

## **FINAL STATEMENT OF REASONS**

### **1) The Update to the Initial Statement of Reasons**

Section 25.22(a)(1) contains a non-substantive amendment when referencing the revision date of the Refresher Training Request – Examiner, form DL 818 ETP. The originally proposed text identified a form revision date of New 10/2010, however, the form should not have a ‘NEW’ designation, but rather a revised designation. Therefore, the revision date of the form DL 818 ETP is changed to Rev. 10/2010.

Section 25.23, in the opening paragraph and in subsections (c) and (d), contains a non-substantive amendment to correct the citation of the Code of Federal Regulations. The originally proposed text referenced ‘Title 49, CFR, Part 383.75’ which is an incorrect citation. Therefore, the citation has been amended to reference ‘Title 49, CFR, Section 383.75.’

There are no other changes to the initial statement of reasons.

### **2) Imposition of Mandate on Local Agencies or School Districts**

The department’s regulatory action amending Section 25.06, 25.08, 25.09, 25.10, 25.11, 25.14, 25.15, 25.16, 25.17, 25.18, 25.19, 25.20, 25.21, and 25.22, and adopting Section 25.23 in Article 2.1, Chapter 1, Division 1, of Title 13, does not impose any mandate on local agencies or school districts and imposes (1) no cost or savings to any state agency, (2) no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, (3) no other discretionary cost or savings to local agencies, and (4) no cost or savings in federal funding to the state. No studies or data were relied upon to make this determination.

### **3) Summary of Comments Received and Department Response**

The proposal was noticed on May 4, 2018, and made available to the public from May 8, 2018 through June 18, 2018. The department received one comment during the 45-day comment period.

The comment was received by email on June 15, 2018 from Devin S. Girardi, representing the Surety & Fidelity Association of America (SFAA). In its comment, the SFAA expressed concern with the possibility that the proposed rule to require a \$100,000 continuous bond for non-governmental, third-party testers may affect the availability of the bond. The SFAA further explained that the surety will require a certain threshold of financial strength relative to the bond amount and, as a result, the principal with limited net worth or working capital might find it difficult to obtain a \$100,000 bond, causing a potential reduction in program participation.

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*Department's Response:* The department thanks the SFAA for its comment and, while the department does acknowledge that there will be a cost associated with testers having to secure a bond, the department does not anticipate the cost of the bond will be prohibitive to participants. Some factors in determining the bond premium include credit score, personal/business financials, the industry, and how long the bond applicant has been in business. Therefore, the cost of the bond could vary depending on the financial information provided by the bond applicant.

As specified in its initial statement of reasons, the department followed the Commercial Driver License (CDL) "Best Practices Document" published by the American Association of Motor Vehicle Administrators, when determining the appropriate bond amount. This document was made available upon request to the department during the duration of this rulemaking (See attached). The bond amount is consistent with other states including Arizona and Pennsylvania.

#### **4) Documents Incorporated by Reference**

The following documents were incorporated by reference:

- Certificate of Driving Skill (DL170ETP, Rev. 10/2017)
- Employer Testing Program Application for Employer Number (DL520ETP, Rev. 10/2017)
- Employer Testing Program Agreement (DL520B ETP, Rev. 10/2017)
- Employer Testing Program Surety Bond (DL 524 ETP, Rev. 1/2018)
- Employer Testing Program Commercial Driving Performance Evaluation Route and Directions (DL814ETP, Rev. 10/2017)
- Employer Testing Program Commercial DPE Maneuver Checklist (DL807ETP, Rev. 10/2017)
- Employer Testing Program Examiner Driver Testing Log (DL 819 ETP, Rev. 10/2017)
- Notification of Commercial Skills Test Schedule (OL 810, NEW 10/2017)
- Employer Testing Program Examiner Application (DL811ETP, Rev. 10/2017)
- Employer Testing Program Refresher Training Request – Examiner (DL 818 ETP, Rev. 10/2017)
- Request for Live Scan Service form, DMV 8016 (Rev. 11/2011)
- Employer Testing Program Voluntary Cancellation Request (DL 520C ETP, Rev. 10/2017)
- Employer Testing Program Request for Reactivation Employer Number (DL 817 ETP, Rev. 10/2017)

These forms are not being published in the California Code of Regulations because it would be impractical and cumbersome to do so. During the public comment period, the department received a request for forms from one interested party. The requester was provided with copies of all the forms through email. These documents were also generally made available upon request from the department. No comments were received from any interested party related to the forms being adopted in this action.

**5) Determination of Alternatives**

The department has determined that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.