish their BAR registration number in advertisements.*

**Bureau Action:** Traditional brick and mortar automotive repair facilities are required to post their registration certificate in each place of business. Since ARDs with mobile operations do not interface with customers at facilities subject to signage requirements, and they typically solicit customers on websites, BAR recently adopted regulations requiring mobile ARDs to include their registration numbers on their vehicles and in all online advertisements. Consumers will now be educated by BAR on how to verify the registration and check for prior disciplinary history on BAR's website.

**Bureau Recommendation:** BAR will begin an educational campaign aimed at reaching out to mobile automotive repair businesses to ensure compliance with the advertising requirements of the new regulations, as well as inform consumers on the importance of verifying a business registration, especially in the case of mobile automotive repair transactions.

## **TECHNOLOGY ISSUES**

### **ISSUE #14: What is the status of BreZE implementation by the Bureau?**

**Background:** BreZE was created to replace outdated licensing and enforcement tracking systems with an integrated solution based on updated technology. BAR is not currently utilizing BreZE. BAR was originally scheduled for Release 3 prior to its cancellation.

**JLSRC Recommendation:** *BAR should update the Committee about the current status of its implementation of BreEZe. What have been the challenges to implementing this new system? What are the costs of implementing this system? Is the cost of BreEZe consistent with what the Bureau was told the project would cost?*

**Bureau Action:** BAR plans to perform a detailed analysis of its current business processes and needs prior to planning a technology response. In June 2017, BAR met with the DCA Chief Information Officer (CIO) and Executive Office and agreed on a phased-in approach beginning with an inventory and documentation of existing licensing and enforcement business processes. Outputs from this analysis will serve as key inputs to the Project Approval Lifecycle (PAL) process. BAR will work with DCA and the California Department of Technology (CDT) to evaluate all alternatives prior to selecting the best technology response. This strategy is consistent with DCA's Business Modernization Strategic Plan for all Release 3 boards and bureaus. Although no "bridge system" is being utilized, several workarounds are currently being used to satisfy program requirements or needs that cannot be met by current legacy systems.

In September 2017, BAR completed an inventory of all licensing and enforcement business processes with the assistance of DCA SOLID staff. BAR plans to pursue a contract in early 2018 to assist with detailed documentation of the business processes.

**Bureau Recommendation:** BAR has no further recommendation on this issue.

#### **ISSUE #15: Development of an Automotive Resource Center website by the Foundation of California Community Colleges.**

**Background:** BAR partnered with its referee contractor, the Foundation for California Community Colleges (FCCC), to develop an Automotive Resource Center (ARC) website to give schools, educators, students, technicians, and government staff convenient access to licensure requirements, approved courses and schools, automotive diagnostic and repair strategies, and employment opportunities.

**JLSRC Recommendation:** *BAR should update the Committees on the development of the Automotive Resource Center Web site. What is the current status of this project? When will the Web site be complete? What benefits does BAR believe the development of the Web site will bring?*

**Bureau Action:** The ARC was completed in September 2014. BAR and Smog Check professionals also now can track and verify completion of training requirements for licensure at [www.californiaarc.org](http://www.californiaarc.org).

**Bureau Recommendation:** BAR has no further recommendation on this issue.

### **OTHER ISSUES**

#### **ISSUE #16: Technical Cleanup.**

**Background:** Committee staff recommended clean up amendments that should be made to the Business and Professions Code and Health and Safety Code related to BAR.

**JLSRC Recommendation:** *BAR should work with Committee staff to identify cleanup amendments for the Business and Professions Code and the Health and Safety Code provisions relating to the Bureau.*

**Bureau Action:** There are several terms, dates, and programs that are no longer relevant to BAR or its programs. DCA and BAR stand ready to develop recommendations for technical cleanup and look forward to working with the appropriate legislative committees on these issues.

**Bureau Recommendation:** BAR has no further recommendation on this issue.

### **CONTINUED REGULATION OF THE PROFESSION BY THE BUREAU OF AUTOMOTIVE REPAIR**

**ISSUE #17: (CONTINUED REGULATION BY THE BUREAU.)** Should the licensing and regulation of the automotive repair industry be continued and be regulated by the current Bureau of Automotive Repair?

**Background:** The health, safety, and welfare of consumers are protected by the presence of a strong licensing and regulatory agency with oversight over the automotive repair industry.

**JLSRC Recommendation:** *Recommend that the licensing and regulation of the automotive repair industry continue to be regulated by the current Bureau of Automotive Repair in order to protect the interests of the public and that the Bureau be reviewed once again in four years.*

**Bureau Action:** BAR is committed to protecting the health, safety, and welfare of California consumers by ensuring strong licensing and regulatory oversight over the automotive repair industry. BAR will continue to work with the Legislature, Administration, its advisory groups, and consumer/industry stakeholders to evaluate the regulatory effectiveness of programs and the consumer protection and environmental services provided.

**Bureau Recommendation:** BAR has no further recommendation on this issue.

## **Section 11 New Issues**

This is the opportunity for the bureau to inform the Committees of solutions to issues identified by the bureau and by the Committees. Provide a short discussion of each of the outstanding issues, and the bureau's recommendation for action that could be taken by the bureau, by DCA or by the Legislature to resolve these issues (i.e., policy direction, budget changes, legislative changes) for each of the following:

1. Issues that were raised under prior Sunset Review that have not been addressed.
2. New issues that are identified by the bureau in this report.
3. New issues not previously discussed in this report.
4. New issues raised by the Committees.

### **Smog Check Fraud**

In May 2015, BAR, in cooperation with ARB, implemented On-Board Diagnostic (OBD) inspections of vehicles requiring a Smog Check. OBD inspections utilize information provided by the vehicle to

determine if it is operating in proper working condition. While the OBD inspection is faster and simpler to perform, inspectors can still perform a fraudulent inspection by plugging a device that simulates a passing vehicle into the Smog Check inspection equipment, also known as clean plugging. Other OBD simulator devices manipulate failing vehicle data to make it appear to pass a Smog Check inspection. Together, these devices are referred to as OBD defeat devices.

While BAR has successfully developed methods to detect OBD defeat devices, technological advancements have made it more difficult to detect them. There is no legitimate use for an OBD defeat device in a Smog Check station. Currently, Smog Check inspectors found in possession of an OBD defeat device face no consequences unless BAR can prove that the device was used to commit fraud during a Smog Check inspection.

**BAR Recommendation:** BAR is analyzing the regulatory authority for prohibiting the presence of simulators and other devices known to cheat Smog Check.

## Section 12 Attachments

Below is a list of the requested attachments. Refer to the Index of Attachments for a complete listing of attachments included in this report.

- Bureau's administrative manual.
  - Bureau of Automotive Repair Administrative Manual (Attachment J)
- Current organizational chart showing relationship of committees to the Bureau and membership of each committee (cf., Section 1, Question 1).
  - Bureau of Automotive Repair Committee Organizational Chart (Attachment A)
- Major studies, if any (cf., Section 1, Question 4).
  - Enhanced Fleet Modernization Program Assessment (November 2013) (Attachment C)
  - 2017 Smog Check Performance Report (Attachment D)
- Year-end organization charts for last four fiscal years. Each chart should include number of staff by classifications assigned to each major program area (licensing, enforcement, administration, etc.) (cf., Section 3, Question 15).
  - Bureau of Automotive Repair Organization Charts (Attachments F, G, H, and I)

## INDEX OF ATTACHMENTS

Attachment are not included in this copy of the report.