TITLE 13: DEPARTMENT OF MOTOR VEHICLES

NOTICE IS HEREBY GIVEN
The Department of Motor Vehicles (department) proposes to amend Section 17.00 in Article 2.0, Chapter 1, Division 1, Title 13 of the California Code of Regulations, related to REAL ID-compliant driver’s licenses and identification cards.

PUBLIC HEARING
A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than fifteen (15) days prior to the close of the written comment period.

DEADLINE FOR WRITTEN COMMENTS
Any interested party or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than October 28, 2019, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulation.

AUTHORITY AND REFERENCE
The department proposes to adopt these regulations under the authority granted by Vehicle Code section 1651, in order to implement, interpret, or make specific Vehicle Code sections 681, 12800.7 and 12801.5, and Section 37.11, Title 6 of the Code of Federal Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW
The department adopted regulations, under the authority of Part 37, Title 6, of the Code of Federal Regulations (CFR), in 2017 to establish the process by which an applicant may apply to the department for issuance of a REAL ID-compliant driver’s license or identification card. Included in that adoption was Section 17.00 establishing the requirements for obtaining a driver’s license or identification card compliant with the REAL ID Act. Section 17.00, as initially adopted, required an applicant to submit one document that establishes their residency, which did not directly align with 6 CFR §37.11(f), which specifies that a person must present at least two residency documents. However, the department felt that the approach
proposed in Section 17.00 would be less burdensome on all applicants and consulted with the Department of Homeland Security (DHS) on whether California could mirror Wisconsin which implemented a similar procedure.

While DHS initially informed the department in June 2017 that this would be acceptable, in November 2018, they rescinded that approval. The DHS informed the department that not only would two residency documents be required of new applicants on a day forward basis but the department would need to collect additional documents from customers issued a REAL ID driver’s license or identification card who only provided one document.

The department has since amended Section 17.00 to require two residency documents and comply with the federal rules. However, between the time that the regulations were initially adopted and the time that the department began requiring two residency documents, a large number of Californians applied for and received a REAL ID-compliant driver’s license or identification card with only having provided one residency document.

On April 8, 2019, DHS granted California a temporary “grace period” to allow time for the department to come into compliance with the REAL ID Act. Effective April 29, 2019, the department began requiring all REAL ID applicants to submit two proofs of California residency. Additionally, to enable the department to come into compliance with the REAL ID Act, beginning on May 20, 2019, the department began mailing letters to existing REAL ID cardholders who applied for a REAL ID-compliant driver’s license or identification card prior to April 29, 2019, and who only submitted one document from the list of documents set forth in Section 15.01. The letter that the department is sending to existing REAL ID cardholders allows the cardholder to confirm their current California residency or provide additional proof of California residency. The cardholder may mail the letter or the additional proofs of California residency back to the department in a pre-paid envelope to satisfy their two proofs of California residency. This process will be the least burdensome to cardholders and will prevent them from having to visit a field office, however, to ensure compliance, this process must be established in regulation. On May 22, 2019, California was deemed REAL ID compliant by DHS.

**Anticipated benefits of this proposed action**
This action may benefit the welfare of California residents as compliance with the federal REAL ID rules will allow Californians continued access to commercial airlines and federal buildings.
CONSISTENCY AND COMPATIBILITY WITH STATE REGULATIONS
The department conducted a review of other regulations and has determined there are no other regulations related to the issuance of REAL ID-compliant driver’s licenses or identification cards. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

COMPARABLE FEDERAL STATUTES OR STATE REGULATIONS
Part 37 in Title 6 of the Code of Federal Regulations identifies documentation required for a person to apply for and receive a REAL ID-compliant driver’s license or identification card. The department adopted rules to clarify the identity and residency requirements in the federal rules.

DOCUMENTS INCORPORATED BY REFERENCE
There are no documents incorporated by reference.

ECONOMIC AND FISCAL IMPACT DETERMINATIONS
The department has made the following initial determinations concerning the proposed regulatory action:

- Cost or Savings to Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Effects on Housing Costs: None.
- Cost to any local agency or school district requiring reimbursement pursuant to Gov. Code section 17500 et seq.: None.
- Cost Impact on Representative Private Persons or Businesses: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This action ensures affected license holders are able to provide sufficient proof of residency while eliminating the need for the transaction to require a visit to a field office.
- Small Business Impact: This proposed action is unlikely to impact small business as this action only addresses license and identification card holders.
• **Local Agency/School District Mandate:** The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

• **Significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states:** The proposed regulatory action is not anticipated to have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This proposed action relates only to license and identification card holders.

**RESULTS OF THE ECONOMIC IMPACT STATEMENT**

The department has made the following determinations when assessing the economic impact associated with this proposed regulation:

The department has determined that this action will not impact 1) the creation or elimination of jobs within the State of California, 2) the creation or elimination of existing businesses within the State of California, or 3) the expansion of businesses currently doing business within the State of California, or 4) worker safety or the state’s environment.

This action may benefit the welfare of California residents as compliance with the federal REAL ID rules will allow Californians continued access to commercial airlines and federal buildings.

**PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS**

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

**ALTERNATIVES CONSIDERED**

The department must determine 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.
CONTACT PERSON
Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Randi Calkins, Regulations Analyst
Department of Motor Vehicles
Legal Affairs Division
PO Box 932382, MS C-244
Sacramento, CA 94232-3820

Any inquiries or comments concerning the proposed rulemaking action requiring more immediate response may use:

Telephone: (916) 657-8898
Facsimile: (916) 657-6243
E-Mail: LADRegulations@dmv.ca.gov

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

Shelly Johnson Marker, Chief of Staff
Department of Motor Vehicles
Telephone: (916) 657-6469

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS
The department has prepared an Initial Statement of Reasons for the proposed regulatory action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the Express Terms of the proposed regulatory action using underline or italics to indicate additions to, and strikeout to indicate deletions from the California Code of Regulations.

The contact person identified in this notice shall also make available to the public, upon request, the Final Statement of Reasons and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (the Notice of Proposed Regulatory Action, the Initial Statement of Reasons, and Express Terms) may be accessed at http://www.dmv.ca.gov/portal/dmv/detail/about/lad/regactions.
AVAILABILITY OF MODIFIED TEXT
Following the written comment period, and the hearing if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the fully modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Request for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.