

## TITLE 13: DEPARTMENT OF MOTOR VEHICLES

### Division 1, Chapter 1

#### Article 3.0 – Vehicle Registration and Titling

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

#### **PUBLIC HEARING**

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than fifteen (15) days prior to the close of the written comment period.

#### **DEADLINE FOR WRITTEN COMMENTS**

Any interested party or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than **March 25, 2024**, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulation.

#### **AUTHORITY AND REFERENCE**

The department proposes to adopt/amend/repeal these regulations under the authority granted by Vehicle Code section 1651, in order to implement, interpret, or make specific Vehicle Code sections 5205.5 and 21655.9.

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Assembly Bill 71 (Chapter 330; Statutes of 1999) adopted Vehicle Code section 5205.5 authorizing the department to issue identifying decals to vehicles meeting certain emission standards. The Clean Air Vehicle Decal Program is administered through the joint effort of the Department of Motor Vehicles, the Department of Transportation, and the California Air Resources Board (CARB). Vehicles identified by CARB as meeting specified emission standards can be issued a decal, which allows the driver to access high-occupancy vehicle (HOV) lanes with fewer than the required number of passengers and are granted a toll-free or reduced rate passage on HOV toll lanes. CARB also administers the Clean Vehicle Rebate Project that offers rebates from \$1,000 to \$7,500 for the purchase or lease of qualifying zero-emission vehicles. While most qualifying vehicles are eligible under both the clean air vehicle decal program and the clean vehicle rebate project, Vehicle Code section 5205.5 prohibits participation in both programs 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 or is at or above 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.

The department has determined it necessary to adopt regulations to make clear that a vehicle purchaser must choose which program in which they want to participate by adopting procedures that require the vehicle purchaser to return previously issued clean air vehicle decals if they choose to participate in the rebate project. The adoption will allow a vehicle purchaser to participate in the clean air vehicle decal program if they provide proof to the department that they were denied participation in the clean vehicle rebate project.

Vehicle Code section 5205.5 requires the department to collect a fee for the decals in an amount sufficient to reimburse the department for the actual costs of administering the decal program. In a report issued in February 2015 by the Bureau of State Audits entitled California's Alternative Energy and Efficiency Initiatives, the Bureau determined the department should conduct periodic cost analyses to ensure the decal fees cover all program costs. The department has recently conducted an updated cost analysis that includes departmental overhead, personal services, and operating expenses and equipment, and has determined the fee should increase from \$22 to \$27. The fee increase will ensure the solvency of the clean air vehicle decal program.

### **PROBLEMS THIS DEPARTMENT INTENDS TO ADDRESS AND BENEFITS OF THE PROPOSED REGULATION**

The department anticipates addressing two problems with this proposed action. The first issue is related to the clean air programs offered by the department and the CARB. Currently, a person who purchase a qualifying clean air vehicle can choose to participate in the Clean Air Vehicle Decal Program or the CARB's Clean Vehicle Rebate Project. This proposed action clearly establishes the steps a person must complete when they choose to participate in either program.

Second, this action increases the fee for a set of clean air vehicle decals. The problem created by not increasing the fee as the program expands is that funds from the Motor Vehicle Account may be used to pay for the financial gap in administering the program. This could impact the department's ability to meet its obligations, and the obligations of other departments that rely on funds in the Motor Vehicle Account. The increased fee adopted in this action will help the department ensure there is no financial gap in this successful program that benefits California drivers and promotes benefits to the state's environment.

### **CONSISTENCY AND COMPATIBILITY WITH STATE REGULATIONS**

The department has conducted a review of existing regulations and has determined that the proposed regulations are neither incompatible nor inconsistent with existing state regulations.

## **DOCUMENTS INCORPORATED BY REFERENCE**

The following documents are incorporated by reference:

- Application for Clean Air Vehicle Decals, REG 1000 (Rev. 9/2023)
- New Vehicle Dealer Application for Clean Air Vehicle Decals, Form REG 1000 D (Rev. 9/2023)
- Statement of Facts, REG 256 (Rev. 8/2008)

These forms are not published in the California Code of Regulations because it would be impractical and cumbersome to do so; however, the documents are readily available to interested parties by contacting the department representative identified below.

## **ECONOMIC AND FISCAL IMPACT DETERMINATIONS**

The department has made the following initial determinations concerning the proposed regulatory action:

- **Cost or Savings to Any State Agency:** The department will recoup an additional five dollars, for a total of \$27, per set of decals issued. The revised figure will ensure the department is collecting fees sufficient to cover program costs and ease the burden on the Motor Vehicle Account.
- **Other Non-Discretionary Cost or Savings to Local Agencies:** None.
- **Costs or Savings in Federal Funding to the State:** None.
- **Effects on Housing Costs:** None.
- **Cost to any local agency or school district requiring reimbursement pursuant to Gov. Code section 17500 et seq.:** None.
- **Cost Impact on Representative Private Persons or Businesses:** The cost impact a representative private person or business would necessarily incur in reasonable compliance with the proposed action is \$27 for a set of decals. The clean air vehicle decal program is a voluntary program and no vehicle owner is required to participate.
- **Small Business Impact:** The department does not anticipate this action will impact small businesses unless the small business chooses to purchase decals.
- **Local Agency/School District Mandate:** The proposed regulatory 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.

- Significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states: The department is not aware of any significant statewide adverse economic impact that would directly affect businesses with adoption of the proposed regulations.

## **RESULTS OF THE ECONOMIC IMPACT STATEMENT**

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

The department has made the initial determination that this action will not impact, 1) the creation or elimination of jobs within the State of California, 2) the creation or elimination of existing businesses within the State of California, or 3) the expansion of businesses currently doing business within the State of California.

This action will benefit the health and welfare of California residents and the state's environment. The proposed action establishes provisions related to the Clean Vehicle Rebate Project and amends provision related to the Clean Air Vehicle Decal Program. These two programs encourage the purchase of clean air vehicles.

## **PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS**

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

## **ALTERNATIVES CONSIDERED**

The department must determine 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.

## **CONTACT PERSON**

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Randi Calkins, Regulations Specialist

Department of Motor Vehicles

Legal Affairs Division

PO Box 932382, MS C-244

Sacramento, CA 94232-3820

Any inquiries or comments concerning the proposed rulemaking action requiring more immediate response may use:

Telephone: (916) 282-7294

Facsimile: (916) 657-6243

E-Mail: LADRegulations@dmv.ca.gov

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

Peggy Gibson, Attorney IV

Department of Motor Vehicles

Telephone: (916) 657-6469

### **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The department has prepared an Initial Statement of Reasons for the proposed regulatory action and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the Express Terms of the proposed regulatory action using underline or italics to indicate additions to, and strikeout to indicate deletions from the California Code of Regulations.

The contact person identified in this notice shall also make available to the public, upon request, the Final Statement of Reasons and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (the Notice of Proposed Regulatory Action, the Initial Statement of Reasons, and Express Terms) may be accessed at <https://www.dmv.ca.gov/portal/about-the-california-department-of-motor-vehicles/california-dmv-rulemaking-actions/>.

### **AVAILABILITY OF MODIFIED TEXT**

Following the written comment period, and the hearing if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the fully modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Requests for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.