

**State of California
Office of Administrative Law**

In re:
Department of Motor Vehicles

Regulatory Action:

Title 13, California Code of Regulations

Adopt sections:

Amend sections: 26.01, 26.02

Repeal sections:

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6**

OAL Matter Number: 2017-0411-03

OAL Matter Type: Emergency (E)

This action amends state commercial driver license (CDL) regulations to align with federal CDL regulations allowing CDL applicants to furnish an Employment Authorization Document (EAD) or a federal Customs Arrival/Departure Form I-94 as alternative documentation supporting the application for and issuance of a CDL. (See 49 C.F.R. § 383.71(f).)

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 4/19/2017 and will expire on 10/17/2017. The Certificate of Compliance for this action is due no later than 10/16/2017.

Date: April 19, 2017



**Mark Storm
Senior Attorney**

**For: Debra M. Cornez
Director**

**Original: Jean Shiomoto
Copy: Randi Calkins**

NOTICE PUBLICATION REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS Z-	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2017-0411-03E
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

APR 19 2017

1:36PM

2017 APR 11 A 9:03

OFFICE OF
ADMINISTRATIVE LAW

AGENCY WITH RULEMAKING AUTHORITY
Department of Motor Vehicles

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY		ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Commercial Driver's Licenses		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND 26.01, 26.02
TITLE(S) 13	REPEAL

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	


4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal	
<input type="checkbox"/> Other (Specify) _____			

7. CONTACT PERSON Randi Calkins	TELEPHONE NUMBER 916/657-8898	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) Randi.Calkins@dmv.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 4/10/2017
TYPED NAME AND TITLE OF SIGNATORY Jean Shiimoto, Director	

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ENDORSED APPROVED	
APR 19 2017	
Office of Administrative Law	

Express Terms

Title 13, Division 1, Chapter 1

Article 2.1 – Commercial Driver's Licenses

§ 26.01. Commercial Driver License Citizenship and Residency.

The department may not issue a commercial driver's license or commercial learner's permit to any person unless the person presents to the department proof of his or her ~~U.S. citizenship or lawful permanent residency~~ legal presence in the U.S., and proof of California residency.

(a) ~~Proof of~~ If a person is a U.S. citizenship or lawful permanent residency resident in the U.S., is established when a person presents any he or she shall submit one of the following genuine documents bearing his or her true full name to the department:

- (1) Valid, unexpired U.S. passport or passport card.
- (2) Certified copy of a birth certificate filed with a State Office of Vital Statistics or equivalent agency in the individual's state of birth; from Puerto Rico, on or after July 1, 2010; from the U.S. Virgin Islands, on or after January 17, 1917; from Guam, on or after April 10, 1899; or from American Samoa, or the Commonwealth of the Northern Mariana Islands, after November 4, 1986.
- (3) U.S. Certificate of Birth Abroad (FS-545, issued by the U.S. Department of State, or DS-1350, issued by the U.S. Department of State) or a Consular Report of Birth Abroad of U.S. Citizen (FS-240, issued by the U.S. Department of State).
- (4) Certificate of Naturalization (N-550, issued by the U.S. Department of Homeland Security, N-570, issued by the U.S. Department of Homeland Security, or N-578, issued by the U.S. Department of Homeland Security).
- (5) Certificate of Citizenship (N-560, issued by the U.S. Department of Homeland Security, N-561, issued by the U.S. Department of Homeland Security, or N-645, issued by the U.S. Department of Homeland Security).
- (6) A valid, unexpired Permanent Resident Card, issued by the United States Citizenship and Immigration Services (USCIS) or Immigration and Naturalization Service (INS).

(b) If a person cannot submit one of the documents listed in subsection (a), he or she may present one of the following documents bearing his or her true full name to the department.

- (1) A valid, unexpired employment authorization document (EAD), Form I-766, I-668A, or I-688B; or
- (2) A valid, unexpired foreign passport with an approved I-94 form.

Express Terms
Commercial Driver's Licenses

~~(b)(c)~~ To establish proof of California residency, the applicant for an original commercial driver's license or commercial learner's permit, a renewal of a commercial license or commercial learner's permit, or an upgrade or transfer of a commercial driver's license shall present to the department one of the following documents bearing the applicant's first and last name. With the exception of subsections ~~(b)(c)~~(19) and ~~(b)(c)~~(20), the document must list the applicant's first and last name and the California residence address must match the mailing address listed on the commercial driver's license application.

- (1) Rental or lease agreement with the signatures of the owner/landlord and the tenant/resident.
- (2) Deed or title to residential real property.
- (3) Mortgage bill.
- (4) Home utility bill including cellular phone bills.
- (5) School document as defined in Section 16.06(a)(1).
- (6) Medical document.
- (7) Employment document.
- (8) Faith-based documents that include the name and address of the issuing organization.
- (9) Insurance document, including medical, dental, vision, life, home, rental and vehicle.
- (10) Internal Revenue Service or California Franchise Tax Board tax return.
- (11) California Certificate of Vehicle or Vessel Title or registration.
- (12) Change of Address Confirmation by the United States Postal Service (Form CNL 107).
- (13) Document issued by a government within the U.S. or the U.S. government institution as defined in Section 16.02(b).
- (14) A property tax bill or statement.
- (15) Record of a financial institution as defined in Section 16.10(c)(16).
- (16) Voter registration confirmation letter or postcard issued by California Secretary of State or a local California county elections officer.
- (17) Proof of payment of resident tuition at a public institution of higher education located in California.
- (18) An original or copy of an approved Claim for Homeowner's Property Tax Exemption (Form BOE-266) filed with a local California County Assessor.
- (19) Court document that lists the applicant as a resident of California.

Express Terms

Commercial Driver's Licenses

(20) A letter, on letterhead from a homeless shelter, a shelter for abused women, a nonprofit entity, a faith-based organization, an employer, or a government within the United States attesting that the applicant resides in California.

~~(e)~~(d) Notwithstanding subsection ~~(b)~~(c), a parent, a legal guardian, or a child may use a birth certificate and a spouse or domestic partner may use a marriage license or domestic partner registration certificate to trace his or her relationship to the individual to whom a residency document listed in subsection ~~(b)~~(c) has been addressed.

~~(d)~~(e) The department may determine additional documents that will assist in verifying an applicant's true California residency on a case-by-case basis.

Note: Authority cited: Sections 1651 and 15250, Vehicle Code. Reference: Sections 12505, 12809 and 15250, Vehicle Code; and Sections 383.71 and 383.73 of Title 49 of the Code of Federal Regulations.

§ 26.02. Citizenship and Residency Proof for Issuance, Renewal, Transfer or Upgrade of Commercial Learner's Permit or License.

(a) If the department verifies the U.S. citizenship or lawful permanent residency of a license or permit holder and records the date of that verification in the department record associated with the license or permit holder, the department may rely on this record as proof of citizenship or lawful permanent residency.

(b) If the department does not have a record of prior verification of U.S. citizenship or lawful permanent residency for any license or permit holder, the proof must be submitted pursuant to section 26.01.

(c) A commercial driver's license or commercial learner's permit issued to a person submitting documents pursuant to 26.01(b) will be termed to expire on the same date as the expiration date on the valid DHS document. The person may not renew or upgrade without submitting a document pursuant to 26.01(a) or (b).

~~(e)~~(d) Proof of residency is required for each issuance, renewal, transfer or upgrade of any commercial learner's permit or commercial driver's license.

Note: Authority cited: Sections 1651 and 15250, Vehicle Code. Reference: Section 15250, Vehicle Code; and Sections 383.71 and 383.73 of Title 49 of the Code of Federal Regulations.