

FINAL STATEMENT OF REASONS

1) The Update to the Initial Statement of Reasons

The following changes were made to the initial statement of reasons and provided in the Addendum to the Initial Statement of Reasons that was provided to the public with the modified regulatory text for comment during the 15-day comment period that began on May 30, 2024 and ended on May 16, 2024.

§ 206.00. Definitions for Environmental, Special Interest and Special Recognition License Plates.

Subsection (c) contains a non-substantive edit to add a comma between the words “California Firefighter” and “and Horseless Carriage.”

The Note section contains two non-substantive amendments to add an ‘s’ to the word Section in the Reference note and to place a comma between sections 5008 and 5060.

§ 206.02. Special Interest or Environmental License Plate Application.

Subsection (a) was amended to update the revision date of the Environmental License Plate Application, form REG 17 to 11/2023. The form REG 17 was amended at the top of the first page to add clarifying language that will assist a person who is accessing the department’s website to find special license plate fee information.

Language was also added to the top of the first page under the REPLACEMENT heading requesting the applicant to make another configuration choice if both previously issued license plates were lost or stolen.

Language was added to the second page to assist the applicant who is accessing the department’s website to find special license plate fee information and providing the applicant the link where online payment can be made.

Language was added to the second page to inform the applicant of privacy information related to information the department collects.

Subsection (b) was amended to remove reference to the fees being found on the form REG 17. The initial statement of reasons explained that fee information would not be on the form, however, the corresponding change was not made to the regulatory text. This amendment is necessary to ensure the reader is aware they cannot use the form REG 17 to find fees but they can access the department’s website for current fees.

Subsection (c)(4) was amended to ensure the text aligns with the existing CCR text.

Subsection (c)(4) noted the department will refuse any configuration that may carry connotations that are offensive to good taste and decency. Because the term “good taste and decency” is subjective, the department is clearly establishing in subsections (c)(4)(A) through (F), those criteria it will use to determine whether a configuration should be issued. The proposed

amendments comply with the court decision in the matter of *Ogilvie v. Gordon* (United States District Court, Northern District of California; Case 4:20-cv-01707-JST) that enjoins the department from enforcing the “offensive to good taste and decency” provision. The department has determined the revisions made to subsections (c)(4)(A) through (F) are the best way to ensure compliance with the related court case while also respecting an applicant’s first amendment rights.

Subsection (c)(4)(C) was amended to remove the word “has” and replace with “conveys.” The word “convey” is appropriate in this sentence as it establishes how the configuration is received by the viewer.

Subsection (c)(4)(C) was further amended to remove the word “heritage” as the term is unclear. The reference to “sexual identity” is revised to read “gender identity.” Sexual identity and sexual orientation are similar, however, the department determined it could capture more groups by using the term gender identity. Gender identity is more likely to capture transgender individuals, non-binary, cisgender, etc.

Subsections (c)(4)(E) and (F) are depicted with a double underline. The original text failed to underline both of those identifiers.

The Note section was updated to add reference to Vehicle Code sections 5156.7 and 5158 and to adopt the citation to *Ogilvie v. Gordon*.

§ 206.14. Cancellation of Environmental License Plates.

Subsection (a) was amended to change the originally proposed word of “may” back to the current reading that includes the word “shall.” In its initial statement of reasons, the department explained reasons where the department may not recall a plate that has been cancelled. One of those reasons include circumstances where the department’s operational ability or need may not be able to accommodate the change. The department determined it necessary to ensure clarity and avoid confusion by continuing to state that plate configurations that do not comply with the requirements of Section 206.02(c)(4)(A) through (F) will be cancelled.

Subsection (e) is renumbered to subsection (d).

§ 206.16. Special License Plate or Special Recognition License Plate Application.

Subsection (b) was amended to update the revision date of the Special Recognition License Plate Application, form REG 17A from 5/2020 to 11/2023. The modified text incorrectly identified the revision date as 11/20230. The adopted text is updated to reflect the correct revision date of 11/2023. The form REG 17A was amended in Section 2 to remove the space where the applicant provides an explanation of the meaning of their personalized configuration. The department determined this is no longer necessary.

Section 2 was amended to remove the Honorary Consul plate option and Section 2.B. was amended to remove reference to the Honorary Consul certification. In November 2021, the U.S. Department of State issued a Notice calling for the Cessation of Honorary Consul License Plate issuance. The Cessation Notice required the elimination of honorary consul license plates issued

by states and requested that departments recall license plates that have already been issued. Federal preemption requires the department to comply with this directive despite Vehicle Code section 5006 having not been repealed. At the direction of the U.S. Department of State, the Honorary Consul license plates were discontinued. The department no longer issues, replaces, or reassigns Honorary Consul license plates. Vehicles registered with Honorary consul plates received a letter explaining the program was discontinued and requiring the plates to be surrendered to the department or destroyed. The Honorary Consul plates option was removed from the REG 17A because they are no longer available.

Section 2 of the REG 17A is also amended to include language to comply with Vehicle Code section 4458 by adding the following: “REPLACEMENT: If BOTH license plates were lost or stolen, the same configuration cannot be reissued on any license plate type. You may make another choice in the space below.

Subsection (c) was amended to remove reference to the fees being found on the form REG 17A. The initial statement of reasons explained that fee information would not be on the form, however, the corresponding change was not made to the regulatory text. This amendment is necessary to ensure the reader is aware they cannot use the form REG 17A to find fees.

The form REG 17A was also amended to remove the word “Employer’s” on the signature line for a Regularly Engaged Press Photographer applicant, for a Historical Vehicle applicant, for a Horseless Carriage applicant, and in Section 6 where the plate holder/purchaser is required to sign. The word “employer” was inadvertently left in due to cut and pasting during the form modifications. Lastly, the “Title” box was removed from each section. This information is not necessary for the issuance of private plates.

2) Imposition of Mandate on Local Agencies or School Districts

The department’s regulatory action amending Sections 205.00, 206.00, 206.02, 206.04, 206.06, 206.08, 206.10, 206.12, 206.14, and 206.16, and repealing Sections 206.20, 206.22, 206.30, 206.35, 206.40, 206.50, 206.52, 206.54, 206.56, 206.58, and 206.60 in Article 3.3, Chapter 1, Division 1, Title 13 of the California Code of Regulations, does not impose any mandate on local agencies or school districts and imposes (1) no cost or savings to any state agency, (2) no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, (3) no other discretionary cost or savings to local agencies, and (4) no cost or savings in federal funding to the state. No studies or data were relied upon to make this determination.

3) Summary of Comments Received and Department Response

The proposal was noticed on October 6, 2023, and made available to the public from October 6, 2023 through December 4, 2023. The original comment deadline was November 20, 2023, however, the Notice of Proposed Action, proposed regulatory text, and initial statement of reasons was not posted to the department’s website until October 13, 2023. Due to the delay in posting, the department extended the comment period deadline to December 4, 2023. Notice of

the extension was posted on the department's website and provided by first class mail to interested parties who have requested to receive Notices through first class mail.

No comments were received during the public comment period.

4) Summary of Comments Received during the 15-day Comment Period and Department Response

The Notice of Modification to Proposed Regulatory Text, the Modified Regulatory Text, the Addendum to the Initial Statement of Reasons May 30, 2024, and made available to the public from May 30, 2024 through June 14, 2024. The Notice of Modification incorrectly identified the comment period deadline as June 16, 2024.

The department was prepared to accept comments that were received through June 16, 2024, however, no comments were received during the 15-day comment period.

5) Forms incorporated by Reference

The following forms were incorporated by reference in this action:

- Special Interest or Environmental License Plate Application, form REG 17, amended from (Rev. 7/2000) to (Rev. 11/2023)
- Special Recognition License Plate Application, form REG 17A (Rev. 11/2023)
- Statement of Facts, form REG 256 (Rev. 8/2008)
- Special License Plate Application, form REG 583 (Rev. 12/91) [Repealed]

The department did not publish these forms in the regulations as it would be cumbersome to do so, however, the forms were made available during the 45-day and 15-day comment periods to any interested party who requested the forms. No requests were made during the 45-day or 15-day comment periods.

6) Determination of Alternatives

This proposed action represents the only means by which the department has found will allow it to provide personalized plates yet still comply with the recent court ruling that prevents the department from enforcing the "good taste and decency" standard upon which the department has used to determine whether a personalized plate configuration should be granted or denied.

Therefore, the department has determined that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.