

October 20, 1986

SUBJECT: INSURANCE

Circular Letter No. 18 (1986)

October 20, 1986

TO: ALL INSURERS WRITING AUTOMOBILE INSURANCE IN NEW YORK

RE: REGULATION NO. 79 FIRST AMENDMENT EPA STICKER PHOTOGRAPH REQUIREMENT

Since August 1, 1986, the effective date of the First Amendment to Regulation No. 79 relating to the third required photograph, inquiries have been received questioning the utility and reliability of that photograph. In light of these inquiries, the Department has obtained input from various interested groups, including the New York State Police, the National Automobile Theft Bureau, the New York City Police Department, the Nassau County Police Department, the Federal Bureau of Investigation, insurers and producer organizations.

Based upon this information and analysis, we have determined that the third photograph of the Environmental Protection Agency (EPA) sticker is unquestionably useful and serves the purpose for which it was intended, i.e., it should further reduce fraudulent automobile insurance claims. In response to the problems most frequently brought to our attention, we note:

(1) A number of complaints have been received that many photographs of the Vehicle Identification Number (VIN) are not readily discernible. The third photograph is primarily for the use of a professional fraud investigator, in the event of a suspicious claim. In most instances, use of a magnifying device will enhance the image to a degree that permits useful identification.

(2) Pursuant to Regulation No. 79, physical damage coverages may be suspended only if the insured was the cause for the failure to inspect the vehicle. The fact that a photograph did not produce a desired result is not a basis for suspension of coverage. It is the insurer's responsibility to make sure that all efforts are made to obtain as clear as possible a photograph of the VIN off the EPA sticker, using a proper attachment for the camera utilized. Some producers or insurers have purchased a "close-up kit" which, by its own instructions, cannot be used in close-up photography with any accuracy. Such attachments are inappropriate for use on Regulation No. 79 photo inspections.

(3) In all cases, the third photograph should be taken in a manner to capture the VIN. For example, when the EPA sticker is on a curved surface the camera attachment should be focused on the VIN, and not on the total sticker. While in some instances this may result in the sticker not being entirely legible, it will enable a clearer picture of the VIN to be obtained.

(4) If the EPA sticker is damaged, faded, or otherwise not legible, the third photograph is still required. If the vehicle does not have an EPA sticker (because it was removed or is a gray market car), the third photograph should be taken of the area on the door or door jamb where the sticker is normally located. The photograph should be taken using a proper camera attachment as if the VIN was present. In addition, the inspector should certify to the insurance company, as follows:

The vehicle inspected was missing its EPA sticker. I have therefore recorded the VIN from the [INSERT PARTICULAR LOCATION] of this vehicle.

The VIN is as follows: \_\_\_\_\_.

Signed \_\_\_\_\_

Name \_\_\_\_\_

Agency \_\_\_\_\_

Address \_\_\_\_\_

Date \_\_\_\_\_

- (5) In no instance, even the situation described in (4), should a photograph of the registration sticker or license plate be substituted for the EPA sticker.
- (6) Regulation No. 79 no longer requires a photograph of the license plate.
- (7) No enhancement, e.g., by chalk or crayon, should be used to bring out the numbers on an indistinct EPA sticker.
- (8) If any insurance agency or producer is not in a position to perform inspections in compliance with regulatory requirements, there are several inspection service organizations that will perform the necessary inspections in all areas of the State.

In conclusion, we do not anticipate any further amendments to Regulation No. 79 in regard to the third photo requirement. Please direct any further inquiries concerning this subject or regulation to Laurel Presser, Principal Insurance Examiner, in the Property & Casualty Insurance Bureau, at the above address.

Very truly yours,

[SIGNATURE]

JAMES P. CORCORAN

SUPERINTENDENT OF INSURANCE