Initial Statement of Reasons
Title 13, Division 1. Chapter 1
Article 3.0 – Vehicle Registration and Titling
Electronic Lien and Title Program

Background and Explanation of Problems Addressed

Background Summary

In 1989, the department developed its Electronic Lien and Title pilot program and participation was voluntary. General Motors Acceptance Corporation was the first Lienholder to join.

Under the Electronic Lien and Title program, when the department receives an application for title or registration showing the Lienholder's name, address, and Electronic Lien and Title ID number an electronic lien record is produced, by the department, in lieu of a paper title.

Since initiating the original pilot, the department and lending industry have collaborated on a number of improvements and changes to the program up to and including the requirements proposed in these regulations. Today, California's Electronic Lien and Title program consists of a modern, web-based connectivity system allowing for secure file transfer between Service Providers/software vendors and the department. These vendors provide the subsequent linkage to the entities holding liens on vehicles.

Vehicle Code sections 1801 and 1801.1 authorize the department to allow a person to submit any documents required to be submitted to the department by using electronic media deemed feasible by the department instead of requiring the actual submittal of the original document. Vehicle Code section 1801.1(c) authorizes the department to, among other things, establish security standards and technological requirements, or terms and conditions, including methods of authentication for electronically submitted signatures.

Vehicle Code section 4450.5 directs the department to develop an Electronic Lien and Title program, in consultation with stakeholders, that would require Lienholders' title information be stored electronically, if the department determines that such a program is cost effective compared to its paper system. The department subsequently determined that handling paper Certificates of Title is far costlier for both government and lenders than an electronic system. Paper certificates require intensive forms of physical security, counterfeit-proof measures, and significant expenditures in printing, sorting, and mailing. Electronic systems can leverage existing information technology security already in place where government and financial industry systems reside.

The legislation enacting Vehicle Code section 4450.5 (Assembly Bill 1515, 2009) was initiated within the lending community. Since then, virtually the entire industry has already moved to enroll in California's program. To that extent, while an electronic titling system is cost effective,

these regulations will not create a significant impact; the benefits were realized with the enactment of the statute itself.

Problem Addressed by these Regulations

The problem the adoption of these regulations is intending to address is the implementation of Vehicle Code section 4450.5 which requires the department to develop an Electronic Lien and Title program that requires all Lienholders' title information to be held in an electronic format, if the department determines that the program is cost effective compared to the current paper title and registration system.

Necessity of Each Proposed Adoption to Accomplish the Stated Purpose

153.00 Definitions

Subsection (a) describes what type of documents are included under "Business documents" for purposes of the program.

Necessity: Since an applicant for a Lienholder's permit is required to include a copy of their "Business documents" as part of their application and there is more than one option to satisfy the requirement, it is necessary to define the term by stating what the department will accept from the Lienholder.

Subsection (b) "Designated employee" means any employee who has been identified by an Electronic Lien and Title Program participant.

Necessity: Since some of the Electronic Lien and Title Program participant's employee(s) working in their business will have access to the personal/confidential information that the department has to protect and some of their employees will not, therefore it is necessary to distinguish those employees who have been identified by the applicant/partner and have to submit a completed and signed Electronic Lien and Title (ELT) Program Information Security and Disclosure Statement Service Provider/Lienholder Employee form, REG 677 (NEW 1/2019) as provided in subsections 153.40(a)(4), 153.10(b)(4), and 153.22(a)(4).

Subsection (c) clarifies that an "Electronic title" is an electronic data file created by the department and transmitted to a Lienholder via their identified Service Provider for purposes of this program.

Necessity: Defining the term "Electronic title" is necessary because Section 4450.5 of the Vehicle Code, which instructs the department to develop an Electronic Lien and Title program, does not include any terminology for the program. Sections 4450 and 4451 of the Vehicle Code which instruct the department to issue a certificate of ownership and what the contents are to be,

respectively, pertain to the department's registration program that has been in place for decades and is reliant on paper.

Subsection (d) explains that the term "Lienholder" is the same as a legal owner as defined in section 370 of the Vehicle Code.

Necessity: Since "legal owner" is the term used in statute (i.e. section 370 of the Vehicle Code), has the same meaning as "Lienholder", and is widely utilized in industry and section 4450.5 of the Vehicle Code, which instructs the department to develop an Electronic Lien and Title program, does not include any terminology for the program, the department determined it is necessary to have a term that is known and utilized in the industry. The department also selected the term "Lienholder" rather than legal owner because it is in line with the name of this program.

Subsection (d) explains that the term "Title information" is the same as "contents of certificate of ownership" as defined in section 4451 of the Vehicle Code.

Necessity: Since "contents of certificate of ownership" is the phrase used in statute (i.e. section 4451 of the Vehicle Code) rather than the term "Title information" that is used in the statute authorizing the department to develop an Electronic Lien and Title program (i.e. section 4450.5) and for all intents and purposes means the same thing it is necessary for the department to select which term will be used in this program, therefore department selected the term "Title information" because it aligns best with the Electronic Lien and Title program name and is used by industry.

Subsection (e) explains that the term "Service Provider" is the person or entity that has applied to and been approved by the department to be able to act on behalf of Lienholders and has the software connectivity to send and receive electronic data files with the department.

Necessity: Since Lienholders must utilize an intermediary to act on their behalf for the purpose of transmitting electronic titling information data to the department and section 4450.5 of the Vehicle Code, which instructs the department to develop an Electronic Lien and Title program, does not include any terminology for the program, it is necessary to have a term for that entity. "Service Provider" was selected by the department because it is utilized in the industry and is widely known.

153.02 Service Provider's Permit

Subsection (a) establishes that a Service Provider who has been issued a Service Provider permit by the department, after applying to the department to act on behalf of Lienholder(s), may do so.

Necessity: Since the application and permit process to participate in the department's Electronic Lien and Title program is new, it is necessary to establish that a Service Provider who wants to

act on behalf of Lienholder(s), as described in subsection 153.00(e), are allowed to after having applied for and been issued a permit.

Subsection (b) prohibits a Service Provider, whose Service Provider permit is not valid from acting on behalf of Lienholders.

Necessity: Since Lienholders must choose a Service Provider who holds a valid Service Provider's permit to act on their behalf (section 153.22(a)(1); see incorporated by reference form REG 671, section 5) and a Service Provider's permit can be suspended (section 153.14) or can expire if not renewed (section 153.10) rendering the permit invalid, it is necessary for the department to prevent a Service Provider whose permit is not valid from participating (i.e. acting on behalf of Lienholders) in the program.

Subsection (c) prohibits a Service Provider from sending any of their customers' data to the department until after the department has validated that connectivity has been successfully established between the Service Provider and the department, through transmission of a test file.

Necessity: Since transmission of data from a Service Provider to the department may not work properly if there is a connectivity glitch and confidential data could be compromised if that occurs, it is necessary for the Service Provider to transmit a test file to the department for validation of successful connection prior to any transmissions of their customers' data.

153.04 Service Provider's Permit Application

Subsection (a) establishes that an applicant who wants the ability to be designated by a Lienholder to act on its behalf must submit to the department all of the items listed in (a)(1) through (a)(4) below to the department.

Necessity: Since the application and permit process for Service Providers to participate in the department's Electronic Lien and Title program is new, it is necessary to establish the requirement to apply to participate and that the application includes more than just the application form (REG 670).

Subsection (a)(1) requires the applicant to complete and sign an Electronic Lien and Title (ELT) Program Service Provider Application form, REG 670 and establishes the REG 670 as the application form for an Electronic Lien and Title program Service Provider permit.

Necessity: Since the department has to process applications from anyone who applies to become an Electronic Lien and Title program Service Provider and the department strives to keep its processing systems and record keeping efficient, it is necessary to have a specific form as the application form.

Electronic Lien and Title (ELT) Program Service Provider Application form, REG 670

The form REG 670 is a new departmental form consisting of a title block and eight sections.

In addition to the form's name, the title block has in the upper right-hand corner a 'DMV USE ONLY' box with spaces for the department to fill in the Service Provider name, the permit number, and the approval implementation date.

Below the form name, on the left-hand side are checkboxes for the applicant to indicate whether they are applying to enroll in the program, renew their permit, or to make changes.

Necessity: Since the REG 670 form has multiple uses, it is necessary for the applicant to indicate why they are submitting the form. Additionally, since the department cannot approve an application that is incomplete and contacting applicants to inform them that their application is missing elements wastes resources, the department determined it is necessary to include the courtesy note to minimize this issue.

Section 1 – Service Provider

Section 1 requires the applicant to provide their firm or business name, EIN, address, and mailing address (if different) in the spaces provided. It also requires the applicant to indicate by yes or no checkboxes if they have ever offered services to Lienholders and if yes, to indicate how many years in the space provided.

Necessity: Since the department is responsible for protecting the public's personally identifiable information and needs to know exactly who it is partnering with, it is necessary for the department to require applicants for any type of partnership permit to provide their business name and addresses so the department can adequately screen applicants prior to approving their applications. Additionally, Service Providers may only be issued one permit for participation in the program, therefore it is necessary to require applicants to answer if they have previously offered services to Lienholders so the department can verify they do not already have a permit.

Section 2 – Type of Ownership

Section 2 requires the applicant to indicate by checkboxes the type of ownership their business is under and it also requires the applicant to provide their license number and the agency they are registered with, if applicable.

Necessity: Since the statistics (i.e. type of ownership) will be used for industry meeting presentations, Public Records Act requests, and any reports requested by the legislature, it is necessary for the department to gather this type of information from applicants so it has the statistics for the program. The statistics will also help the department identify trends within the program such as the type of business that is most or least likely to participate, therefore the

department determined that it will make future planning more efficient if the statistics are gathered on the application form.

Section 3 – Owner/Corporation Name

Section 3 requires the applicant to provide their owner or corporation name, office telephone number, and the address (if the information is different from what was provided above.)

Necessity: Since the department must know exactly who it is partnering with, it is necessary to require applicants to provide all identifying information related to their business.

Section 4 – Business Contact

Section 4 requires the applicant to provide the name, email address, office telephone number, and address of their business contact.

Necessity: In order to help ensure efficient communication between the department and its permittees, it is necessary to require applicants to provide the information for their selected contact person. Additionally, the department determined it is more effective to require the applicant to select a business contact person at the outset rather than waiting until later and potentially creating a situation in which it becomes difficult for the department to reach the correct person.

Section 5 – Certification

Section 5 is the certification section and requires the Electronic Lien and Title Program Service Provider applicant to print their name, title, sign, and date, under penalty of perjury, that the information provided to the department on this REG 670 is true and correct. This certification is consistent with the provisions of Code of Civil Procedure section 2015.5(b) and is consistent with all other departmental forms containing certifications.

Necessity: Since this program is similar to other departmental programs (i.e. Business Partner Automation) in which a private entity is partnering with the department, and the department must know exactly who it is partnering with, it is necessary for consistency across departmental programs to include this certification here. Additionally, this program and the Business Partner Automation program are managed by the same staff so to avoid confusion the department believes it is necessary to have as much consistency in the requirements among the partnership programs as possible. As in the department's Business Partner Automation program, it is necessary for the department to only form partnerships with honest individuals and entities (to ensure protection of personal and confidential information). Requiring the certification, and that it be made under penalty of perjury, serves as a necessary reminder to the applicant of the seriousness of providing true and correct information.

Section 6 – General

Section 6 informs the Service Provider permit applicant that they are agreeing to notify the department, via the identified email, no less than 30 days ahead of the expiration date of their permit when they intend to withdraw from participating in the program. Also, that the department may terminate the Service Provider's participation in the Electronic Lien and Title program upon giving 30 days written notice to the Service Provider participant.

Necessity: Since the department needs time to process terminations and 30 days is the standard business practice time period of the department (also utilized in Business Partner Automation program and Interstate Carrier Program), it is necessary to require program participants to notify the department at least 30 days prior. Since it is possible that the department may choose to discontinue the program sometime in the future and doing so would affect Service Providers, it is necessary for the department to have the applicant acknowledge the possibility that the department may terminate their participation.

Section 7 – Application Agreement

Section 7 contains three expectations 1) compliance with the regulations governing the program, 2) notifying the department of any changes at least 30 days prior to, and 3) consenting to California courts as proper jurisdiction for any judicial review of Service Provider's rights related to participation in the program. There is space next to each expectation for the applicant to provide their initial which signifies they understand and agree to the expectation.

Necessity: Since regulations are law and department partners must follow the legal requirements related to the program, it is necessary for the department to require an applicant to indicate they understand and agree to comply. Since the department needs time to process changes and 30 days is the standard business practice time period of the department (also utilized in Business Partner Automation program and Interstate Carrier Program), it is necessary for the department to require an applicant to indicate they understand and agree to comply. Since the applicant is choosing to apply to partner with the California Department of Motor Vehicles, it is necessary for the department to require an applicant to indicate they understand and agree to the jurisdiction of the California courts.

Section 8 – Acknowledgement

Section 8 requires the applicant's authorized agent to sign, provide the firm or business name, date, print name and title acknowledging they have read and understand the Terms and Conditions.

Necessity: Since it is the standard business practice of the department to include an acknowledgement section on its application forms, it is necessary for consistency across departmental programs to include one on this form.

Subsection (a)(2) establishes the requirement of the applicant to submit proof of registration and "Active" status with the California Secretary of State as a part of the application for a Service Provider's permit.

Necessity: Since a business is legally required to register with the California Secretary of State to do business in California and Service Providers are private businesses, it is necessary for the Service Provider who is applying to participate in the department's Electronic Lien and Title Program to submit proof that they have registered, and have "Active" status (via Certificate of Status) so that the department can verify that the Service Provider is in compliance with the law.

Subsection (a)(3) requires the applicant to complete and sign a form REG 678 and establishes the REG 678 as the Electronic Lien and Title (ELT) Information Security and Disclosure Statement Service Provider/Lienholder Firm form as a part of the application for a Service Provider's permit.

Necessity: Since the department utilizes the Information Security and Disclosure Statement Firm form, EXEC 201X (REV. 3/2003), previously adopted in the department's Business Partner Automation program (Register 2003, No.33 - filed 8-11-2003), in its Business Partners Automation program (which is also a partnership program), it is necessary for the department to require an equivalent form for this partnership program. The department decided to develop the Electronic Lien and Title (ELT) Information Security and Disclosure Statement Service Provider/Lienholder Firm form, REG 678 (which is very similar to the EXEC 201X) specifically adapted for use in this program because the EXEC 201X has items included that are not relevant in the Electronic Lien and Title program.

The first paragraph of the REG 678 has added the language "Under the Electronic Lien and Title (ELT) Program, an electronic lien record is produced, in lieu of a paper title. To benefit lienholders, ELT Service Providers act on their behalf, storing these electronic records and exchanging information with the department" in between the first and second sentences of the introductory paragraph. Also added is "of 1977, (Civ. Code §1798 et seq.)" after "the Information Practices Act", "California" before "Public Records Act" and "(Gov. Code §6250 et seq.)" after "Public Records Act", and "California" before "Vehicle Code", and "California" before "State Administrative Manual" because they are necessary to assist a person completing the form to locate these laws or correct manual should they wish to review them before signing the form.

In the second and third paragraphs of the REG 678 "of participation in the ELT Program" has added after "…for the sole purpose" to make the REG 678 specific for this program.

The sixth paragraph of the EXEC 201X was eliminated from the REG 678 because it is inappropriate for this program.

Electronic Lien and Title (ELT) Information Security and Disclosure Statement Service Provider/Lienholder Firm form, REG 678

The form REG 678 is a new departmental form and is designated by the department as the Electronic Lien and Title (ELT) Information Security and Disclosure Statement Service Provider/Lienholder Firm. Upon application to the department for a permit to participate in the Electronic Lien and Title program the applicant must complete and submit the REG 678.

Under the form name is a space for the applicant to provide the firm name, address, and telephone number.

Necessity: In order for the department to verify that applicants have provided all the required items with their application (section 153.04), it is necessary for the department to require the applicant to provide the requested information.

Introductory paragraph –

> The California Department of Motor Vehicles (CADMV) collects confidential and personal information from the public to administer the various programs for which is has responsibility. Under the Electronic Lien and Title (ELT) Program, an electronic lien record is produced, in lieu of a paper title. To benefit lienholders, ELT Service Providers act on their behalf, storing these electronic records and exchanging information with the department. This information is maintained according to provisions of various state and federal laws and regulations including the Information Practices Act of 1977, (Civ. Code §1798 et seq.), the California Public Records Act (Gov. Code §6250 et seq.), the California Vehicle Code, the California State Administrative Manual and department policies. The CADMV is committed to protect this information from unauthorized access, use or disclosure. Policies pertaining to CADMV information are as follows:
>
> I have read and understand the following provisions of California Vehicle Code Section 1808.47:
>
> "Any person who has access to confidential or restricted information from the department shall establish procedures to protect the confidentiality of those records"

Pursuant to the above, I understand the following are my responsibilities:

Paragraph 1 requires the Service Provider to affirm 'to protect the confidentiality of any residence address information provided to me by and on behalf of CADMV.'

Paragraph 2 requires the Service Provider to affirm 'As an authorized representative and/or corporate officer of the firm named above, I warrant that my firm and its employees will not disclose or alter any documents, diagrams, information, or information storage media made

available to us by the CADMV. Any information copied (electronically, physically or otherwise) shall be for the sole purpose of participation in the ELT Program. I warrant that only those employees who are required to use such materials will have access and authorization to them. Prior to receiving authorization as a CADMV information user, I will require each employee, whom I authorize to have access to CADMV data, to immediately and annually read and sign an "Electronic Lien and Title (ELT) Program Information Security And Disclosure Statement Public/Private Partnerships Employee," REG 677.'

Paragraph 3 requires a Service Provider to affirm 'I warrant that my firm and its employees will access and use the information provided to me by the CADMV for the sole purpose of participation in the ELT Program. I warrant my firm and its employees will not access or use CADMV information for personal reasons. An example of inappropriate access or misuse of CADMV information is memorizing or copying a residence address from a CADMV document or electronic record for any reason that is not related to job responsibilities.'

Paragraph 4 requires that a Service Provider affirm 'I warrant that my firm and its employees will not, in any way, distribute, sell, or alter the information provided by the CADMV.'

Paragraph 5 requires a Service Provider to affirm 'I warrant my firm and its employees will not deliberately perform unauthorized additions, alterations, or deletions to existing data, or enter false or incomplete data on any CADMV document or computer data file.'

Paragraph 6 requires a Service Provider to affirm 'I warrant my firm and its employees shall provide secure storage and accountability for all CADMV information and copies of information.'

Paragraph 7 requires a Service Provider to affirm 'I warrant that my firm and its employees shall take reasonable precautions to create a secure password. A secure password is one that cannot be associated with the firm, its employees or their interests. Passwords are not to be revealed to any person or firm, nor recorded on any document. If there is reason to believe anyone has determined the nature of a password, that password shall immediately be changed.'

Paragraph 8 requires a Service Provider to affirm 'I warrant that my firm and its employees shall take reasonable precautions to protect terminals, equipment, and systems for unauthorized access. Reasonable precautions include, but are not limited to: not leaving unattended terminals logged on to a system accessing CADMV data; storing user instructions or manuals in a secure place; moving documents to be destroyed to a secure and confidential area pending destruction; not removing documents from the firm's premises; reporting any suspicious circumstances or unauthorized individuals observed in the work area.'

Necessity: Since the department is ultimately responsible for the protection of confidential/sensitive information and through its partnership with the department the Service Provider will have access to confidential/sensitive information, it is necessary for the department

to have affirmation from the Service Provider that they have read and understand paragraphs 1 through 8 and Veh. Code section 1808.47.

Paragraph 9 requires a Service Provider to acknowledge 'I understand and acknowledge that it is a public offense to knowingly and without permission alter, damage, delete, destroy, copy, or otherwise use any CADMV data. Such action may result in civil or criminal prosecution, and is punishable by fine and imprisonment.'

Paragraph 10 requires a Service Provider to acknowledge 'Federal Law states:

"Any person who knowingly obtains, discloses or uses personal information from a motor vehicle record for a purpose not permitted under the Driver's Privacy Protection Act (Title 18 of the United States Code, Section 2721 – 2725), shall be liable to the individual to whom the information pertains, who may bring a civil action in a United States district court. The court may award:

- *actual damages, but not less than liquidated damages in the amount of $2,500*
- *punitive damages upon proof of willful or reckless disregard of the law*
- *reasonable attorney's fees and other litigation costs reasonably incurred; and*
- *such other preliminary and equitable relief as the court determines to be appropriate." '*

Necessity: Since violating the laws related to CADVM data and/or the Driver's Privacy Protection Act result in serious consequences, it is necessary for the department to have the acknowledgement from the Service Provider that they read and understand paragraphs 9 and 10.

Just below paragraph 10 is a certification statement *I certify under penalty of perjury, under Federal rules and regulations, and the laws of the State of California, that the above statements are true and correct. I have read and understand the security policies stated above and have received a copy of them* and spaces for the applicant to fill in the city, county, and state where this form was executed, the signature of the authorized firm representative and date, the printed name and title of the signatory, and the printed name of the firm.

Necessity: Since this program is similar to other departmental programs (i.e. Business Partner Automation) in which a private entity is partnering with the department and the department must know exactly who it is partnering with, it is necessary for consistency across departmental programs to include this certification here. Additionally, this program and the Business Partner Automation program are managed by the same staff so to avoid confusion the department believes it is necessary to have as much consistency in the requirements among the partnership programs as possible. As in the department's Business Partner Automation program, it is necessary for the department to only form partnerships with honest individuals and entities (to ensure protection of personal and confidential information). Requiring the certification, and that it be made under penalty of perjury, serves as a necessary reminder to the applicant of the seriousness of providing true and correct information and compliance with information security.

Subsection (a)(4) requires the applicant to have each of their designated employees complete and sign a form REG 677 and establishes the REG 677 as the Electronic Lien and Title (ELT) Information Security and Disclosure Statement Service Provider/Lienholder Employee form as a part of the application for a Service Provider's permit.

Necessity: Since the department utilizes the Information Security and Disclosure Statement Public/Private Partnerships Employee form, EXEC 200X (REV. 3/2003), previously adopted in the department's Business Partner Automation program (Register 2003, No.33 - filed 8-11-2003), in its Business Partners Automation program (which is also a partnership program), it is necessary for the department to require an equivalent form for this partnership program. The department decided to develop the Electronic Lien and Title (ELT) Information Security and Disclosure Statement Service Provider/Lienholder Employee form, REG 677 (which is very similar to the EXEC 200X) specifically adapted for use in this program because the EXEC 200X has items included that are not relevant in the Electronic Lien and Title program.

The first paragraph of the REG 677 has added the language "Under the Electronic Lien and Title (ELT) Program, an electronic lien record is produced, in lieu of a paper title. To benefit lienholders, ELT Service Providers act on their behalf, storing these electronic records and exchanging information with the department" in between the first and second sentences of the introductory paragraph. Also added is "of 1977, (Civ. Code §1798 et seq.)" after "the Information Practices Act", "California" before "Public Records Act" and "(Gov. Code §6250 et seq.)" after "Public Records Act", and "California" before "Vehicle Code", and "California" before "State Administrative Manual" because they are necessary to assist a person completing the form to locate these laws or correct manual should they wish to review them before signing the form.

In the seventh paragraph of the REG 677 "pursuant to the ELT Program" has added after "…do not remove documents from the firm's premises other than as provided." to make the REG 677 specific for this program.

Electronic Lien and Title (ELT) Information Security and Disclosure Statement Service Provider/Lienholder Employee form, REG 677

The form REG 677 is a new departmental form and is designated by the department as the Electronic Lien and Title (ELT) Information Security and Disclosure Statement Service Provider/Lienholder Employee. Upon application to the department for a permit to participate in the Electronic Lien and Title program the applicant must complete and submit the REG 677, for each of their designated employees.

Introductory paragraph –

> The California Department of Motor Vehicles (CADMV) collects confidential and personal information from the public to administer the various programs for which is has responsibility.

Under the Electronic Lien and Title (ELT) Program, an electronic lien record is produced, in lieu of a paper title. To benefit lienholders, ELT Service Providers act on their behalf, storing these electronic records and exchanging information with the department. The information is maintained according to provisions of various state and federal laws and regulations including the Information Practices Act of 1977, (Civ. Code §1798 et seq.), the California Public Records Act (Gov. Code §6250 et seq.), the California Vehicle Code, the California State Administrative Manual and department policies. The CADMV is committed to protect this information from unauthorized access, use or disclosure. If you are authorized to have access to CADMV information, your responsibilities for the handling and protecting of CADMV information are as follows:

Paragraph 1 requires the Service Provider's employee to acknowledge 'You may access information only when necessary to accomplish the responsibilities of employment. You may not access or use information from the CADMV for personal reasons. (Examples of inappropriate access or misuse of CADMV information include, but are not limited to: making personal inquiries or processing personal transactions including your friends and your relatives; accessing information about another person for any reason that is not related to your job responsibilities.)'

Paragraph 2 requires the Service Provider's employee to acknowledge 'You may not disclose or share CADMV information to any person or entity.'

Paragraph 3 requires the Service Provider's employee to acknowledge 'You may not deliberately perform unauthorized additions, alterations, or deletions to existing data, or enter false or incomplete data on any CADMV document or computer data file.'

Paragraph 4 requires the Service Provider's employee to acknowledge 'If you are authorized for access to CADMV data, you shall take precautions to create a secure password. A secure password is one that cannot be associated with you or your interests. You may not reveal this password to any person, nor record it on any document. If you have reason to believe another person has determined the nature of your password, you shall immediately change it.'

Paragraph 5 requires the Service Provider's employee to acknowledge 'If you are authorized to access CADMV data, you shall take reasonable precautions to protect terminals, equipment, and systems from unauthorized access. Reasonable precautions include, but are not limited to: Do not leave the terminal unattended if you are logged on to the system; store user instructions in a secure place; immediately report to your supervisor any suspicious circumstances or unauthorized individuals you have observed in the work area.'

Paragraph 6 requires the Service Provider's employee to acknowledge 'If CADMV data is entered on a computer associated with your employer's business, you shall take reasonable precautions to protect the data from unauthorized access. Reasonable precautions include, but are not limited to: Do not leave the computer turned on and unattended; do not copy CADMV data unless authorized

by CADMV; report any suspicious circumstances or unauthorized individuals or access you have observed in the work area to your supervisor.'

Paragraph 7 requires the Service Provider's employee to acknowledge 'If you have access to physical documents containing CADMV record information, you shall take reasonable precautions to protect the documents from unauthorized access and theft. Reasonable precautions include, but are not limited to: Move documents that are to be destroyed to a secure area pending destruction; do not remove documents from the firm's premises other than as provided pursuant to the ELT Program; report to your supervisor any suspicious circumstances or unauthorized individuals or access you have observed in your area.'

Necessity: Since the department is ultimately responsible for the protection of confidential/sensitive information and through its partnership with the department the Service Provider's employee(s) will have access to confidential/sensitive information, it is necessary for the department to have acknowledgement from the Service Provider's employee(s) that they have read and understand paragraphs 1 through 7.
Paragraph 8 requires the Service Provider's employee to acknowledge 'Federal Law states:

"Any person who knowingly obtains, discloses or uses personal information from a motor vehicle record for a purpose not permitted under the Driver's Privacy Protection Act (Title 18 of the United States Code, Section 2721 – 2725), shall be liable to the individual to whom the information pertains, who may bring a civil action in a United States district court. The court may award:

- *actual damages, but not less than liquidated damages in the amount of $2,500*
- *punitive damages upon proof of willful or reckless disregard of the law*
- *reasonable attorney's fees and other litigation costs reasonably incurred; and*
- *such other preliminary and equitable relief as the court determines to be appropriate."*

Necessity: Since violating the laws related to the Driver's Privacy Protection Act results in serious consequences, it is necessary for the department to have the acknowledgement from the Service Provider's employee(s) that they read and understand paragraph 8.

Just below paragraph 8 is a certification statement *I have read and understand the security policies stated above, and have received a copy of them. I understand that failure to comply with these policies may result in civil or criminal prosecution in accordance with applicable laws* and spaces for the Service Provider's employee to sign and date.

Necessity: Since this program is similar to other departmental programs (i.e. Business Partner Automation) in which a private entity is partnering with the department and the department must know exactly who it is partnering with, it is necessary for consistency across departmental programs to include this certification here. Additionally, this program and the Business Partner Automation program are managed by the same staff so to avoid confusion the department believes it is necessary to have as much consistency in the requirements among the partnership programs as possible. As in the department's Business Partner Automation program, it is

necessary for the department to only form partnerships with honest individuals and entities (to ensure protection of personal and confidential information). Requiring the certification, and that it be made under penalty of perjury, serves as a necessary reminder to the applicant's employee of the seriousness of providing true and correct information and compliance with information security.

153.06 Review of Service Provider's Application

Subsection (a) informs the applicant for a Service Provider's permit of the department's process and that the applicant will be notified within 30 days of receipt of the application of its status.

Necessity: Since 30 days is the department's standard business practice for the amount of time to review an application related to its partners, determine whether the application is complete, and notify applicants, it is necessary for consistency across the department's partnership programs to set the same amount of time in this program.

Subsection (b) states the department will approve an application for a Service Provider's permit and issue the permit once it has reviewed the application and determined that it is complete.

Necessity: Section 153.04 above puts into place the elements that are required as part of the application process, subsection 153.02(a) allows a Service Provider who has been issued a permit to act on behalf of Lienholders, and subsection 153.02(b) prohibits any Service Provider from acting on behalf of any Lienholder for purposes of the department's Electronic Lien and Title program if their permit is not valid, therefore it is necessary for the department to determine that a Service Provider has provided the department with a complete application prior to approving participation in the program and issuing the permit.

Electronic Lien and Title (ELT) Service Provider Permit form, REG 672

The form REG 672 is a new departmental form and is designated by the department as the Electronic Lien and Title (ELT) Service Provider Permit. Upon approval by the department, an Electronic Lien and Title (ELT) Service Provider applicant will receive an Electronic Lien and Title (ELT) Service Provider Permit. The REG 672 contains the Electronic Lien and Title (ELT) Service Provider permit number, expiration date, the Service Provider's firm or business name and address, printed name of the department's ELT administrator, printed name of the permittee, signature of the department's ELT administrator, date, signature of the permittee, and date.

Necessity: Since the application and permit process for Service Providers to participate in the department's Electronic Lien and Title program is new, it is necessary to identify the department's form that serves as the Electronic Lien and Title Service Provider's permit and to establish that the permit serves as evidence that the department has approved the Service Provider to participate in the program.

153.08 Term of Service Provider's Permit

Subsection (a) sets the term for all Electronic Lien and Title Service Provider permits issued to be five years and clarifies how the time frame is calculated.

Necessity: By having Service Providers renew their permit every five years, the department's records will be able to be reconciled and updated if there is any information that has changed related to the Service Provider's business name, address, type of ownership, or contact that were not previously updated via submission of change request via an Electronic Lien and Title (ELT) Program Service Provider Application form, REG 670 with the "change" box checked. The department considered a time period longer that five years, such as making the permit valid for seven years, but the department determined that was too long of a period of time for making certain the department's records are accurate. The department considered a time period shorter than five years, such as making the permit valid for three years, but the department determined that the Service Providers' information does not change so often that a shorter time period is necessary.

Subsection (b) establishes that any change a Service Provider needs made to their valid permit shall be made by submitting a completed and signed REG 670 form (Electronic Lien and Title (ELT) Program Service Provider Application) with the "change" box checked, to the department.

Necessity: Since it is possible that a Service Provider could have a change in the information they provided on their original or renewal application during the term of their permit and the department needs to have accurate records related to the businesses they are in partnership with, it is necessary to require Service Providers to submit a REG 670 form with the changes indicated.

Subsection (c) establishes that a Service Provider who intends to withdraw from the department's Electronic Lien and Title program at the expiration of their permit must notify the department via email (rodeltgrp@dmv.ca.gov) at least 30 days prior to the expiration date of their permit.

Necessity: Since the Lienholders that are utilizing a Service Provider who has decided to withdraw their participation in the program will need to select a different permitted Service Provider and have their electronic titles transferred to their new Service Provider and it will take time for the department to make the needed changes, it is necessary to require the withdrawing Service Provider to notify the department at least 30 days ahead of time.

153.10 Renewal of Service Provider's Permit

Subsection (a) establishes that it is the responsibility of the Service Provider to initiate the permit renewal process.

Necessity: To put the Service Providers on notice that applying to renew their permit is their responsibility. This requirement is also required of the department's partners in the Interstate Carrier Program, therefore it is necessary to have this responsibility of the partners in this program also in order to maintain consistency across departmental programs.

Subsection (b) establishes that a Service Provider who wants to renew their permit to participate in the program must submit, at least 30 days prior to their permit's expiration date, all of the items listed in (b)(1)-(4) below to the department.

Necessity: Similar to the requirement above in subsection 153.04 (a) when a Service Provider is originally applying to participate in this program, the renewal application and permit process to continue participation in the department's Electronic Lien and Title program is new, therefore it is necessary to establish the need to apply to renew participation and that the renewal application includes more than just the REG 670 form. Also, in order for the department to have adequate time to process the renewal application before the Service Provider's current permit expires, it is necessary for the department to have a minimum of 30 days. The 30 day time frame is also used in the department's Business Partner Automation program and Interstate Carrier Program and to keep consistency across the partnership programs it is necessary for the department to require 30 days in this program also.

Subsection (b)(1) establishes the requirement that a renewing Service Provider complete and sign a REG 670 as part of their application for renewal.

Necessity: Similar to subsection 153.04(a)(1) which establishes the requirement for any Service Provider applying to participate in the Electronic Lien and Title program to complete and sign a form REG 670 and establishes the REG 670 as the application form for a Service Provider permit, the department decided to utilize the REG 670 as the renewal application form as well. Therefore is it necessary to require any Service Provider whose choses to apply for permit renewal to complete and sign the REG 670.

Subsection (b)(2) establishes the requirement that a renewing Service Provider complete and sign a REG 678 as part of their application for renewal.

Necessity: Similar to subsection 153.04(a)(3) which establishes the requirement for any Service Provider applying to participate in the Electronic Lien and Title program to complete and sign a form REG 678 and establishes the REG 678 as the Electronic Lien and Title (ELT) Information Security and Disclosure Statement Service Provider/Lienholder Firm form as a part of the application for a Service Provider's permit, it necessary to require any Service Provider who chooses to apply for renewal to complete and sign the REG 678 as part of their renewal application.

Subsection (b)(3) establishes the requirement that a renewing Service Provider have each of their designated employees complete and sign a REG 677 as part of their application for renewal.

Necessity: Similar to what is established in subsection 153.04(a)(4) that requires a Service Provider to have each of their designated employees complete and sign a form REG 677 when a Service Provider submits an original application and establishes the REG 677 as the Electronic Lien and Title (ELT) Information Security and Disclosure Statement Service Provider/Lienholder Employee form as a part of the application for a Service Provider's permit, it is necessary to require any Service Provider who chooses to apply for renewal to have each of their designated employees complete and sign a REG 677 as part of their application for permit renewal.

Subsection (c) puts the Service Providers on notice that failing to apply for permit renewal at least 30 days prior to their permit's expiration date will cause an interruption in the Service Provider's ability to conduct data transmission from the time their permit expires until the renewal application has been reviewed and approved by the department.

Necessity: As established above in subsections 153.10(b) the department needs up to 30 days to review and approve applications. Any amount of time less than that is inadequate and will result in a permit expiring before the renewal is approved and will cause an interruption in the Service Provider's ability to transmit data with the department, therefore it is necessary for the department to put the permittees on notice of that fact.

153.12 Refusal to Approve Application for Service Provider's Permit or to Approve Renewal of Service Provider's Permit

Subsection (a) establishes that the department will refuse to approve an application or renewal application for a Service Provider's permit in the event of the three circumstances listed below.

Subsection (a)(1) establishes an incomplete application for a Service Provider's permit or renewal of a Service Provider's permit is one reason the department will refuse to approve the application.

Necessity: Since subsection 153.06(b) establishes that the department will approve an application after determining it is complete, it is necessary for the department to refuse to approve an application for a Service Provider's permit if it is incomplete.

Subsection (a)(2) establishes that violation of the regulations governing the Electronic Lien and Title program is another reason the department will refuse to approve the application.

Necessity: Since a Service Provider agrees to comply with the governing regulations, see #1 in Section 7 of the form REG 670, upon applying to participate in the program, it is necessary for the department to refuse renewal of a Service Provider's participation in the program if they have been found to be not complying with the governing regulations.

Subsection (a)(3) establishes that an act or omission by the Service Provider or one of its agents, employees, contractors, or designees determined by the department to be fraud is a reason the department will refuse to approve the application.

Necessity: Since a Service Provider is in partnership with the department and the department has a responsibility to protect the public from fraud, it is necessary for the department to refuse renewal of a Service Provider's participation in the program if they have committed fraud.

153.14 Suspension or Revocation of Service Provider's Permit

Subsection (a) establishes that the department will suspend and may revoke a Service Provider's permit in the event of any of the four items listed below in (a)(1)-(a)(3).

Necessity: Since the program's processes for Service Providers to participate in the department's Electronic Lien and Title program are new, it is necessary for the department to establish the reasons that would necessitate suspension, and possible revocation, of the Service Provider's permit.

Subsection (a)(1) establishes that a violation of the regulations governing the Electronic Lien and Title program is grounds for permit suspension, and possible revocation, of the Service Provider's permit.

Necessity: Since a Service Provider agrees to comply with the governing regulations, see #1 in Section 7 of the form REG 670, upon applying to participate in the program, it is necessary for the department to suspend a Service Provider's permit if they have been found to be not complying with a section of the governing regulations. Additionally, if the Service Provider is found to be out of compliance with more than one of the sections of the governing regulations, it would be necessary for the department to revoke the Service Provider's permit.

Subsection (a)(2) establishes that an act of fraud is grounds for permit suspension, and possible revocation, of the Service Provider's permit.

Necessity: Since a Service Provider is in partnership with the department and the department has a responsibility to protect the public from fraud, it is necessary for the department to suspend a Service Provider's permit and thus participation in the program if they are found to have committed an act of fraud. Also, if the Service Provider is found to have had the intent to commit the fraud, it would be necessary for the department to revoke the Service Provider's permit.

Subsection (a)(3) establishes that when a Service Provider's status with the California Secretary of State in no longer "Active" is grounds for permit suspension, and possible revocation, of the Service Provider's permit.

Necessity: Since Service Providers are required to have "Active" status with the California Secretary of State in order to participate in the department's Electronic Lien and Title program (subsection 153.04(a)(2)), it is necessary for the department to suspend the permit of any Service Provider whose status is not "Active". Additionally, if a suspended Service Provider fails to rectify this defect, it would be necessary for the department to revoke the Service Provider's permit.

Section (b) establishes that a Service Provider's permit that has been suspended will continue to be suspended until the department has notified the Service Provider, in writing, that either the suspension is lifted or the permit has been revoked.

Necessity: Since the permit suspension/revocation process for the department's Electronic Lien and Title program is new, it is necessary for the department to establish how long a suspension is imposed for.

153.16 Demand for Hearing after Refusal to Approve or Renew, Suspension or Revocation Service Provider's Permit

Subsection (a) establishes that a Service Provider has the right to a hearing, before the director or his or her representative, if the department has refused to approve their application for a Service Provider's permit to participate in the program or their permit renewal application or if the department has suspended or revoked their permit. Additionally, this subsection establishes that the demand for hearing must be made in writing and within 60 days after receipt of notice.

Necessity: In order for the department to schedule and conduct hearings in a timely manner, it is necessary to require the Service Provider to request a hearing in writing and to do so within a specified time frame. The department chose 60 days because it is the standard amount of time set throughout departmental programs and thus maintains consistency across programs.

Subsection (b) establishes that any hearing granted upon demand as outlined in subsection (a) above, will be conducted in accordance with provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Necessity: In order for hearings to be conducted with consistent rules, it is necessary for the department to set forth which rules will govern granted hearings.

153.18 Reinstatement of Service Provider's Permit

Subsection (a) establishes that upon the suspension of a Service Provider's permit by the department, the Service Provider shall cease all transmissions of data until the department has verified that the Service Provider has taken appropriate action to correct the issues that caused the suspension and the department has lifted the suspension.

Necessity: Since subsection 153.02(b) requires a Service Provider to hold a valid permit to participate (transmit data) in the department's Electronic Lien and Title program, it is necessary for the Service Provider to stop transmitting any data during the time their permit is suspended.

153.20 Lienholder's Permit

Subsection (a) establishes that Lienholders are required to keep their title information, as defined in subsection 153.00(d), filed with the department in electronic format.

Necessity: Since statute (i.e. section 4450.5 of the Vehicle Code) required the department to develop an Electronic Lien and Title program, under certain conditions which includes determining that the program is cost effective compared to the paper system, and the department has met the conditions, therefore it is necessary for the department to require Lienholders to keep their title information electronically with the department.

Subsection (b) establishes that a Lienholder shall not file title information with the department electronically without having applied to the department for a permit to participate in the Electronic Lien and Title program and the department having issued the applicant a Lienholder's permit.

Necessity: Since the application and permit process to participate in the department's Electronic Lien and Title program is new, it is necessary to establish that a Lienholder prohibited from filing their title information electronically until after they after have applied for and been issued a permit by the department to participate in the department's program.

153.22 Lienholder's Permit Application

Subsection (a) requires a Lienholder to submit all of the items listed in (a)(1) through (a)(4) to the department.

Necessity: Since the application and permit process for Lienholder's to participate in the department's Electronic Lien and Title program is new, it is necessary to establish the requirements to apply for a permit and that the application includes more than just the application form (REG 671).

Subsection (a)(1) requires the applicant to complete and sign an Electronic Lien and Title (ELT) Program Lienholder Application form, REG 671 and establishes the REG 671 as the application form for an ELT Lienholder permit.

Electronic Lien and Title (ELT) Program Lienholder Application form, REG 671

The form REG 671 is a new departmental form consisting of a title block and eight sections.

In addition to the form's name, the title block has in the upper right-hand corner a 'DMV USE ONLY' box with spaces for the department to fill in the Service Provider name, the ELT ID number, and the approval implementation date.

Below the form name, on the left-hand side are checkboxes for the applicant to indicate whether they are applying to enroll in the program, or make a change of who they are using as their Service Provider. There is also a note to remind applicants to include a copy of their business documents as a courtesy.

Necessity: Since the REG 671 form has two uses, it is necessary for the applicant to indicate why they are submitting the form. Since the department cannot approve an application that is incomplete and contacting applicants to inform them that their application is missing elements wastes resources, the department determined it is necessary to include the courtesy note to minimize this issue.

Section 1 – Lienholder Type

Section 1 requires the applicant to indicate through checkboxes what type of Lienholder they are (i.e. California Bank or Credit Union, Federal Credit Union, Thrift and Loan, etc.).

Necessity: Since Lienholder's must hold a license of charter by state or federal banking authorities in order to loan money for the purchase of a vehicle and have authority to conduct auto loan business in California, it is necessary for the department to require applicants to indicate the type of Lienholder they are so the department can verify they have provided an appropriate copy of their business documents as required in subsection 153.22(a)(2) below.

Section 2 – Lienholder Information

Section 2 requires the applicant to provide their Lienholder name (to be displayed on titles), EIN, and their Lienholder name (commonly known as).

Necessity: Since the department is responsible for protecting the public's personally identifiable information, it is necessary for the department to require applicants for any type of partnership permit to provide their business name(s) so the department can adequately screen applicants prior to approving the applications. Additionally, Lienholders need to provide their EIN (Employer Identification Number) since the name(s) of more than one Lienholder may be very similar which can be confusing. By requiring this official identifier the department will be able to more easily distinguish one Lienholder from another.

Section 3 – Address Information

Section 3 requires the applicant to provide their physical address and their mailing address (address used for titles).

Necessity: The department must have accurate records of all of their permittees, therefore it is necessary to require applicants to provide their address(es) on application forms.

Section 4 – Certification

Section 4 is the certification section and requires the Electronic Lien and Title Program Lienholder applicant to print their name (authorized agent), title, sign, and date, under penalty of perjury, that the information provided to the department on this REG 671 is true and correct. This certification is consistent with the provisions of Code of Civil Procedure section 2015.5(b) and is consistent with all other departmental forms containing certifications.

Necessity: Since this program is similar to other departmental programs (i.e. Business Partner Automation) in which a private entity is partnering with the department and the department must know exactly who it is partnering with, it is necessary for consistency across departmental programs to include this certification here. Additionally, this program and the Business Partner Automation program are managed by the same staff so to avoid confusion the department believes it is necessary to have as much consistency in the requirements among the partnership programs as possible. As in the department's Business Partner Automation program, it is necessary for the department to only form partnerships with honest individuals and entities (to ensure protection of personal and confidential information). Requiring the certification, and that it be made under penalty of perjury, serves as a necessary reminder to the applicant of the seriousness of providing true and correct information.

Section 5 – Service Provider Information and Signature

Section 5 requires the Lienholder's identified Service Provider to provide their name, permit number, signature and title of their authorized agent, and the date.

Necessity: Since a Lienholder permittee must obtain the services of a Service Provider, who holds a valid Service Provider permit, in order to participate in the department's Electronic Lien and Title program, it is necessary for the department to be informed who the applicant has chosen. Additionally, the information is necessary in order for the department to verify that the identified Service Provider has applied for and been issued a permit by the department.

Section 6 – General

Section 6 informs the Lienholder permit applicant what they are agreeing to 1) that the department may terminate their participation upon giving them 30 days written notice, 2) that the Lienholder's name may be abbreviated due to program need, and 3) that the Lienholder must add their assigned ELT ID number to titling documents.

Necessity: Since it is possible that the department may choose to discontinue the program sometime in the future and doing so would affect Lienholders, it is necessary for the department to have the applicant acknowledge the possibility that the department may terminate their

participation. Since there are only so many spaces available in the name field of the department's system, it is necessary for the department to have the applicant acknowledge the possibility that the department may shorten their business name. Since Lienholders may have very similar names and it is important to be able to distinguish one from another, it is necessary for the department to require Lienholders to add their ELT ID number to their titling documents.

Section 7 – Applicant Agreement

Section 7 contains three expectations 1) compliance with the regulations governing the program, 2) notifying the department of any changes at least 30 days prior to, and 3) consenting to California courts as proper jurisdiction for any judicial review of Lienholder rights related to participation in the program. There is space next to each expectation for the applicant to provide their initial which signifies they understand the expectation.

Necessity: Since regulations are law and departmental partners must follow the legal requirements related to the program, it is necessary for the department to require an applicant to indicate they understand and agree to comply. Since the department needs time to process changes and 30 days is the standard business practice time period of the department (also utilized in Business Partner Automation program and Interstate Carrier Program), it is necessary for the department to require an applicant to indicate they understand and agree to comply. Since the applicant is choosing to apply to partner with the California Department of Motor Vehicles, it is necessary for the department to require an applicant to indicate they understand and agree to the jurisdiction of the California courts.

Section 8 – Acknowledgement

Section 8 requires the applicant's authorized agent to sign, provide the Lienholder name, date, print name and title acknowledging they have read and understand the Terms and Conditions stated above.

Necessity: Since it is the standard business practice of the department to include an acknowledgement section on its application forms, it is necessary for consistency across departmental programs to include one on this form.

Subsection (a)(2) requires the applicant to provide a copy of their business documents, as defined in subsection 153.00(a), as a part of the application for a Lienholder's permit.

Necessity: Since Lienholder's must hold a license of charter by state or federal banking authorities in order to loan money for the purchase of a vehicle and have authority to conduct auto loan business in California, it is necessary for the department to require applicants to provide a copy of their business documents, as defined in subsection 153.00(a), as part of their application for a Lienholder's permit.

Subsection (a)(3) requires the applicant to complete and sign a form REG 678 and establishes the REG 678 as the Electronic Lien and Title (ELT) Information Security and Disclosure Statement Service Provider/Lienholder Firm form as a part of the application for a Lienholder's permit.

Necessity: Since the department utilizes the Information Security and Disclosure Statement Firm form, EXEC 201X (REV. 3/2003), previously adopted in the department's Business Partner Automation program (Register 2003, No.33 - filed 8-11-2003), in its Business Partners Automation program (which is also a partnership program), it is necessary for the department to require an equivalent form for this partnership program. The department decided to develop the Electronic Lien and Title (ELT) Information Security and Disclosure Statement Service Provider/Lienholder Firm form, REG 678 (which is very similar to the EXEC 201X) specifically adapted for use in this program because the EXEC 201X has items included that are not relevant in the Electronic Lien and Title program.

Subsection (a)(4) requires the applicant to have each of their designated employees complete and sign a form REG 677 and establishes the REG 677 as the Electronic Lien and Title (ELT) Information Security and Disclosure Statement Service Provider/Lienholder Employee form as a part of the application for a Lienholder's permit.

Necessity: Since the department utilizes the Information Security and Disclosure Statement Public/Private Partnerships Employee form, EXEC 200X (REV. 3/2003), previously adopted in the department's Business Partner Automation program (Register 2003, No.33 - filed 8-11-2003), in its Business Partners Automation program (which is also a partnership program), it is necessary for the department to require an equivalent form for this partnership program. The department decided to develop the Electronic Lien and Title (ELT) Information Security and Disclosure Statement Service Provider/Lienholder Employee form, REG 677 (which is very similar to the EXEC 200X) specifically adapted for use in this program because the EXEC 200X has items included that are not relevant in the Electronic Lien and Title program.

153.24 Review of Lienholder's Permit Application

Subsection (a) informs the applicant for a Lienholder's permit of the department's process and that the applicant will be notified within 30 days of receipt of its status.

Necessity: Since 30 days is the department's standard business practice for the amount of time to review an application related to its partners, determine whether the application is complete, and notify applicants, it is necessary for consistency across the department's partnership programs to set the same amount of time in this program.

Subsection (b) establishes that the department shall approve the Lienholder's application and issue the permit once it has determined that the application is complete. It also establishes that the REG 672 F is the permit form for the Electronic Lien and Title Lienholder participants.

Necessity: Section 153.22 above puts into place the elements that are required as part of the application process and subsection 153.20(a) prohibits a Lienholder who has not been issued a permit from submitting their security interests with the department electronically, therefore it is necessary for the department to determine that a Lienholder has provided the department with a complete application prior to approving participation in the program and issuing the permit.

Electronic Lien and Title (ELT) Lienholder Permit form, REG 672 F

The form REG 672 F is a new departmental form and is designated by the department as the Electronic Lien and Title (ELT) Lienholder Permit. Upon approval by the department, an Electronic Lien and Title (ELT) Program Lienholder applicant will receive an Electronic Lien and Title (ELT) Lienholder Permit. The REG 672 F contains the Electronic Lien and Title (ELT) Program Lienholder's ELT ID number, the Electronic Lien and Title (ELT) Program Lienholder's ELT name configuration and address, printed name of the department's ELT administrator, printed name of the permittee, signature of the department's ELT administrator, date, signature of the permittee, and date.

Necessity: Since the application and permit process for Lienholder's to participate in the department's Electronic Lien and Title program is new, it is necessary for the department to identify the department's form that serves as the Electronic Lien and Title Lienholder's permit and to establish that the permit serves as evidence that the department has approved the Lienholder to participate in the program.

153.26 Term of Lienholder's Permit

Subsection (a) specifies that a Lienholder's permit does not expire and that the Lienholder may withdraw from the program for one of the reasons stated in section 153.28, which upon approval, will result in the department cancelling the permit.

Necessity: By having the Lienholder's permit non-expiring, the department will realize efficiencies in program administration. The department's records will be able to be updated if there is any information that has changed related to the Lienholder's business name, address, type of ownership, or contact that were not previously updated via submission of an Electronic Lien and Title (ELT) Program Change Request form, REG 673, which is required in subsection 153.26(b). The department considered setting a time period such as five years, but determined that since it has frequent interaction with Lienholders it is not necessary to have a permit that expires. Should a Lienholder fall into one of the categories that would allow them to withdraw from the program the department will cancel their permit.

Subsection (b) instructs Lienholder permit holders to submit to the department an Electronic Lien and Title (ELT) Program Change Request form, REG 673 (NEW 1/2019) when requesting any change or modification to their active permit. The Electronic Lien and Title (ELT) Program Change Request form, REG 673 (NEW 1/2019) is incorporated into the regulation here.

Necessity: Since the program processes for Lienholders requesting any change(s) be made to their active permit for the department's Electronic Lien and Title program are new, it is necessary to establish the requirements related to requesting changes be made.

Electronic Lien and Title (ELT) Program Change Request form, REG 673

The form REG 673 is a new departmental form consisting of a title block and four sections.

In addition to the form's name, the title block has in the upper right-hand corner a "DMV USE ONLY" box with spaces for the department to fill in the Service Provider name, the new ELT ID number, and the implementation date.

Section 1 – Current ELT Information

Section 1 requires the Lienholder to provide their name, ELT ID number, and address.

Necessity: In order for the department to ensure it is making changes to the correct record, it is necessary for the Lienholder permittee to provide the requested information.

Section 2 – New ELT Information

Section 2 requires the Lienholder to provide their new name and/or new address, whatever is applicable.

Necessity: In order for the department to process the change being requested, it is necessary for the Lienholder to provide this information.

Section 3 – Change Request

Section 3 requires the Lienholder to initial that they understand that the change(s) they are requesting will take effect with the next quarterly implementation.

Necessity: Since the department's programming restrictions only allow for changes to be made on its quarterly implementation schedule and the Lienholder may have to adjust accordingly, it is necessary for the Lienholder to acknowledge they understand this limitation. The department's goal is to reduce any future issues between the department and Lienholders.

Section 4 – Lienholder Certification

Section 4 is the certification section and requires the Electronic Lien and Title Program Lienholder's authorized agent to sign the form, under penalty of perjury that the information provided to the department on this REG 673 is true and correct, provide the Lienholder name and date, print name and title of authorized agent, and to provide telephone number and fax number.

This certification is consistent with the provisions of Code of Civil Procedure section 2015.5(b) and is consistent with all other departmental forms containing certifications.

Necessity: Since this program is similar to other departmental programs (i.e. Business Partner Automation) in which a private entity is partnering with the department and the department must know exactly who it is partnering with, it is necessary for consistency across departmental programs to include this certification here. Additionally, this program and the Business Partner Automation program are managed by the same staff so to avoid confusion the department believes it is necessary to have as much consistency in the requirements among the partnership programs as possible. As in the department's Business Partner Automation program, it is necessary for the department to only form partnerships with honest individuals and entities (to ensure protection of personal and confidential information). Requiring the certification, and that it be made under penalty of perjury, serves as a necessary reminder to the applicant of the seriousness of providing true and correct information.

Section 5 – Service Provider Information and Signature

Section 5 requires the Lienholder's Service Provider to provide their name, permit number, signature and title of their authorized agent, and the date.

Necessity: In order for the department to ensure the Lienholder's Service Provider is aware of the change(s) the Lienholder is requesting, it is necessary to require the Lienholder to obtain the requested information including the signature of their Service Provider's authorized agent.

153.28 Lienholder Withdrawal from the Electronic Lien and Title Program and Conversion of Electronic Titles

Subsection (a) establishes that there are only two reasons a Lienholder can withdraw from the Electronic Lien and Title program 1) when a Lienholder is merged with or acquired by another permitted Lienholder as stated in subsection (a)(1) or 2) when the Lienholder's business is closed as stated in subsection (a)(2). And in the situation of a merger or acquisition, either Lienholder may submit the withdrawal request form.

Necessity: Since participation in the Electronic Lien and Title program is mandatory for Lienholders, it is necessary for the department to establish acceptable reasons for a Lienholder to withdraw from the program.

Subsection (b) instructs Lienholder permit holders to submit to the department an Electronic Lien and Title (ELT) Program Withdrawal Request form, REG 674 (NEW 1/2019), when requesting to withdraw from the program and have their permit cancelled. The Electronic Lien and Title (ELT) Program Withdrawal Request form, REG 674 (NEW 1/2019) is incorporated into the regulation here.

Necessity: Since the program processes for Lienholders requesting to withdraw from the department's Electronic Lien and Title program are new, it is necessary for the department to establish the requirements related to requesting to withdraw from the program.

Electronic Lien and Title (ELT) Program Withdrawal Request form, REG 674

The form REG 674 is a new departmental form consisting of a title block and three sections.

In addition to the form's name, the title block has in the upper right-hand corner a "DMV USE ONLY" box with spaces for the department to fill in the Service Provider name, the new ELT ID number, and the withdrawal date.

Section 1 – Lienholder Name

Section 1 requires the Lienholder to provide their name, ELT ID number, and address.

Necessity: In order for the department to ensure it is updating the correct record, it is necessary for the Lienholder permittee to provide the requested information.

Section 2 – Withdrawal Request Agreement

Section 2 contains three expectations 1) the withdrawal going into effect during next quarterly implementation ; 2) Lienholder has informed their Service Provider of the withdrawal request and understands their account for the program will be deleted; and 3) they must convert all of their electronic titles to paper titles within 30 days of departmental approval that the Lienholder must agree to related to withdrawing from the program and a space for the Lienholder's authorized agent to initial provide their initial which signifies they understand.

Necessity: Since the department's programming restrictions only allow for changes to be made on its quarterly implementation schedule and the Lienholder may have to adjust accordingly, it is necessary for the Lienholder to acknowledge they understand this limitation. Since the department needs time to process changes and 30 days is the standard business practice time period of the department (also utilized in Business Partner Automation and Interstate Carrier Program), it is necessary to require program participants to notify the department at least 30 days prior.

Section 3 Lienholder Certification

Section 3 is the certification section and requires the Electronic Lien and Title Program Lienholder's authorized agent to sign the form, under penalty of perjury that the information provided to the department on this REG 674 is true and correct, provide the Lienholder name and date, print name and title of authorized agent, and to provide telephone number and fax number.

This certification is consistent with the provisions of Code of Civil Procedure section 2015.5(b) and is consistent with all other departmental forms containing certifications.

Necessity: Since this program is similar to other departmental programs (i.e. Business Partner Automation) in which a private entity is partnering with the department and the department must know exactly who it is partnering with, it is necessary for consistency across departmental programs to include this certification here. Additionally, this program and the Business Partner Automation program are managed by the same staff so to avoid confusion the department believes it is necessary to have as much consistency in the requirements among the partnership programs as possible. As in the department's Business Partner Automation program, it is necessary for the department to only form partnerships with honest individuals and entities (to ensure protection of personal and confidential information). Requiring the certification, and that it be made under penalty of perjury, serves as a necessary reminder to the applicant of the seriousness of providing true and correct information.
Section 4 – Service Provider Information and Signature

Section 4 requires the Lienholder's Service Provider to provide their name, permit number, signature and title of their authorized agent, and the date.

Necessity: In order for the department to ensure the Lienholder's Service Provider is aware the Lienholder is requesting to withdraw from the program, it is necessary to require the Lienholder to obtain the requested information including the signature of their Service Provider's authorized agent.

Subsection (c) instructs any Lienholder who is withdrawing from the program to request conversion of their titles that are held electronically to paper (Certificates of Ownership) within 30 days of receiving departmental approval to withdraw.

Necessity: Once the department cancels the Lienholder's permit, the Lienholder will not be able to access their titles electronically, therefore it is necessary to inform Lienholders of the process that must completed when withdrawing from the program.

Economic Impact Assessment (Government Code section 11346.3):

The Electronic Lien and Title program has two different entities as participants. The first is the Service Providers who provide the software that allows the titling information to be transmitted to and from the department's database. Participation in the Electronic Lien and Title program is voluntary for Service Providers. The second entity is the Lienholders who hold a financial security interest in vehicle that are titled in California and participation in the program is mandatory for them. To assist the reader, the department has broken out the assessments below by each type of entity.

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:**
  As these proposed regulations only establish an application and permit requirement for participation in the program by Service Providers and Lienholders, the department does not anticipate that this proposed action will have any impact on the creation or elimination of jobs within the State of California.

- **The Creation of New Businesses or the Elimination of Existing Businesses within the State of California:**
  As these proposed regulations only establish an application and permit requirement for participation in the program by Service Providers and Lienholders, the department does not anticipate that these proposed regulations will create new businesses or eliminate existing businesses in the State of California.

- **The Expansion of Businesses Currently Doing Business within the State of California:**
  As these proposed regulations only establish an application and permit requirement for participation in the program by Service Providers and Lienholders, these proposed 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:**
  This proposed action will continue to benefit the health and safety of California residents and businesses as titling information fraud will be reduced and consumers will be more protected. It is unlikely these proposed regulations will have any impact on the State's environment.

Additional 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:** While the department does not anticipate a cost impact to the lending industry, the department does anticipate fiscal and economic benefits as they will no longer have to store and manage paper documents.

- **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 likely to impact small businesses.

Departmental Determinations

Technical, Theoretical and/or Empirical Studies, Reports or Documents: None relied upon.

Benefits Anticipated from this Regulatory Action: The benefits derived from these proposed regulations are reduction in vehicle titling information fraud.

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.
Alternatives Considered: No alternatives were considered that are less burdensome and equally effective at achieving these purposes.

Comparable Federal and State Regulations: There are no comparable federal or state regulations. Only the department is authorized to implement vehicle registration and titling programs with approved business partners.

Evidence Supporting Determination of No Significant Adverse Economic Impact on Business: The department believes the requirements contained in these proposed regulations have minimal economic impact on business and are economically insignificant in today's commercial setting.