

Order to Adopt

Title 13, Division 1, Chapter 1

Article 2.1 – Commercial Driver’s Licenses

§ 25.06. Authority and Definitions.

The department is authorized in Part 383 of Title 49 of the Code of Federal Regulations to use third-party testers to conduct the commercial behind-the-wheel driving test under specified conditions. For purposes of these regulations, the following definitions apply:

(a) Certified Driver. A driver that has been issued a Certificate of Driving Skill (DL_170_ETP, ~~Rev. 9/06~~ Rev. 10/2017), which is hereby incorporated by reference, by his or her employer for the purpose of waiving the department-administered driving test portion of the commercial driver testing process.

(b) Driving Test. The driving test is a performance test that consists of three components: ~~a pre-trip inspection, skills test, and road test.~~ a vehicle inspection, basic control skills, and road test. A driving test is also referred to as a CDL skills test.

(c) Employee. Employee means a person who performs services for wages or salary under a contract of employment, expressed or implied for an employer. (See Labor Code Section 1132.2.). In addition, a volunteer of an employer who has an established volunteer workforce will be considered an employee, provided the employer has covered the employee under its Workers Compensation Insurance policy, and the employee has coverage under the Employer's liability insurance policy.

(d) Employer Testing Program. The State of California's third-party commercial driver testing program. California Vehicle Code Section 15250(c) grants the department the authority to authorize third-party testers to conduct the commercial driving test portion of the commercial driver license testing process.

(e) Employer. A California sole proprietor, partnership, company, corporation, association, government entity or any other entity that meets the enrollment criteria to participate in the Employer Testing Program.

(f) Governmental Employer. The United States Government or any subdivision, department, court or agency thereof; the state or any subdivision, department, court or agency thereof, including special districts, school districts, the Board of Regents of the University of California; or any city, county, city and county or any agency or subdivision thereof.

(g) Route Approval. A review by the department of an employer's primary and alternate driving test routes to ensure that each route meets the requirements set forth by the department for use by the Employer Testing Program participants.

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(h) Testing Location. A place of business in California where an employer is authorized by the department to conduct driving tests utilizing the department approved primary and alternate driving test routes.

(i) Third-Party Tester. An employer with a place of business in California that is authorized by the department to conduct commercial behind-the-wheel driving tests for employees on behalf of the department. California Vehicle Code Section 15250(c) grants the department authority to authorize third-party testers to conduct the commercial driving test.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code; Part 383, of Title 49 of the Code of Federal Regulations; and Section 1132.2, Labor Code.

§ 25.08. Employer Testing Program Enrollment.

(a) The employer requesting participation in the Employer Testing Program must submit:

(1) A completed and signed original Employer Testing Program Application for Employer Number (DL_520_ETP, ~~Rev. 9/06~~ Rev. 10/2017), hereinafter referred to as the Application (~~DL520ETP, Rev. 9/06~~), which is hereby incorporated by reference.

(2) A completed and signed Employer Testing Program Agreement (DL_520B ETP, ~~Rev. 12/2008~~ Rev. 10/2017), hereinafter referred to as agreement (~~DL520B ETP, Rev. 12/2008~~), which is hereby incorporated by reference.

(3) The department will sign and return a copy of the agreement to the employer upon approval of the application.

(4) A completed and signed Employer Testing Program Surety Bond (DL 524 ETP, New 1/2018), which is hereby incorporated by reference. A governmental employer is not required to maintain a surety bond.

~~(4)~~(5) Documentation of primary and alternate driving test routes on the Employer Testing Program Commercial Driving Performance Evaluation Route and Directions (DL_814 ETP, ~~Rev. 2/03~~ Rev. 10/2017) and the Employer Testing Program Commercial DPE Maneuver Checklist (DL_807_ETP, ~~Rev. 9/06~~ Rev. 10/2017), which are hereby incorporated by reference, and route map(s) for each driving test route, for department review and approval.

~~(5)~~(6) Non-governmental employers shall pay a non-refundable application fee of \$45 (\$15 for each year for a period of three years).

(b) The department shall assign a unique identifying number, hereafter referred to as the employer number, to each employer enrolled in the Employer Testing Program.

(c) No amendment, alteration, or variation of the Application (~~DL520ETP, Rev. 9/06~~) shall be valid unless made in writing and signed by the employer's Administrator and approved by the department.

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(d) If the Application (~~DL520ETP, Rev. 9/06~~) process has not been completed within 12 months of the department's receipt of the Application (~~DL520ETP, Rev. 9/06~~), that Application (~~DL520ETP, Rev. 9/06~~) becomes void, and a new Application (~~DL520ETP, Rev. 9/06~~), and a non-refundable application fee must be submitted to the department.

(e) ~~The department shall initiate a staggered renewal cycle for existing employers, by imposing a one, two, or three year renewal period on a one time basis at the time these regulations are adopted. Subsequent r~~Renewal periods shall be for the a three-year period. The employer must renew its employer number every three years to remain active in the program.

(f) The department shall send the employer a renewal packet no later than 90 days prior to expiration of the employer number, which shall include:

- (1) An Application (~~DL520ETP, Rev. 9/06~~) and agreement (~~DL520B ETP, Rev. 12/2008~~) for completion.
- (2) A list of drivers certified in the prior period for verification.
- (3) A request for payment of an application fee (\$15 for each year) from non-government employers.

(g) The employer shall submit, no later than 45 days prior to expiration of the employer number, the following to renew its employer number. Failure to meet this time frame and/or to provide the required documents may delay the renewal of the employer number.

- (1) A completed and signed renewal Application (~~DL520ETP, Rev. 9/06~~).
- ~~(2) A completed and signed Application for Employer Number Addendum (DL520FETP, New 11/05), if applicable.~~
- ~~(3)~~(2) A completed and signed agreement (~~DL520B ETP, Rev. 12/2008~~).
- ~~(4)~~(3) A list of drivers certified in the prior period signed by the Administrator.
- ~~(5)~~(4) Payment of an application fee (\$15 for each year) from non-government employers.

(h) An existing employer shall be required to submit documentation of its primary and alternate driving test routes on the ~~Employer Testing Program Commercial Driving Performance Evaluation Route and Directions (DL_814 ETP, Rev. 2/03)~~, the ~~Employer Testing Program Commercial DPE Maneuver Checklist (DL_807 ETP, Rev. 9/06)~~, and route map(s) for each driving test route, for department review and approval, with ~~its first each~~ renewal Application (~~DL520ETP, Rev. 9/06~~).

(i) At the discretion of the department, the employer number expiration date may be extended if all application requirements have been met.

(j) If the employer number is expired, cancelled, suspended, or revoked for more than 12 months, the employer shall submit an original Application (~~DL520ETP, Rev. 9/06~~) with the appropriate documents and application fees.

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Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code; and Part 383, of Title 49 of the Code of Federal Regulations.

§ 25.09. Application Changes.

(a) The following changes must be reported to the department within 10 days of occurrence in writing on company letterhead, or by submitting a completed and signed Application ~~(DL520ETP, Rev. 9/06)~~:

- (1) Change of address.
- (2) Change of Authorized Representative.
- (3) Change in class of license for which driver testing authority is requested.

(b) A change of Administrator or change of employer name must be reported to the department within 10 days of occurrence by submitting an Application ~~(DL520ETP, Rev. 9/06)~~.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code; and Part 383, of Title 49 of the Code of Federal Regulations.

§ 25.10. Driving Test Routes.

(a) Every employer who applies for a new and/or renewed employer number must provide documentation of primary and alternate driving test routes on the ~~Employer Testing Program Commercial Driving Performance Evaluation Route and Directions (DL_814_ETP, Rev. 2/03), Employer Testing Program Commercial DPE Maneuver Checklist (DL_807 ETP, Rev. 9/06)~~, and route map(s). Upon the department's approval, each route will be given a department route approval number.

(b) The department route approval number assigned to the route used for the driving test shall be required on the driving test score sheets and on the ~~Certificate of Driving Skill (DL_170_ETP, Rev. 9/06)~~.

~~(c) The department may approve a waiver of missing route elements upon written request by the employer on the Employer Testing Program Commercial DPE Maneuver Checklist (DL807ETP, Rev. 9/06) prior to use of the route.~~

~~(d)~~(c) Any changes to an approved route must be reported by the employer on the ~~Employer Testing Program Commercial Driving Performance Evaluation Route and Directions (DL814ETP, Rev. 2/03), Employer Testing Program Commercial DPE Maneuver Checklist (DL 807_ETP, Rev. 9/06)~~, along with the route map, and approved by the department prior to use. A new route number may be issued to changed routes.

~~(e)~~(d) Corrections to any route found to be deficient by the Federal Motor Carrier Safety Administration (FMCSA), or its representative, and/or the department, or its representative, must

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be reported by the employer on the ~~Employer Testing Program Commercial Driving Performance Evaluation Route and Directions (DL_814_ETP, Rev. 2/03), Employer Testing Program Commercial DPE Maneuver Checklist (DL_807_ETP, Rev. 9/06)~~, and route map; and approved by the department before the new/revised route may be used.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code; and Part 383, of Title 49 of the Code of Federal Regulations.

§ 25.11. Quality Assurance Oversight.

(a) The employer shall establish and maintain a quality assurance program that:

(1) Ensures compliance with all provisions and terms of the Employer Testing Program regulations contained in ~~the California Code of Regulations, Title 13, Sections 25.06 through 25.22~~ 25.23 of this Article.

(2) Ensures adequate internal controls are established for program responsibilities, and appropriate separation of duties are in place for program participants, in accordance with Section 25.19 ~~of these regulations~~.

(3) Authorizes the ~~Federal Motor Carrier Safety Administration~~ FMCSA, or its representative, and the department to conduct random examinations, inspections and audits without prior notice.

(4) Permits the department, or its representative to conduct on-site inspections at least annually.

(5) Permits the department to retest certified drivers without cause to compare pass/fail results.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code; and Part 383, of Title 49 of the Code of Federal Regulations.

§ 25.14. Certificate of Driving Skill (DL170ETP and DL170FETP).

(a) Upon successful completion of the driving test, a ~~Certificate of Driving Skill (DL_170_ETP; Rev. 9/06)~~ shall be completed and signed by the Authorized Representative, Examiner, and driver under penalty of perjury under the laws of the State of California.

(b) When the ~~Certificate of Driving Skill (DL_170_ETP, Rev. 9/06)~~ is presented to the department, the department may waive the driving test for a Class A or B license when the driver has first qualified for a Class C driver license, has met the other examination requirements for the license for which the driver is applying as specified in Vehicle Code Section 12804.9, and the department verifies that the ~~Certificate of Driving Skill (DL_170_ETP Rev. 9/06)~~ was issued under the provisions of the Employer Testing Program by an authorized employer.

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~~(e) A Certificate of Driving Skill (DL170-ETP, Rev. 9/06) shall include the following:~~

- ~~(1) Driver's name.~~
- ~~(2) Driver's driver license number.~~
- ~~(3) Driver's address, including city, state and zip code.~~
- ~~(4) Driver's home telephone number, including area code.~~
- ~~(5) Driver's work telephone number, including area code.~~
- ~~(6) Driver's date of employment with employer.~~
- ~~(7) Driver's signature and date signed under penalty of perjury under the laws of the State of California, including city and county where executed.~~
- ~~(8) Date driver passed the driving test.~~
- ~~(9) Type of vehicle(s), and vehicle features, used in the driving test.~~
- ~~(10) Department route approval number.~~
- ~~(11) Vehicle license plate number(s).~~
- ~~(12) Trailer identification plate number(s), if applicable.~~
- ~~(13) Examiner's printed name.~~
- ~~(14) Examiner's California commercial driver license number.~~
- ~~(15) Examiner's signature and date signed under penalty of perjury under the laws of the State of California, including city and county where executed.~~
- ~~(16) Authorized Representative's printed name.~~
- ~~(17) Authorized Representative's driver license number.~~
- ~~(18) Authorized Representative's signature and date signed under penalty of perjury under the laws of the State of California, including city and county where executed.~~
- ~~(19) Authorized Representative's telephone number including area code and extension.~~
- ~~(20) Employer name.~~
- ~~(21) Employer address, including city, state, and zip code.~~
- ~~(22) Employer number.~~

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code; and Part 383, of Title 49 of the Code of Federal Regulations.

§ 25.15. Record-Keeping Program.

(a) The employer shall keep records of Employer Testing Program related information on training and testing provided to its certified employee drivers. The employer's records shall include the following:

- (1) The employee's full name, address, and driver license number.
- (2) The type of instruction the driver was given during training.
- (3) The date(s) instruction was given.
- (4) The subjects covered.
- (5) The total hours of instruction.
- (6) The training instructor's full name and address.
- (7) A copy of the instructor's contract with the employer, if applicable.
- (8) The results of any driving test conducted in conjunction with the training.
- (9) The driving test Examiner's name and driver license number.
- (10) Examiner's written contract with the employer.
- (11) An Employer Testing Program Examiner Driver Testing Log (DL 819 ETP, ~~New 4/2005~~ Rev. 10/2017), which is hereby incorporated by reference, shall document the driving tests conducted, including both passed and failed driving tests. A copy of the Examiner's log shall document the past 90 days current calendar year of certificate activity. ~~The Examiner's log shall include the following:~~

- ~~(A) Examiner Name.~~
- ~~(B) Examiner Driver License Number.~~
- ~~(C) Examiner class of driver license and endorsements.~~
- ~~(D) Examiner address, city, state and zip code.~~
- ~~(E) Examiner telephone number.~~
- ~~(F) Driver name.~~
- ~~(G) Driver's driver license number.~~
- ~~(H) Name of Driver's Employer.~~
- ~~(I) Date of driving test.~~
- ~~(J) Results of the driving test (passed/failed).~~
- ~~(K) Documentation of any training drive tests conducted pursuant to Section 25.22.~~

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- (12) A copy of the trip permit for any commercial vehicle with special equipment plates used in the driving test, valid for the date(s) of the test.
- (13) All pass and fail driving test score sheets, the ETP CDL Pre-Trip Inspection Evaluation Score Sheet/ETP CDL Driving Performance Evaluation Score Sheet (DL_65 ETP, Rev. 4/03), which is hereby incorporated by reference, used for each employee who is tested for purposes of issuing a ~~Certificate of Driving Skill (DL_170_ETP, Rev. 9/06)~~, pursuant to Section 25.22(d).
- (14) A copy of each ~~Certificate of Driving Skill (DL_170_ETP, Rev. 9/06)~~ issued.
- (15) Documentation of the department approved primary and alternate driving test routes on the ~~Employer Testing Program Commercial Driving Performance Evaluation Route and Directions (DL_814_ETP, Rev. 2/03)~~, the ~~Employer Testing Program Commercial DPE Maneuver Checklist (DL_807_ETP, Rev. 9/06)~~, and route map(s) for each driving test route.
- (b) The employer must keep training records, driving test score sheets, employment records, examiner drive test logs, and all other Employer Testing Program related records for the three most recent years of the employer's participation in the Employer Testing Program and for a minimum of three years after the employer number becomes invalid (i.e., expired, cancelled, revoked, or suspended), during each driver's three most recent years of employment, and three years after the driver is released from employment.
- (c) The employer shall make available all Employer Testing Program related records pertaining to driver training, testing, and employment, for monitoring by the ~~Federal Motor Carrier Safety Administration~~ FMCSA, or its representatives, and the department during normal business hours at the record-keeping location identified on the employer's Application (~~DL_520 ETP, Rev. 9/06~~).
- (d) At the department's request, the employer shall make records available which verify that:
- (1) The Administrator and Authorized Representative are employees at the time of program activity.
 - (2) The drivers issued a ~~Certificate of Driving Skill (DL_170_ETP, Rev. 9/06)~~ are its employees at the time of driver training, testing, and certification.
 - (3) The Examiner is under written contract with the employer at the time of the driving test.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code; and Part 383, of Title 49 of the Code of Federal Regulations.

§ 25.16. Sample Testing of Certified Drivers.

- (a) At the discretion of the department, the employer shall permit the department to test a sample of its drivers tested and certified by the employer, for the purposes of comparing pass/fail results between the employer's Examiner and the department's ~~e~~Examiners.
- (b) The selection of drivers to be tested shall be determined by the department.
- (c) The employer shall notify each certified driver of the possibility of being required to pass a department-administered test at the department's discretion.
- (d) The department shall provide written notice to the employer and the driver when the driver is selected for the department-administered test.
- (e) The employer shall be held responsible for ensuring that the driver is available for a test at the department within 30 days of the department's notice for a department-administered test unless the driver is no longer employed by the employer. The employer must submit a copy of the driver's drive test score sheets to the department within 30 days of the written notice of the selection. If the driver is no longer employed by the employer, the employer shall notify the department within 10 days of receipt of the department's notice of the selection for the department-administered test.
- (f) The department shall invalidate the ~~Certificate of Driving Skill (DL_170_ETP, Rev. 9/06)~~ if the driver does not return to the department for the department-administered test, which shall result in the driver's license being downgraded to the previous class that the driver possessed before certification.
- (g) The department will conduct an investigation of any driver who fails the department-administered test and may require a re-examination of the driver to retain the class of license issued through the ~~Certificate of Driving Skill (DL_170_ETP, Rev. 9/06)~~.
- (h) If the driver fails the department-administered re-examination, the department shall downgrade the license to the previous class that the driver possessed before certification.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9, 13800, 13801 and 15250, Vehicle Code; and Part 383, of Title 49 of the Code of Federal Regulations.

§ 25.17. Cancellations/Reinstatements.

- (a) An employer with an active employer number may at any time after issuance voluntarily cancel its employer number by submitting to the department an Employer Testing Program Voluntary Cancellation Request of Employer Number (DL_520C_ETP, ~~Rev. 9/06~~ Rev. 10/2017), which is hereby incorporated by reference; or a written request to the department on employer letterhead with the following information:

- (1) Employer name.

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- (2) Mailing address, city, state and zip code.
- (3) Terminal physical address, city, state, and zip code.
- (4) Telephone number, including area code.
- (5) Employer number.
- (6) Reason for cancellation.
- (7) Effective date of cancellation.
- (8) Date of request.
- (9) Administrator's printed name and signature.

(b) An employer who has been granted a voluntary cancellation of its employer number and wishes to reactivate its employer number may do so, as long as the prior term of the employer number has not expired. An employer seeking to reactivate an employer number shall submit an Employer Testing Program Request for Reactivation Employer Number (DL_817_ETP, ~~Rev. 8/03~~ Rev. 10/2017), which is hereby incorporated by reference, to the department. If the employer number expires within 60 days of the date of Request for Reactivation, the employer must submit a renewal Application (~~DL520ETP, Rev. 9/06~~), the ~~Employer Testing Program Commercial Driving Performance Evaluation Route and Directions (DL_814_ETP, Rev. 2/03)~~, ~~Employer Testing Program Commercial DPE Maneuver Checklist (DL_807_ETP, Rev. 9/06)~~, the route map, and payment of a \$45 non-refundable application fee (\$15 for each year for a three year period) for non-governmental employers.

(c) The department may cancel an employer number if the employer number was issued in error, by giving the employer at least 15 days prior written notice of such cancellation. Whenever an employer number is cancelled by the department, it shall be without prejudice.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code; and Part 383, of Title 49 of the Code of Federal Regulations.

§ 25.18. Sanctions/Reinstatements.

(a) The department reserves the right to take prompt and appropriate remedial action against the employer, examiners, and/or its certified drivers in the event that they:

- (1) Fail to comply with State and/or federal standards for commercial driver license testing in the federal Code of Regulations, Title 49, Part 383, Subpart E, G and H;
- (2) Fail to comply with the terms of the Employer Testing Program provisions in the California Code of Regulations, Title 13, Sections 25.06 through ~~25.22~~ 25.23, and California Vehicle Code Sections 12804.9(e) and 15250 (c) and (d);
- (3) Commit a serious offense that affects public safety; or

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(4) Commit fraud or other criminal activity related to participation in the Employer Testing Program.

(b) The department will provide a 15-day written notice to the employer before suspending or revoking the employer number. However, the department shall immediately suspend or revoke the employer number if an employer is engaging in practices in such a manner that immediate suspension or revocation is required for the safety of persons on the highway. In reaching a decision on a disciplinary action, the Director of Motor Vehicles or his or her designee shall consider the guidelines entitled "Employer Testing Program Guidelines for Sanctions" (9/3/2002), which are hereby incorporated by reference, and any and all other sanctions provided by relevant statutes and regulations. Deviation from these guidelines is appropriate where the Director or his or her designee, in his or her sole discretion, determines that the facts of the particular case warrant such a deviation, for example, the presence of mitigating factors, the age of the case, and evidentiary problems.

(1) A warning letter may be sent to an employer for minor violations.

(2) A first offense of less severity may be a minimum of 30-days suspension.

(3) A second offense of the same conduct may be a revocation for not less than 12 months.

(4) A serious offense that affects public safety, fraud, and non-compliance with required federal regulations/state statutes, may result in a revocation. A revocation shall be for a period of not less than 12 months.

(c) In the event the department suspends the employer number, the employer will be prohibited from conducting training, testing, and/or driver certification until verification is made that appropriate action has been taken to correct deficiencies causing the suspension, and the department lifts the suspension.

(d) Any action to appeal or review any order of the department canceling, suspending, or revoking an employer number shall be brought in a court of competent jurisdiction under Section 1085 of the Code of Civil Procedure, or as otherwise permitted by the laws of this state. The action shall be commenced within 90 days from the effective date of the order.

(e) An employer who has been suspended may submit a Employer Testing Program Request for Reinstatement Employer Number (DL_813_ETP, NEW 11/01), which is hereby incorporated by reference, after the period of suspension has ended. The department shall verify that the employer has corrected the deficiencies prior to reinstatement.

(f) An employer that has had its employer number revoked may submit an original Application, (~~DL520ETP, Rev. 9/06~~), along with proof of correction of the deficiencies which precipitated the revocation, documentation of primary and alternate driving test routes pursuant to subdivision (a)(2) of Section 25.08 of these regulations, and payment of a non-refundable \$45 Application fee (\$15 per year for three years) for non-governmental employers.

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(g) The department shall provide a 15-day written notice to the employer and the Examiner before the department discontinues the Examiner's eligibility to conduct driving tests when it has been determined that driving tests were not conducted pursuant to Commercial Driver License Driving Performance Evaluation requirements; the Examiner has an action taken against his or her commercial driver license that disqualifies him or her to act as an Examiner (the driver license is suspended, revoked, or cancelled, or the driver is on probation for negligent operation of a motor vehicle); or the Examiner is not available to participate in the monitoring of Employer Testing Program activities.

(h) The department shall immediately terminate the certification of any Examiner, if the Examiner fails to conduct skills tests for at least ten different applicants (10 of each segment – 10 vehicle inspections, 10 basic control skills, 10 road tests) per calendar year, the Examiner fails to meet training requirements, or the department is notified as a result of a nationwide background check, that the Examiner has either of the following:

(1) A felony conviction within the last ten years

(2) A conviction involving fraudulent activity.

~~(h)(i)~~ The Examiner must meet the provisions of subdivision (a) of Section 25.22 of these regulations prior to being ~~reinstated~~ recertified after discontinuation of eligibility to act as an examiner under subsection (g) or (h). ~~An Employer Testing Program Request for Reinstatement–Examiner (DL810ETP, Rev. 1/2005), which is hereby incorporated by reference, and a \$55 training fee shall be submitted to the department to attend the training.~~ A new Certificate of Training will be issued upon successful class completion.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code; Part 383, of Title 49 of the Code of Federal Regulations; and Sections 11340.5 and 11425.50(e), Government Code.

§ 25.19. Employer Roles and Responsibilities.

(a) The employer shall designate an Administrator, and shall designate one or more Authorized Representative(s) and one or more Examiner(s).

(1) The Administrator and Authorized Representative may be one and the same person under the same employer number.

(2) The Administrator may not act as an Examiner under the same employer number.

(3) The Authorized Representative may be an Examiner under the same employer number, but cannot assume or sign for both responsibilities on the same ~~Certificate of Driving Skill (DL_170_ETP, Rev. 9/06)~~.

(b) The employer must ensure that all drivers are provided commercial driver training pursuant to subdivision (b) of Section 25.12 of these regulations prior to certification.

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(c) The employer must enroll each commercial driver under its Employer Pull Notice number after issuance of the ~~Certificate of Driving Skill (DL_170_ETP, Rev. 9/06)~~ and during the driver's actual term of employment.

(d) The employer must enroll each Examiner under its Employer Pull Notice number during the employer and Examiner's contract period.

(e) When the employer receives a pull notice printout that reflects that an action has been taken against the Examiner's California commercial driver license that would disqualify the Examiner from conducting tests for certification purposes under subdivisions (a)(2) and (a)(3) of Section 25.22 of these regulations, the employer must immediately discontinue the Examiner's testing authority. The employer must notify the department of this disqualification within 10 days of receipt of the pull notice printout.

(f) ~~Upon adoption of these regulations,~~ prior to allowing an Examiner to conduct a commercial driving test, the employer must:

~~(1) Ensure the Examiner is eligible under these regulations to administer driving tests for the specified class of license. An Examiner who has not conducted a driving test for 90 consecutive days is not eligible to conduct driving tests until he/she attends and passes a department sponsored Examiner refresher training course, certified by the department pursuant to Section 25.22.~~

(2) Enter into a written contract with all new examiners at the time of appointment, and with existing examiners at the time of the employer's first renewal.

(3) Ensure each Examiner submits fingerprints at a California Live Scan facility at time of appointment and passes a nationwide background check prior to certification to administer a commercial driver's license skills test.

(4) Ensure each current Examiner submits fingerprints at a California Live Scan facility and passes a nationwide background check at time of first recertification.

(g) The employer's contract with the Examiner hereinafter referred to as the "Examiner's contract" must contain, at a minimum, the following provisions. The Examiner must:

(1) Have held a valid California Class A or Class B commercial driver license for at least three consecutive years with the appropriate classification and endorsement for new and reinstated examiners.

(2) Currently hold a valid California Class A or Class B commercial driver license with the appropriate classification and endorsements for the requested testing authority prior to being approved to attend training.

(3) Have attended and passed examiner training conducted by the department.

(4) Allow the employer to enroll him/her under the employer's Employer Pull Notice number.

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- (5) Verify that the driver has acquired an ~~instruction permit~~ commercial learner's permit from the department prior to testing.
 - (6) Certify that the driver successfully completed the required commercial driving test (i.e., pre-trip inspection, skills test, and road test).
 - (7) Certify that the correct type of commercial vehicle(s) was used for the driving test.
 - (8) Provide the employer with the original ~~score sheets~~ DL 65 ETP, Part 1 and II, used during the driving test of drivers.
 - (9) Be available, between the hours of 8:00 a.m. to 5:00 p.m., with notice, to participate in the monitoring of the employer's third party testing program for the duration of the Examiner's contract and for a period of one year after contract termination.
 - (10) Not conduct commercial driving tests if his/her California commercial driver license is not valid or is on probation for negligent operation of a motor vehicle. Maintain his/her Examiner eligibility by attending required training and conducting skills tests on a minimum of ten different drivers per calendar year. ~~at least one driving test for certification purposes during a consecutive 90-day period; or attend and pass Examiner refresher training to reinstate his/her Examiner eligibility prior to conducting a driving test.~~
 - (11) Maintain an ~~Employer Testing Program Examiner Driver Testing Log (DL 819 ETP, New 1/2005)~~ of all driving tests conducted, including failed driving tests, and provide a copy of the log to the Employer. Upon notification by the department, the employer will utilize the Commercial Skills Testing Information Management System (CSTIMS) for retention and transmission of skills test results in place of maintaining the DL 819 ETP.
 - (12) Not act as an Examiner for his/her own relative, supervisor, or for himself/herself.
 - (13) Not sign a ~~Certificate of Driving Skill (DL_170_ETP, Rev. 9/06)~~ for his/her own relative, supervisor, or himself/herself.
 - (14) Not knowingly sign a false or incorrect ~~Certificate of Driving Skill (DL_170_ETP, Rev. 9/06)~~.
- (h) Prior to the issuance of a ~~Certificate of Driving Skill (DL_170_ETP, Rev. 9/06)~~, the employer must ensure that the driver was:
- (1) Employed by the employer at the time of training.
 - (2) Trained prior to taking the driving test.
 - (3) Employed by the employer at the time the driving test is given.
 - (4) Employed by the employer at the time the ~~Certificate of Driving Skill (DL_170_ETP, Rev. 9/06)~~ was approved by the Authorized Representative.
 - (5) Required by law to hold a commercial license to operate commercial vehicles in the course of employment with this employer.

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Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code; and Part 383, of Title 49 of the Code of Federal Regulations.

§ 25.20. Administrator Roles and Responsibilities.

- (a) The Administrator must be an employee of the employer, and must have sufficient knowledge of the provisions of the California Code of Regulations, Title 13, Sections 25.06 through 25.22, to oversee the program and serve as the employer's liaison with the department.
- (b) The Administrator must sign the Application ~~(DL 520 ETP, Rev. 9/06)~~, the Employer Testing Program Commercial Driving Performance Evaluation Route and Directions (DL 814 ETP, Rev. 2/03) and the ~~Employer Testing Program Commercial DPE Maneuver Checklist (DL 807 ETP, Rev. 9/06)~~ if requesting a route exemption.
- (c) The Administrator is responsible for ensuring compliance with all provisions and terms of the Employer Testing Program regulations contained in the California Code of Regulations, Title 13, Sections 25.06 through ~~25.22~~25.23.
- (d) The Administrator must ensure that the Authorized Representatives, Examiners, and all drivers abide by the terms of the Employer Testing Program regulations contained in the California Code of Regulations, Title 13, Sections 25.06 through ~~25.22~~25.23, in the performance of their roles and responsibilities.
- (e) The Administrator must ensure that the driving test used for certification purposes meets the department's Commercial Driver License Driving Performance Evaluation standards.
- (f) The Administrator must ensure that the employer continues to meet the qualifying criteria for an employer number pursuant to Section 25.07 of these regulations.
- (g) The Administrator must ensure that any deficiencies found in the employer's program are corrected prior to the employer resuming Employer Testing Program training, testing, and driver certification.
- (h) The Administrator must provide proper training, testing, and employment records and other required documentation when requested for inspection and verification by the Federal Motor Carrier Safety Administration, or its representative, and the department or its representative.
- (i) The Administrator must not allow a ~~Certificate of Driving Skill (DL 170 ETP, Rev. 9/06)~~ to be issued when the employer no longer qualifies for participation in the program.
- (j) The Administrator must ensure the Examiner ~~has successfully passed the department's Examiner training and has the appropriate valid California commercial driver license for the type of vehicle used for certification purposes, prior to the employer's contract with the Examiner.~~ is certified by the department pursuant to Section 25.22.
- (k) The Administrator is required to submit a schedule of commercial driver license skills test appointments to the department no later than two business days prior to each test. The schedule

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must be submitted on a Notification of Commercial Skills Test Schedule (OL 810, New 10/2017), which is hereby incorporated by reference. Upon notification by the department, the employer will utilize CSTIMS for submission of commercial driver's license skills test appointments.

(l) The Administrator must notify the department through CSTIMS of all skills test scores.

~~(k)(m)~~ The Administrator must not allow an Examiner to conduct a driving test when the Examiner is no longer authorized or qualified to do so.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code, and Part 383, of Title 49 of the Code of Federal Regulations.

§ 25.21. Authorized Representative Roles and Responsibilities.

(a) The Authorized Representative must be an employee of the employer.

(b) The Authorized Representative shall be responsible for ensuring that the ~~Certificate of Driving Skill (DL_170_ETP, Rev. 9/06)~~ is accurate and complete before signing.

(c) The Authorized Representative must verify that the Examiner conducting the commercial driving test has:

(1) a current contract with the employer,

(2) ~~maintained his/her eligibility by conducting a least one driving test during the preceding 90-day period or successfully completed refresher training prior to conducting the driving test and~~ a valid Examiner certification by the department pursuant to Section 25.22.

(3) a valid commercial driver license with the appropriate class and endorsement, for the commercial driving test conducted at the time of the driving test.

(d) The Authorized Representative must verify that the driver being certified has received specified commercial driver training, and is an employee of the employer at the time of the training.

(e) The Authorized Representative must verify that the driver being tested for certification purposes is an employee of the employer at the time of the driving test.

(f) The Authorized Representative must verify that driver being certified under the employer's employer number is an employee of the employer at the time of certification.

(g) The Authorized Representative must ensure the required test is given to the driver using a department approved route.

(h) The Authorized Representative must not act or sign as the Examiner on the same ~~Certificate of Driving Skill (DL_170_ETP, Rev. 9/06)~~.

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(i) The Authorized Representative must not act as an Authorized Representative for his/her own relative, supervisor, or for himself or herself.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code; and Part 383, of Title 49 of the Code of Federal Regulations.

§ 25.22. Examiner Roles Certification and Responsibilities.

(a) An Examiner is not authorized to conduct a commercial driving test ~~for his/her employer~~ until he or she does all of the following is certified by the department by meeting the following requirements:

(1) ~~For new and reinstated examiners, shall s~~Submit an Employer Testing Program Examiner Certification Application (DL_811_ETP, ~~Rev. 9/06~~ Rev. 10/2017), which is hereby incorporated by reference, or Employer Testing Program ~~Request for Reinstatement Examiner (DL810ETP, Rev. 1/2005)~~Refresher Training Request – Examiner (DL 818 ETP, Rev. 10/2017), which is hereby incorporated by reference, whichever is applicable, to the department. The department shall notify the Examiner applicant ~~of their qualification when they are qualified to be enrolled in the department-sponsored Examiner Training class within 30 days of a complete Application.~~ The department shall notify the examiner applicant ~~within 30 days~~ if the examiner fails to meet program requirements as stated in Section 25.22(a)(2) through ~~(6)~~(7) to be an examiner. A letter will be sent to the applicant explaining the reason for the denial. If the Application is incomplete, a cover letter will be sent to the applicant within 15 days listing the items needing correction.

(2) ~~For new and reinstated examiners, h~~Has held a valid commercial driver license for at least three years, with the appropriate class and endorsements.

(3) Currently holds a valid California commercial driver license with appropriate class and endorsements for the type of license for which the Examiner is requesting testing authority. Also, the Commercial Driver License must be consistent with the type required to drive the test vehicle.

(4) Maintains a valid medical certificate, as described in Section 28.19 of this Article.

~~(4)~~(5) Has no current actions against his/her California commercial driver license that would disqualify him/her to act as an Examiner; i.e., suspended, revoked, cancelled, or on probation for negligent operation of a motor vehicle.

~~(5)~~(6) Pays a \$150 examiner training fee.

~~(6)~~(7) Attends and passes a department-sponsored examiner training class to establish his/her eligibility to act as an Examiner and receives a valid Certificate of Training.

(A) ~~If the Examiner does not pass the training course, the~~ The training fee is non-refundable.

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(B) If the Examiner does not pass the training course and applies to attend the training course again, an additional \$150 training fee shall be paid.

~~(C) If the Examiner does not attend the training class within one year of the department receiving the Employer Testing Program Examiner Application (DL811ETP, Rev. 9/06), the Examiner must submit a new Employer Testing Program Examiner Application (DL811ETP, Rev. 9/06) and pay a \$150 training fee to enroll in the department sponsored examiner training course. Prior training fees paid are not refundable or transferable.~~

~~(7) The Examiner must be under written contract with the employer(s) at the time he/she conducts the driving test, as required in section 25.19(f)(2) of these regulations.~~

(8) Submits fingerprints at a California Live Scan facility to enable a nationwide criminal background check, on a Request for Live Scan Service Application Submission, form DMV 8016 (Rev. 10/2017), which is hereby incorporated by reference. Submission of fingerprints shall include all of the following requirements:

(A) The applicant's true full name provided on the form.

(B) The second copy of the signed DMV 8016 submitted with the DL 811 ETP.

(b) The Examiner certification is valid for four years. To become recertified, an Examiner must meet all requirements in this section.

(c) An Examiner certification shall be immediately terminated if:

(1) The results of a live scan report reveal either of the following:

(A) A felony conviction within the last ten years, or

(B) A conviction involving fraudulent activity.

(2) An Examiner fails to conduct driving tests for at least ten different applicants in a calendar year.

(3) An Examiner fails to comply with any requirements in this Article or in Part 383 of Title 49, Code of Federal Regulations.

(d) An Examiner must complete the following prior to conducting a commercial driving test for his or her employer.

(1) Be under written contract with the employer(s) at the time he or she conducts the skills test, as required in Section 25.19(f)(2).

(A) An Examiner may work for more than one employer concurrently, as long as he or she is under written contract with each employer.

~~(b)(2)~~ The Examiner shall submit a written request to the department when the Examiner seeks authority to test drivers on vehicles that require a class of license or endorsement for

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which the Examiner is not authorized. The department shall verify that the Examiner has held a California Commercial Driver License for three years of the appropriate class and endorsements for type of license for which the Examiner is requesting testing authority, prior to approval of the request.

~~(e)~~(3) The Examiner shall verify that the driver has obtained an instruction permit from the department appropriate for the test vehicle prior to testing.

~~(d)~~(4) The Examiner shall maintain on file an ~~Employer Testing Program Examiner Driver Testing Log (DL 819 ETP, New 1/2005)~~ of all driving tests conducted for certification purposes, which includes a record of driving tests conducted under each Employer Number with whom the Examiner has a contract to conduct driving tests. The log must include successfully completed and failed driving tests.

~~(e)~~(5) The Examiner shall conduct all driving tests for certification purposes using the Commercial Driver License Driving Performance Evaluation criteria established by the department.

~~(f)~~(e) An Examiner, upon authorization by the department to conduct commercial driving tests as defined in Title 13, Section 25.06(b), who fails to conduct ~~a driving test for a period of 90 consecutive days~~ skills test for at least ten different applicants (10 of each segment – 10 Vehicle Inspections, 10 Basic Control Skills, 10 Road Tests) per calendar year, is ineligible to conduct commercial driving tests ~~upon the 91st day of inactivity~~ and must ~~submit an Employer Testing Program Request for Reinstatement Examiner (DL 810 ETP, Rev. 1/2005)~~, attend and pass a department sponsored Examiner refresher-training class, and be ~~reinstated~~ recertified by the department before conducting additional commercial driving tests.

~~(1) An Examiner may conduct a drive test with an existing commercially licensed driver employed by the company to meet the 90 day requirement.~~

~~(A)~~(1) The drive test shall consist of the pre-trip inspection, skills test, and road test on a department approved route and utilizing DMV score sheets (DL_65 ETP part I, Rev. 4/2003 and the DL_65 ETP part II, Rev. 4/2003), which is hereby incorporated by reference. The score sheets shall be retained in the employee file, even though a DL_170_ETP is not issued.

~~(B)~~(2) The Examiner shall log the driving test on the ~~Employer Testing Program Driver Testing Log (DL_819 ETP, New 1/2005)~~ indicating that a training drive test was successfully completed and the authorized representative shall sign and date the notation certifying the training drive test was conducted.

~~(C)~~(3) If the driver fails the training test the company shall retrain the driver in the deficient areas noted during the test and note the retraining on the driver training log as specified in section 25.15.

~~(g)~~(f) The Examiner shall verify that the driver is given and successfully passes a complete commercial driving test including the pre-trip inspection, skills, and road tests.

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~~(h)~~(g) The Examiner shall verify that the correct type of commercial vehicle is used for the driving test.

~~(i)~~(h) An Examiner shall not act as the Authorized Representative for the same driving test that he/she conducted.

~~(j)~~(i) The Examiner shall complete and sign the ~~Certificate of Driving Skill (DL_170_ETP, Rev. 9/06)~~ as the Examiner.

~~(k) An Examiner may work for more than one employer concurrently, as long as he/she is under written contract with each employer.~~

~~(l)~~(j) The Examiner must allow each employer to enroll him/her in the Employer's Pull Notice program during the contract period.

~~(m) The Examiner shall maintain a valid medical card and ensure that a valid Medical Examination Report (DL51, Rev. 7/2006), which is hereby incorporated by reference, described in Section 110.04(b) of Title 13 of the California Code of Regulations, is on file with the department.~~

~~(n)~~(k) Upon the department's request, the Examiner shall be available between the hours of 8:00 a.m. to 5:00 p.m., with notice, to participate during the monitoring of the employer's third party testing program for the duration of the Examiner's contract and for one year after termination of the contract.

~~(o)~~(l) The Examiner must update testing skills as needed in response to statutory and program changes. The department shall notify Examiners of statutory and program changes, and may require additional department-sponsored training to maintain eligibility.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code; and Part 383, of Title 49 of the Code of Federal Regulations.

§ 25.23. Employer Testing Program Bond Requirements.

An employer must satisfy the requirements of Title 49, CFR, Section 383.75 to provide evidence of financial responsibility as a precondition of commercial driver's license testing for their own employees by giving the department an instrument evidencing the existence of a bond, as follows:

(a) The bond shall be issued by an admitted surety.

(b) The bond shall be in a penal amount of one hundred thousand dollars (\$100,000).

(c) The bond shall be conditioned that the surety be liable if the employer, as principal, fails to pay any expense to cover the cost for the State of California, or any other State, to re-test all drivers licensed based upon a commercial drive test conducted by the employer, in the event that the employer or one or more of its Examiners is involved in fraudulent activities related to

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conducting drive tests for commercial driver license applicants operating under the employer's Employer Number under Title 49, CFR, Section 383.75.

(d) The bond shall be subject to the Bond and Undertaking Law, Chapter 2 (commencing with Section 995.010) Title 14, Part 2, of the Code of Civil Procedure.

(e) The bond shall be considered a bond given as a condition of authorization to conduct drive testing for commercial driver license applicants who are employees of the employer, shall be continuous in form, remain in full force, and effect, and run concurrently with the employer's authority to conduct drive tests for commercial driver's license under Title 49, CFR, Section 383.75 and any and all renewals or until cancellation or withdrawal of the surety from the bond.

(f) The bond shall be a bond, and not a deposit in lieu of bond.

(g) The bond shall be submitted to the department on the DL 524 ETP form which has been approved by the California Attorney General under Government Code section 11110 through 11113.

(h) Governmental employers are exempt from the bond requirements.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code; and Part 383, of Title 49 of the Code of Federal Regulations.