

BUREAU OF AUTOMOTIVE REPAIR

REPEAL OF VEHICLE REGISTRATION AMNESTY PROGRAM

TITLE 16, CALIFORNIA CODE OF REGULATIONS, SECTION 3340.38

SECTION 100. CHANGE WITHOUT REGULATORY EFFECT

Pursuant to Title 1, Division 1, Chapter 1, Article 2, section 100(b)(3), of the California Code of Regulations, the Bureau of Automotive Repair (BAR), Department of Consumer Affairs (DCA), hereby submits this written statement explaining why the proposed repeal of Section 3340.38 contained within Article 5.5, Chapter 1, Division 33, Title 16, California Code of Regulations¹ (CCR) does not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision.

CCR section 3340.38 was promulgated to implement a vehicle registration amnesty program created under Vehicle Code (VC) section 9565 by Assembly Bill (AB) 619 (Emmerson, Chapter 420, Statutes of 2008). Section 3340.38 referenced Sections 4750.1 and 9565 of the VC and Section 44012 of the Health and Safety Code (HSC). CCR section 3340.38's referenced statutes are summarized below.

- HSC section 44012 details tests required at Smog Check stations. This section is referenced because it sets forth the requirement that a vehicle comply with Smog Check emissions standards based on the model year of the vehicle. Specially constructed vehicles participating in the amnesty program, pursuant to VC section 9565, are assigned the model year of the calendar year in which the vehicle's owner applies for amnesty.
- VC section 4750.1 details model year assignments for the registration of specially constructed vehicles, and references the registration amnesty program outlined in VC section 9565. This section is referenced because disputed model year assignments are the crux of the issue that the amnesty program was created to resolve.
- VC section 9565, as amended by AB 2461² (Emmerson, Chapter 388, Statutes of 2010), outlined a vehicle registration amnesty program for vehicles that had been previously registered or classified incorrectly. This section also established automatic inoperative and repeal dates as follows:

“(g) This section shall become inoperative on July 1, 2012, and, as of January 1, 2013, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2013, deletes or extends the dates on which it becomes inoperative and is repealed.”

¹ All references made hereafter to the California Code of Regulations apply to Title 16, Division 33, Chapter 1.

² All references made hereafter to AB 2461 apply to Emmerson, Chapter 388, Statutes of 2010.

Because no statutes were enacted on or before January 1, 2013, extending the operability of VC section 9565, BAR is seeking to repeal its defining regulation, CCR section 3340.38.

As noted above, the principal statutory basis and foundation for the adoption of CCR section 3340.38 was VC section 9565, which authorized the registration amnesty program for specially constructed vehicles. CCR section 3340.38 is titled “Vehicle Registration Amnesty Program,” and specifically states in subsection (a) that “A specially constructed vehicle participating in the registration amnesty program, pursuant to Section 9565 of the Vehicle Code, shall be inspected by a referee station” [emphasis added]. Further, the rest of CCR section 3340.38 also relates directly to vehicles participating in the registration amnesty program authorized by VC section 9565. With the repeal of VC section 9565, on January 1, 2013, which authorized the amnesty program, the CCR section implementing the amnesty program essentially ceased to be operative. Consequently, BAR has determined that the proposed repeal of CCR section 3340.38 constitutes a “change without regulatory effect.”