

Initial Statement of Reasons

Title 13, Division 1, Chapter 1

Article 5.0 – Requesting Information from the Department

The current regulation requires commercial requesters to complete a Commercial Requester Account Application, form INF 1106, when applying for a requester code, renewing an account, or when making changes to an existing requester account. The department is moving the application process to its internet portal environment. When these regulations are effective, applicants will log on to their department internet account and will be prompted with each application question. The questions presented in the portal are largely consistent with the information solicited on the form INF 1106, however, since the department will no longer make the INF 1106 available, the department has determined it necessary to move into regulation the information an applicant will be required to provide when completing the online application process.

This action also establishes a fully virtual means by which requesters will complete transactions with the department. The department is adopting a new section that requires governmental requesters, commercial requesters, and employer pull notice participants to submit applications, receive information, and pay invoices electronically. This move to the virtual environment will create an efficient and secure process by which the department will interact with requesters while reducing retention requirements.

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.

§ 350.02. Definitions.

As used in this article the following definitions shall apply;

Subsection (k) contains two non-substantive amendments to remove the words “on-line” and “data base” and replace with “online” and “database.”

Subsection (r) contains two non-substantive amendments to remove the words “on-line” and “data base” and replace with “online” and “database.”

§ 350.04. Information Access.

Subsection (c) contains a non-substantive amendment to capitalize the word “Section.”

§ 350.10. Governmental Entity's Request for Information.

Section 350.10 contains a non-substantive amendment to remove the words “on-line” and replace with “online.”

Subsection (c) is amended to insert the word “following.” This amendment will create a clearer sentence.

Subsection (e) contains a non-substantive edit to add a comma after the words “licensing information.”

§ 350.12. Priority for Processing Governmental Requests.

Section 350.12 contains a non-substantive amendment to add “-ed” to create the word “processed.”

§ 350.16. Information Required on Commercial Requester Application for a Requester Code.

The title line is amended to remove the word “nongovernmental” and replace with “commercial requester.” This change will ensure the text is consistent with the terminology used by the department and in the related forms.

Subsection (a) contains a non-substantive amendment to remove the word “nongovernmental” and replace with “commercial requester” to ensure consistency with the terminology used by the department and in the related forms.

Subsection (a) is amended to remove reference to the Information Services Branch in Sacramento. This branch has been renamed. Removing the reference from the regulation will avoid unnecessary confusion as the

commercial requester application process is now an electronic process. There will be no form to mail to the department.

Subsection (a) currently references the Commercial Requester Account Application, form INF 1106. The department will begin allowing the form INF 1106 to be submitted electronically through the department's internet portal. All the information provided on the online application is consistent with the information required to be provided on the paper form. The electronic application will streamline the application process and allow the department to issue requester codes more efficiently. The department does not anticipate opposition to this process change as the online process will be more convenient to applicants.

Subsection (a)(1) is adopted to require the applicant to provide an indication of whether the application is an original application, a renewal of an existing requester account, or to make changes to an existing requester account. This information is necessary to ensure the department processes the application appropriately. If the applicant submits an original application, that will signal that a new record will be created for the requester code applicant. If the applicant indicates the application is to renew an existing requester code account, the department will retrieve the existing record and proceed with the renewal process.

Subsection (a)(1) is renumbered to subsection (a)(2) and requires the applicant to provide the business or organization name, including any doing business as (DBA), and website address. There are no changes to the requirements with exception to the references of sole ownership/individual, partnership, or corporation being changed to business/organization name. This information is necessary for the department to create a commercial requester account when the transaction is for a new application or retrieve the correct requester when the transaction is for a renewal or to update information. The website, if available, could also provide a means by which the department can verify the business.

Subsection (a)(2) is renumbered to subsection (a)(3) and requires the applicant to identify the contact person for the commercial entity, their email address and telephone number. A contact person is necessary to ensure the department can immediately reach a representative in the event there is a need to discuss issues related to the requester account. The addition of an email is necessary to ensure another means by which the department can reach out to the contact person on issues related to the application process or the requester code account.

Subsection (a)(3) is renumbered to subsection (a)(4) and requires the business address and mailing address of the commercial requester. This information is consistent with the information already required during the paper application process where the applicant is required to provide the street address, or physical location, and the mailing address of the commercial requester.

Subsection (a)(4) is repealed. Subsection (a)(4) required the applicant to provide the name, address, and telephone number of the branch locations. The department will not be requiring information related to branch locations. Requester codes are not issued to specific branch locations, only to the commercial entity.

Subsection (a)(5) contains a non-substantive amendment to remove the word “nongovernmental” and replace with “commercial.”

Subsection (a)(6) is amended to remove the word “nongovernmental” and replace with “commercial.” Subsection (a)(6) is also amended to require the applicant to provide an indication of whether they will purchase information directly from the department or through an approved service provider or authorized agent. This information is consistent with the information provided in Part F (Method of Access) of the form INF 1106 where the applicant is required to provide an indication of whether they will purchase information directly from the department, through another service provider.

Subsection (a)(7) currently requires the applicant to provide the address to where they want the purchased information mailed. This requirement is removed as the department will mail the information to the address provided in subsection (a)(4).

Subsection (a)(8) is renumbered to subsection (a)(7) and contains a non-substantive amendment to replace the word “nongovernmental” with “commercial.”

Subsection (a)(9) is renumbered to subsection (a)(8).

Subsection (a)(9) is adopted to require the applicant to provide any professional or occupational license and requires an indication of the licensee's name, the license number, the license expiration date, and the issuing authority. This information is necessary for the department to verify the license information.

Subsection (a)(11) is repealed. A requester can receive information by mail, electronically, by telephone, or in a field office. Because the department is not limiting the methods by which a requester can access information, the information previously solicited from subsection (a)(11) is no longer necessary.

Subsection (a)(12) is renumbered to (a)(11) and contains two non-substantive amendments to remove reference to “nongovernmental” and replace with “commercial requester.”

Subsections (a)(13) and (a)(14) are renumbered to (a)(12) and (a)(13).

Subsection (a)(15) is repealed. The department does not permit the resale of its information, with exception to recall purposes. The resell process was intended to refer to a service provider through which information would pass, but would not resell information. The department does not allow for information to be sold, however, the service provider could charge for the services it provides. Because the term “resell” has led to confusion and some inconsistent reporting or interpretation, the department determined it necessary to eliminate subsection (a)(15).

Subsection (a)(16) is repealed. Because the department is utilizing its internet portal, collecting information related to the requesters automated system design is no longer necessary as the requirements would be embedded via the portal requirements.

Subsection (a)(17) is renumbered to subsection (a)(14).

Subsection (a)(15) is adopted to require the applicant to provide an indication of whether anyone directly affiliated with the commercial requester previously applied for, had, or had a commercial requester account and to provide the business name and account code. This information is necessary for the department to review past applications or requester account usage and determine the reason for which the application was denied or the commercial requester account was deactivated. If the previous application was denied or requester code deactivated for questionable conduct, the department can take those actions into consideration when reviewing a commercial requester account application.

Subsection (a)(16) is adopted to require the applicant to provide an indication of whether anyone directly affiliated with the commercial requester has been subject to a departmental administrative action against a prior or current commercial requester account, and include the date of the incident, type of action, and the name of the person. This information is necessary to ensure the security of department records. If the department receives notification that a person who could potentially have access to department records has been the subject of an administrative action, the department can take those actions into consideration when reviewing a commercial requester account application.

Subsection (a)(17) is adopted to require the applicant to provide an indication of whether anyone having access to the department's information has ever been convicted of a felony or crime for a violent act, stalking, computer fraud, unauthorized disclosure, access or distribution information, including the date of the incident, the name of the person and the violation information. This information is necessary as it allow the department to determine whether a requester code should be issued to a commercial requester when the department's records could be used in a manner contrary to the purpose for which the requester code is issued.

Subsection (a)(18) contains a non-substantive amendment to remove reference to "nongovernmental" and replace with "commercial requester."

Subsection (a)(20) is amended to require the applicant to sign under penalty of perjury that they understand the penalties associated with unauthorized disclosure of information. The statement also identifies the related Vehicle Code sections. Requiring the applicant to sign the disclosure notice will serve as notification to the department the applicant has been made aware of the penalties that may occur if the department's records are released to or accessed by an unauthorized party.

Subsection (b) is amended to remove the word "nongovernmental" and replace with "commercial requester."

§ 350.18. Additional Requirements for a Commercial Requester Application for a Requester Code.

The title of Section 350.18 is amended to remove the word "nongovernmental" and replace with "commercial requester."

Subsection (a) is amended to remove reference to the Commercial Requester Account Agreement, form INF 1108. This form will no longer be made available in a paper format. This amendment is necessary to inform the applicant that the form will be completed and submitted online. The electronic submission will streamline the application process by allowing the application to be submitted for review immediately.

(b) In addition to provisions contained in this article or in existing statute, the agreement includes the following provisions:

Subsection (b)(5) contains several non-substantive amendments to add commas after references to officers and agents.

Subsection (c) is amended to correct a citation from Section 350.16(a)(25) to (a)(17).

§ 350.20. Certifications Required with Commercial Requester Applications for Access to Residence Address Information.

The title of Section 350.20 is amended to remove the word "nongovernmental" and replace with "commercial requester."

Subsection (a) is amended to require the applicant to submit the Information Services Certification of Agency through the department's internet portal. Because the department will no longer provide a paper form, the form requirements are being moved to the regulation.

Subsection (a)(1) is adopted to require the applicant to provide an indication of whether they represent a vehicle dealership or a vehicle manufacturer.

Subsection (a)(2) is renumbered from (a)(1) and is further amended to provide clarification to the type of name being requested by specifying the business name and adding a contact person name to be included on the certification. This information is necessary to allow the department to contact the requester, if necessary.

Subsection (a)(3) is renumbered from (a)(2) and is further amended to provide clarification to the type of name being requested by specifying the agent name. The driver's license number requirement is removed for lack of necessity and the requester code is added to ensure the department can verify the agent is associated with the requester.

Subsections (a)(3) and (a)(4) are renumbered to (a)(4) and (a)(5), respectively. Subsection (a)(5) is also amended to correct a misspelled word.

§ 350.22. Fees Required with an Application for a Commercial Requester Code.

The title of Section 350.22 is amended to remove the word "noncommercial requester" and replace with "commercial requester."

Subsection (b) contains a non-substantive amendment to remove the word "on-line" and replace with "online."

§ 350.24. Bond Requirements for a Commercial Requester Account with Access to Confidential Address Information.

Subsection (a)(1) contains a non-substantive amendment to remove reference to "DMV" and replace with "the department."

§ 350.28. Commercial Requester Code Holder's Request for Information.

The title of Section 350.28 is amended to remove the word "nongovernmental" and replace with "commercial."

Subsection (a) contains a non-substantive amendment to remove the word "nongovernmental" and replace with "commercial" and to remove the word "on-line" and replace with "online."

Subsections (a)(1) through (a)(5) contain a non-substantive amendment to add a comma behind the word "information" in each subsection.

Subsection (d) contains a non-substantive amendment to capitalize the word "Section" and update the citation of Vehicle Code section 1808.22(c) to 1808.22(d).

Subsections (e), (f), (g), and (h) contain a non-substantive amendment to capitalize the word "Section."

§ 350.34. Additional Security Requirements for Online Access.

The title of Section 350.34 and the first line of the section are amended to remove the word "on-line" and replace with "online."

Subsection (c) is amended to remove the revision date of the Employee Security Statement, form INF 1128. The form is adopted in subsection (d).

Subsection (d) is amended to update the revision date of the Employee Security Statement, Form INF 1128 from 3/97 to 9/2006.

Section 350.34 requires any person authorized by a special permit holder who has access to department records to complete an Employee Security Statement, form INF 1128. Once complete, the form is required to be completed annually and retained by the special permit holder and for two years. The following changes have been made to the form INF 1128:

The employee/requester and employer fillable portions are moved to the bottom of the form. The employee is no longer required to provide their driver's

license or identification number or address and an indication of the requester/employer's physical and mailing address is no longer requested. That information is not necessary as the form is retained with the employer and the employer will already have that information available to them.

The first four provisions of the form INF 1128 are unchanged. Provision 5 on the 1997 version of the form required an acknowledgement that Vehicle Code section 1808.21 makes any residence address in any record obtained by the department confidential information. This provision was removed and replaced with a citation to 18 USC Sections 2721 – 2725, that makes any person who knowingly obtains, discloses, or uses personal information from a motor vehicle record for purposes not permitted under the Driver's Privacy Protection Act, is liable to the person to whom the information pertains, and who may bring a civil action in a U.S. district court.

Lastly, the form INF 1128 is amended to add space for the employee to provide their annual re-certification by providing their printed name, signature and date. This feature will allow the employer to continue to use the same form which will ease recordkeeping requirements.

§ 350.36. Casual Requests for Information.

Subsections (b)(1) through (b)(5) contain a non-substantive amendment to add a comma in each subsection.

§ 350.44. Cost of Information.

Subsection (b) is amended to remove the word “nongovernmental.” Subsection (b) is also amended to make clear that invoices will be paid through an electronic payment method. Because most transactions within the commercial requester program will be completed through an electronic process, the department will also require invoices to be paid electronically as well. This processing change will benefit both the department and commercial requesters by providing an efficient payment process that removes the need for paper. There are no changes to the fees being charged for records.

§ 350.47. Requester Code Holder – Electronic Access.

Section 350.47 is adopted to establish an electronic application and payment process for employers in the pull notice program, commercial requesters, and

governmental requesters. The department has been in the process of moving most of its transactions to a virtual environment. This new process will establish a more efficient means by which applications will be processed, information transmitted, and payments submitted. Upon the effective date of the regulations, commercial requesters and employee pull notice participants will be required to complete the transactions listed in subsections (a) through (c) through the department's internet portal. Governmental requesters are currently submitting applications electronically, however, upon the effective date of the regulations, governmental requesters will also be required to receive information and submit payments electronically.

Subsection (a) is adopted to require an original or renewal application to be submitted through the department's internet portal. The move to a virtual environment will ensure a convenient and secure means by which an applicant can submit their documents and will also allow for quicker processing of applications. The electronic application process will reduce paper retention requirements for the applicant and for the department, as the application will now be stored electronically. Furthermore, if corrections are needed to the application, the applicant can make immediate corrections through the portal rather than having to complete and submit another application form and then have to wait for the corrected application to be processed.

Subsection (b) is adopted to require information to be transmitted to the applicant electronically either directly from the department or through an authorized agent or service provider. This move to an electronic environment will allow for the secure transfer of records while reducing the paper retention requirements on requesters and the department.

Subsection (c) is adopted to require account holders to pay their invoices through an electronic payment method. The online payment process is necessary to create a process that allows for the efficient and secure payment of fees which will benefit both the requester and the department.

The provisions adopted in Section 350.47 will allow the department to create a fully virtual process that will save the applicant and the department time and resources while maintaining the safe transfer of records between the department and the requester.

§ 350.48. Retention of Records.

Subsection (a) contains a non-substantive amendment to remove the word "for" and replace with "from."

Subsection (b) contains two non-substantive edit to remove duplication in existing text by removing the words “the date of” and to add an apostrophe to create the word “driver’s.” Subsection (b) is also amended to remove reference to “resell information” and replace with “provide information.” The department does not permit the resale of its information. Instead, it uses service providers who act as a “pass-through” to connect the departments information to the end user. The service provider is the entity responsible for ensuring compliance with the information retention requirements by maintaining its information transfer log data for a period of five years from the date of the request. While the department does not allow for the reselling of its records, it does comply with the retention requirements specified in the Driver Privacy Protection Act, 18 U.S.C. Section 2721(c).

Subsection (c) contains a non-substantive edit to insert an apostrophe to create the word “driver’s.” Subsection (c) is also amended to require requester code holders who are requesting and receiving information to maintain a monthly record of each request for a period of two years.

§ 350.50. Inspection of Records.

Subsection (a) contains a non-substantive amendment to remove the word “section” and replace with the word “Sections.”

§ 350.52. Refusal, Suspension or Revocation of Requester Codes.

Section 350.52 is repealed. Subsection (d) establishes that this section shall remain in effect only until October 1, 2000, however, the text was never removed from Article 5.0. This section is being removed to avoid potential confusion by interested parties who may reference outdated information.

§ 350.53. Surrender of Records.

Subsection (a) contains two non-substantive amendments. The first amendments changes the word “section” to “sections.” The second non-substantive amendment removes reference to the “Office of Information Services” and updates the correct name of the “Information Policy and Liaison Branch.”

Subsection (b) contains three non-substantive amendments. Two amendments change the word “section” to “sections.” The second non-substantive

amendment removes reference to the "Office of Information Services" and updates the correct name of the "Information Policy and Liaison Branch."

§ 350.54. Temporary Suspension of a Requester Code.

Section 350.54 is repealed. Subsection (d) establishes that this section shall remain in effect only until October 1, 2000, however, the text was never removed from Article 5.0. This section is being removed to avoid potential confusion by interested parties who may reference outdated information.

DEPARTMENTAL DETERMINATIONS

- Technical, Theoretical and/or Empirical Studies, Reports or Documents: None.
- Reasonable Alternatives That Would Lessen Any Adverse Impact on Small Business: No alternatives were considered or presented that would lessen any adverse impact on small businesses.
- Evidence Supporting Determination of No Significant Adverse Economic Impact on Business, Including the Ability to Compete: This action streamlines the process in an applicant applies for an original requester code or renews an existing requester code. The changes will not likely have an adverse economic impact.

ECONOMIC AND FISCAL IMPACT DETERMINATIONS

- Cost or Savings to Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: The department does not anticipate this action will impact representative private persons or businesses as there are no costs to private persons and there are no changes to the fees related to commercial requester codes.
- Effect on Housing Costs: None.
- Local Agency/School District Mandates: 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.

- Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
- Small Business Impact: This proposed action may affect small business.
- Potential Significant Statewide Adverse Economic Impact on Business: The department does not anticipate this action will have a significant statewide adverse economic impact directly affecting businesses, including the ability of California to compete with businesses in other states. This action streamlines the process by which a requester code account is applied for or renewed.

ECONOMIC IMPACT ASSESSMENT

(Government Code section 11346.3)

The department has made the following determinations related to this proposed regulatory action:

- Creation or Elimination of Jobs Within the State of California

This action streamlines the process by which a requester code account is applied for or renewed. It is unlikely that any of the proposed amendments will either create or eliminate jobs within the State of California.

- Creation or Elimination of Existing Businesses Within the State of California

This action streamlines the process by which a requester code account is applied for or renewed. It is unlikely that any of the proposed amendments will either create or eliminate businesses within the State of California.

- Expansion of Businesses Currently Doing Business Within the State of California

This action streamlines the process by which a requester code account is applied for or renewed. It is unlikely that any of the proposed amendments will expand businesses currently doing business in the State of California.

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

This action streamlines the process by which a requester code account is applied for or renewed. This proposed action is unlikely to impact worker safety,

the state's environment, or the health of California residents, however, this action may benefit the welfare of California residents by ensuring the department's records are accessed by entities who have been approved by the department.