

## Initial Statement of Reasons

### Title 13, Division 1, Chapter 1

#### Article 3. Vehicle Registration and Titling

The Department of Motor Vehicles (department) proposes to amend Sections 156.00 and 156.01, and adopt Section 156.02, in Article 3.0, Chapter 1, Division 1, Title 13 of the California Code of Regulations, related to Clean Air Vehicle Decals.

Vehicle Code section 5205.5 requires the department to issue distinctive decals to vehicles meeting specified emissions standards. Once the decal is assigned by the department and affixed to the qualifying vehicle, the driver can gain access to the high-occupancy vehicle lanes with fewer than the required number of occupants in the vehicle. Vehicles meeting California's ultra-low emission vehicle (ULEV) standards, super ultra-low emission vehicle (SULEV) standards, federal inherently low-emission vehicle (ILEV) standards, and zero emission vehicles (ZEV) standards are issued white decals. Liquefied petroleum gas (LPG) and compressed natural gas (CNG) vehicles also qualify for white decals. Vehicles meeting California's Enhanced Advanced Technology Partial Zero-Emission (Enhanced AT PZEV) standards and Transitional Zero-Emission (TZEV) standards are issued green decals. Beginning January 1, 2019, the department will no longer issue green and white decals and existing green and white decals will expire. As a result, access to high-occupancy vehicle lanes for vehicles with white or green decals will also expire. Vehicle owners with qualifying vehicles who have been issued a green or white decal in 2017 or 2018 will be eligible to reapply for a decal in 2019 granting them access to high-occupancy toll lanes until January 1, 2022.

Assembly Bill (AB) 544 [Chapter 630; Statutes of 2017], amended Vehicle Code section 5205.5 to condition decal eligibility on the applicant having not received a rebate pursuant to the Clean Vehicle Rebate Project, unless the applicant meets certain income restrictions. The clean vehicle rebate project is a program funded by the California Air Resources Board (ARB) and administered statewide by the Center for Sustainable Energy in order to promote the use of zero-emission vehicles, including electric, plug-in hybrid electric and fuel cell vehicles. Vehicle Code section 5205.5 also requires the department to collaborate with the ARB to establish procedures to implement both programs. The department has fulfilled that requirement by working with the ARB on the process by which vehicle identification numbers will be verified to ensure an applicant is not participating in both the clean air decal program and the clean vehicle rebate program when they are not qualified to participate in both programs. The department consulted with the ARB on the application process and the two departments collaborated on the construction of both the clean air decal website on the DMV website and the clean vehicle rebate project on the ARB website.

Passage of AB 544 has required the department to make substantive amendments to current regulations to ensure compliance with the Vehicle Code. Specifically, the department has:

- Amended Section 156.00, related to the application process for Clean Air Vehicle Decals, to remove vehicle emission standards that no longer qualify under the program,

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- Removes the mandate of separate distinguishing identifiers, to a single identifier no matter the exhaust standard of the vehicle;
- Updated the Application for Clean Air Vehicle Decals, form REG 1000, to require an application be completed by a vehicle purchaser when the sticker was already issued to the dealer for the vehicle, to ensure the customer is aware of the new law; and
- Clearly define program participation as it relates to the clean vehicle rebate project.

AB 544 also prevents issuance of a decal more than once to the same vehicle, except under certain conditions. The department, through regulation, is identifying those conditions as when a decal has been lost, stolen, destroyed, or damaged.

Consideration of Alternatives

The department must determine that no reasonable alternative considered, 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 this action is proposed, would be as effective and less burdensome to affected private persons that the action proposed, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

§ 156.00. Clean Air Vehicle Decals.

Subsection (a) is amended to remove the Ultra-Low Emission Vehicle (ULEV) standard from the list of vehicles authorized to receive a clean air vehicle decal. The ULEV emission standards, which are currently identified with a white sticker, will no longer qualify for a clean air vehicle decal beginning on January 1, 2019. This provision is necessary to ensure clarity by removing an emission standard that no longer qualifies to be issued a decal.

Subsection (a) is also amended to remove reference to subsection (g)(1). Subsection (g)(1) identifies the number, color, and placement of decals assigned to the vehicles meeting standards in subsection (a), however, this action is repealing subsection (g)(1). All decals will be issued in sets of four, with a rotational color, and consistent placement on the vehicle. This amendment is necessary as retaining the citation could cause confusion when the decals received by the applicant do not match the quantity, color, and placement information contained in the regulation.

Subsection (b) is amended to remove reference to subsection (g)(2). Subsection (g)(2) identifies the number, color, and placement of decals assigned to the vehicles meeting standards in subsection (b), however, this action is repealing subsection (g)(2). All decals will be issued in sets of four, with a rotational color, and consistent placement on the vehicle. This amendment is necessary as retaining the citation could cause confusion when the decals received by the applicant do not match the quantity, color, and placement information contained in the regulation.

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Subsection (d) is amended to specify that a clean air vehicle decal applicant must meet the income restrictions provided in Section 156.02. This provision is necessary to ensure compliance with Vehicle Code section 5205.5, amended with AB 544, which prevents the department from issuing a clean air vehicle decal to an applicant who has received a rebate under the Clean Vehicle Rebate Project, unless the rebate was issued to a buyer whose gross annual income falls below \$150,000 for a person who files a tax return as a single person, \$204,000 for a person who files a tax return as a head of household, and \$300,000 for a person who files a joint tax return.

Subsection (d)(1) is amended to update the revision date of the Application for Clean Air Vehicle Decals, form REG 1000 from 6/2015 to 1/2019. The 6/2015 version of the form was adopted 2016 with OAL file number 2016-0328-01 (Register 2016, No. 20). Changes made in the 1/2019 version of the form REG 1000 include the following:

- The paragraph that appears directly under the title of the form and above the vehicle information is amended to remove language related to the fees.
- Section 2 – Clean Air Vehicle Decals  
Section 2 is amended to remove all references to white and green decals as those colors will no longer be issued after January 1, 2019. Section 2 is also amended to remove ULEV standards from the list of emissions standards that qualify for a decal as cars meeting ULEV standards will no longer qualify for a decal on January 1, 2019.
- Section 3 – Important Information and Certification  
Section 3 in the previous version of the REG 1000 addressed replacement decals for specified Enhanced AT PZEVs and TZEVs. This section is no longer necessary because decals are not issued as replacements when the prior vehicle is a total loss/salvage or non-repairable vehicle.
- Section 3 now identifies the gross annual income and vehicle type requirements that qualify the applicant for either the clean air vehicle decal program, the clean vehicle rebate program, or both programs. This section will allow an applicant to easily determine the program for which they can apply. This section is necessary to ensure compliance with Vehicle Code section 5205.5(b)(2)(A), requiring the application for decals to include a statement indicating that the applicant cannot participate in both the clean air decal program and the clean vehicle rebate project, unless the applicant meets income restrictions.
- Section 3 contains the certification that is consistent with the previous version of the form and is in compliance with the certification identified in Code of Civil Procedures section 2015.5(b), as well as other departmental forms containing a certification
- The 6/2015 version of the REG 1000 contained a second page with Section 4 which required the applicant to indicate the reason for which decal replacements are being requested. Several options are now contained in Section 2 of the 1/2019 form while several other reasons are being removed for lack of necessity.
- Section 5 of the 6/2015 form contained a Statement of Facts section where the applicant could provide additional explanation related to the reason for the replacement. The

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department is instead requiring completion of the form REG 256 which also provides space to allow the applicant to provide the additional information.

- Section 6 of the 6/2015 form contained a service of process statement that was included with the perjury statement. The service of process verbiage is removed for lack of necessity.

Subsection (d)(2) is amended to update the revision date of the New Vehicle Dealer Application for Clean Air Vehicle Decals, form REG 1000D from 3/2017 to 1/2019. The form REG 1000D was adopted under OAL file number 201-0428-05N (Register 2017, No. 24). Changes to the form REG 1000D include the following:

- All references to the white and green decals have been removed because green and white decals will no longer be valid after January 1, 2019.
- Section 3 of the form contains the certification and requires the applicant to sign under penalty of perjury. In addition to the perjury statement, the applicant is also certifying that they will provide the new vehicle owner with the clean air vehicle decal and the clean air vehicle certificate in advance of the purchase. The dealer also agrees to provide the purchaser with a copy of the form REG 1000 at the time of vehicle purchase. The provisions of the certification are established in the proposed regulatory amendments and are necessary to ensure the vehicle purchaser is provided with the documents that will allow them to transfer ownership of the decal and receive a new clean air decal certification.

Subsection (d)(2)(A) is amended to make clear that a person who purchases a vehicle to which decals have already been issued must complete and submit to the department a form REG 1000. Further, this section is amended to make clear that it is the vehicle dealer's responsibility to provide the purchaser with a form REG 1000. This amendment is necessary to ensure the vehicle purchaser is provided with the documents that will allow them to transfer ownership of the decal, and receive a new clean air decal certification that reflects the new owner's information.

Subsection (d)(2)(B) is adopted to make clear that, once a clean air vehicle decal has been issued to the dealer, the dealer is required to keep the decals and provide the decals to the vehicle purchaser. The department is not prescribing a method by which the dealer is required to keep the decals. The dealer may choose to affix the decals to the vehicle when they are received, or maintain the decals in the vehicle file, but the decals *must* be kept with the vehicle. If the vehicle is transferred to another dealer, the decals are required to be transferred as well. The department is aware of several instances where the vehicle purchaser did not receive decals when they took delivery of the vehicle, even though the department issued decals to the dealer for that vehicle. This provision is necessary to ensure the decal is maintained with the vehicle to which it was issued and to further ensure that the dealer maintains the decal so the decal is available and can be provided to the vehicle purchaser.

Subsection (d)(3)(A)1. is adopted to require the applicant who is requesting decals for multiple vehicles to indicate the vehicle purchase date. An indication of the purchase date is necessary

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for the department to update the vehicle clean air decal record or identify whether a decal can be issued to the vehicle.

Former subsections (d)(3)(A)1. through 4. were renumbered (d)(3)(A)2. through 5., respectively.

Subsection (g) is amended to repeal subsection (g)(1) and amend and incorporate subsection (g)(2) within subsection (g). Subsection (g) identifies the number, color and placement of decals. Subsection (g)(1) specified that vehicles meeting ultra-low emission vehicle (ULEV), super ultra-low emission vehicle (SULEV), and zero emission vehicle (ZEV) standards would be issued three white decals. Subsection (g)(2) specified that vehicles meeting advanced transitional partial zero emission vehicle (AT PZEV) and transitional zero emission vehicle (TZEV) standards would be issued four green decals. Each subsection details where on the vehicle each decal is required to be affixed. Subsection (g)(1) is being repealed due to lack of necessity. Beginning January 1, 2019, the department will no longer issue white decals and all new decals will be issued in sets of four, rather than the set of three that is currently in the regulation. Therefore, the information contained in subsection (b)(2) will no longer be applicable beginning in 2019. Subsection (g)(2) is being amended to remove reference to the green decal. Beginning January 1, 2019, the decal colors will change every four years. Decals issued on January 1, 2019 are valid until January 1<sup>st</sup> of the 4<sup>th</sup> year after issuance. Because the decal color will not be constant, the department has opted to remove reference to the decal color from the regulations. Decals will be issued in sets of four and the placement of the four decals on the vehicle will remain consistent with the current requirements.

§ 156.01. Clean Air Vehicle Decals: Transfers and Replacements.

The purpose of Section 156.01 is to identify the process by which an applicant can request replacement decals or transfer a vehicle to which decals have already been issued.

Subsection (b)(1) is amended to address vehicle purchases when a decal has been issued prior to the vehicle sale. The amendment requires the new vehicle owner to obtain a new certificate. The clean air decal certificate is a document that is provided to the registered owner and kept inside the vehicle to which the decals are assigned. The certificate contains the registered owners name and address, the vehicle exhaust standard, and the decal number and expiration date. The amendment is necessary to ensure the vehicle purchaser obtains a new certificate reflecting them as the registered owner.

Subsection (d) is amended to remove the revision date of the form REG 1000. The form is incorporated by reference in Section 156.00 and it is unnecessary to reference the form revision date in subsequent clean air vehicle decal regulations. Subsection (d) is also amended to ensure compliance with Vehicle Code section 5202.5(b)(2)(A) that requires the applicant to sign that they understand the conditions of the program.

Subsections (e)(1) through (e)(3) identify additional information that is required when an applicant is requesting a replacement clean air vehicle decal. Subsection (e)(1) is repealed for lack of necessity. This section currently requires the applicant to provide the department with a

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copy of a police report when decals are declared stolen. The department has found little value in receiving police reports for stolen decals and has ultimately elected to remove this requirement from the regulation.

Subsection (e)(2) is repealed for lack of necessity. This section currently requires the applicant to complete Section 5 (incorrectly identified as Section E in the regulations) of the form REG 1000. Section 5 is a statement of facts where the applicant is required to provide an explanation as to how the decals were lost, not received, damaged or destroyed. As explained in the amendments to Section 156.00, the 1/2019 version of the form REG 1000 was amended and part of those amendments was the removal of Section 5 – Statement of Facts.

Former subsection (e)(3) is renumbered to (e)(1) and is further amended to ensure the rule and the revised form contain the same language. This provision is necessary to assist the applicant when the applicant is applying for a new certification due to them purchasing a new vehicle from a dealer or transferring from an existing owner. If a decal has already been issued to the vehicle, whether it was pre-purchased by the dealer or issued to a previous vehicle owner, the new vehicle owner need only apply for the certificate and not new decals.

Subsection (f) is amended to remove the provision requiring the applicant to remove and return the previously issued decals. Similar to requiring the submission of police reports for stolen decals, the department has also found little value in having the applicant return previously issued decals to the department and has ultimately elected to remove this requirement from the regulation. Instead, this section now instructs the applicant to remove old decals from the vehicle prior to affixing the replacement decals. This requirement is necessary to ensure the new decal is clearly displayed.

§ 156.02. Participation in the Clean Air Vehicle Decal Program or Clean Vehicle Rebate Project.

Section 156.02 is adopted to provide clarity related to the clean air vehicle decal program versus the clean vehicle rebate project.

Subsection (a) is adopted to make clear that a vehicle purchaser cannot participate in both the ARB Clean Vehicle Rebate Project and the Clean Air Vehicle Decal program, unless the purchaser meets income restrictions and unless the vehicle being purchased is a qualifying vehicle. This provision will ensure consistency and compliance with Vehicle Code section 5205.5(b) which specifies that the department shall not issue a decal to an applicant who has received a consumer rebate pursuant to the Clean Vehicle Rebate Project, for a vehicle purchased on or after January 1, 2018, unless the rebate was issued to a buyer whose gross annual income falls below one hundred fifty thousand dollars (\$150,000) for a person who files a tax return as a single person, two hundred four thousand dollars (\$204,000) for a person who files a tax return as a head of household, and three hundred thousand dollars (\$300,000) for a person who files a joint tax return.

Subsection (b) is adopted to make clear that, if the vehicle purchaser opts to participate in the ARB clean vehicle rebate project, the purchaser must return the previously issued clean air vehicle decal to the department by submitting the decal with a Statement of Facts, form REG 256 (Rev. 8/2008). The department considered having the dealer return the decal if the vehicle purchaser opts to participate in the clean vehicle rebate project, however, the department ultimately determined it would be less burdensome to both vehicle purchaser and vehicle dealer to require the purchaser to return the decals once their decision is made. This provision is necessary to make clear that it is the responsibility of the vehicle purchaser to return the decals when they choose to participate in the clean vehicle rebate project rather than the clean air vehicle decal program.

The Statement of Facts, form REG 256, is a multi-use departmental form. The 8/2008 version of the REG 256 has already been adopted under OAL file number 2010-0121-06S (Register 2010; No. 10) in Section 205.10 of Article 3.3, as it is used in the department's Year of Manufacture Program.

Subsection (c) is adopted to make clear that the department may verify whether an applicant is participating in the clean vehicle rebate project and if that applicant has received a rebate through the program, the applicant will not be issued a clean air vehicle decal. This provision is necessary to ensure the vehicle purchaser makes an informed decision as to which program they choose to participate. This section is also necessary to make clear that the department will verify the applicant's participation eligibility and standing prior to issuing a decal.

Subsection (d) is adopted to make clear that, if participation in the rebate program is denied, the applicant may reapply for a clean air vehicle decal with proof of the ARB denial. This provision is necessary to allow a decal to be issued to an applicant who was denied a rebate, but also verify that denial by requiring a copy of the denial to be submitted during the application process. This procedure will ensure that a decal is not issued to an applicant who is not qualified to receive a decal due to issuance of a rebate.

## DEPARTMENTAL DETERMINATIONS

- *Technical, Theoretical and/or Empirical Studies, Reports or Documents:* None.
- *Reasonable Alternatives, Including Any That Would Lessen Adverse Impact on Small Business:* No alternatives were considered or presented, including any that would lessen any adverse impact on small businesses.
- *Comparable Federal and State Regulations:* Part 88 of Title 40, Code of Federal Regulations address emission standards for clean-fuel vehicles, however, there are no comparable federal or state rules related to the clean air vehicle decal program.
- *Evidence Supporting Determination of No Significant Adverse Economic Impact on Business:* The department does not anticipate that this regulation will have a significant adverse economic impact on business. Currently, vehicle dealers are able to affix a clean

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air decal to vehicles prior to the vehicle sale, creating an incentive for potential vehicle purchasers as they are granted immediate access to high-occupancy vehicle lanes without having to wait for the department to process the appropriate paperwork and send the sticker to the vehicle owner. The dealer program has been in existence for several years and there have been no instances of business expansion based solely on clean air decal issuance.

### **ECONOMIC AND FISCAL IMPACT DETERMINATIONS**

The department has made the following additional determinations regarding economic and fiscal impacts associated with this proposed regulation:

- *Cost or savings to any state agency:* None.
- *Other nondiscretionary cost or savings imposed on local agencies:* None.
- *Cost or Savings in Federal Funding to the State:* None.
- *Cost Impact on a Representative Private Person or Business:* The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Currently, the fee for clean air vehicle decals is \$22. This proposed action has no impact on the fee.
- *Effect on Housing Costs:* None.
- *Local Agency/School Districts Mandate:* The proposed regulation action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code.
- *Small Business Impact:* This proposed action is unlikely to impact small businesses.
- *Potential Significant Statewide Adverse Economic Impact on Business:* The proposed regulatory action is not anticipated to have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. If an applicant is a business, the proposed amendments do not present any change that would have any economic impact on businesses.



**ECONOMIC IMPACT ASSESSMENT**  
(Government Code section 11346.3)

The department has made the following determinations when assessing the economic impact associated with this proposed regulation:

- *The Creation or Elimination of Jobs within the State of California*

None of the proposed amendments, nor the Clean Air Vehicle Decal rules in general, have any connection to jobs, therefore, the department has determined that this proposed action will neither create nor eliminate jobs within the State of California.

- *The Creation of New Businesses or the Elimination of Existing Businesses within the State of California*

While it is possible that business-owned vehicles have been issued clean air vehicle decals, and would, therefore, be required to adhere to existing and proposed amendments to the clean air vehicle decal regulations, the amendments are largely related to the application process. The proposed adoption of Section 156.02 establishes rules related to participation in the clean air vehicle decal program and the clean vehicle rebate project, however, the proposed rules in Section 156.02 speak to vehicle purchasers who are not businesses. The department has determined that these proposed regulations will not create new businesses or eliminate existing businesses in the State of California.

- *The Expansion of Businesses Currently Doing Business within the State of California*

While it is possible that business owned vehicles have been issued clean air vehicle decals, and would, therefore, be required to adhere to existing and proposed amendments to the clean air vehicle decal regulations, the amendments are largely related to the application process and are not expected to have any impact on businesses. Therefore, the department has determined that the regulations are unlikely to expand businesses within the State of California.

- *Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State's Environment*

The department anticipates benefits to the health and welfare of California residents and the State's environment through potential reduced emissions created by encouraging more drivers to purchase and operate clean vehicles. The privileges afforded to drivers whose vehicles display clean air vehicle decals serve as an incentive to them to purchase the cleanest vehicles available. The reduced emissions benefit both the health and welfare of residents and the State's environment.