

## Statement of Reasons for the Modified Express Terms

### Title 13, Division 1, Chapter

#### Article 5 – Requesting Information from the Department

##### § 350.02. Definitions.

Subsection (h) is amended to make clear that a governmental entity that does not satisfy the criteria provided under the definition of a Government Entity, such as a federally recognized tribe or a foreign government, can still apply or a Commercial Requester Account.

Subsection (o) is revised to adopt the definition of a “professional or occupational license” as a license, certificate, registration, or other authorization issued by a state board, commission, department, or officer, permitting an individual to legally engage in a specific business or profession. This term is used in Section 350.16(a)(9).

Subsections (o) through (q) are renumbered to subsections (p) through (r), respectively.

Subsection (s), formerly subsection (r), related to Special Permit, is being amended to add a one-time permit fee of \$10,000 at the time of application. This requirement is existing regulatory text as found on and adopted by the Commercial Requester Account Application, form INF 1106, (Rev. 2000) but was inadvertently missed when the contents of the INF 1106 were moved into the regulations. This a non-substantive change to move previously approved regulatory text from the form to the text of the regulation. This change does not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulation provision.

Subsections (s) and (t) are renumbered to subsections (t) and (u), respectively.

##### § 350.16. Information Required on a Commercial Requester Application for a Requester Code.

Subsection (a) contains a non-substantive grammatical correction to the word “department” by revising to “department’s”.

Subsection (a) is amended in several places to ensure consistency in terminology by using the word “applicant.” Those revisions were made in subsection (a)(3) [formerly subsection (a)(2)], subsection (a)(4) [formerly subsection (a)(3)], subsection (a)(5), subsection (a)(6), subsection (a)(7) [formerly subsection (a)(8)], subsection (a)(11) [formerly subsection (a)(12)], subsection (a)(15), and subsection (a)(16).

Subsections (a)(6) is amended to make a non-substantive change to remove the capitalization on the term “service provider.”

Subsection (a)(18) is amended to remove the requirement of a description of the person’s position within the commercial requester entity. This information is not required at this point of the application process.

Subsection (b) is amended to capitalize the term “Commercial Requester Account” to ensure consistency with the definition. Furthermore, subsection (b) is amended to remove reference to the Information Services Branch in Sacramento. That branch has been renamed.

§ 350.18. Additional Requirements for a Commercial Requester Application for a Requester Code.

Subsection (a) is repealed. As currently written, subsection (a) references the Commercial Requester Account Agreement, form INF 1108. The form is outdated and no longer used by the department as part of the application process. All the provisions in the form are found elsewhere in Article 5.0 or in related statutes. Attached is a summary of the Agreement provisions and the corresponding regulation or statute.

#### A. General Provisions

Provision A.1. establishes that the Agreement is between the department and the requester. This provision is not carried over due to lack of necessity. The application process and the issuance of a requester code is sufficient to establish the connection between the account holder and the department.

Provision A.2. notes the Requester shall submit a completed application to receive information. This provision is no necessary as Section 350.16 establishes the application process.

Provision A.3. notes the term of the agreement shall be for twenty-four months from the date of application approval. This provision is not necessary as it is inconsistent with Section 350.26(b) establishes the term of a requester code as being issued for two years, which is not necessarily consistent with twenty-four months.

Provision A.4. notes the agreement is subject to any restrictions, limitations, or provisions enacted by the California State Legislature which may affect the provisions or terms set forth. This provision is found in existing text in Section 350.18(b)(1), renumbered to subsection (a)(1), due to the removal of subsection (a).

Provision A.5. notes the requester and its officers, agents, and employees shall act on behalf of the requester and not as officers, agents, or employees of the department. The department also determined this provision is not necessary due to the application process.

Provision A.6. contains an indemnification clause. This provision is found in Section 350.18(b)(5), renumbered to subsection (a)(5), due to the removal of subsection (a).

Provision A.7. notes the agreement is not assignable by the requester without prior written consent of the department. This provision is in existing Section 350.18(b)(2), renumbered to subsection (a)(2), due to the repeal of subsection (a).

Provision A.8a. requires promotional or informational material related to the department access to be accurate and consistent with Agreement and shall only contain factual statements relating to the purpose and conditions of access. This section is removed because it references the agreement, which is no longer required. The remaining provisions is consistent with Section 350.52(a)(12) prohibiting the account holder from publishing any false or misleading advertising related to the purchase of information from the department.

Provision A.8b. prohibits the requester from using the DMV logogram in advertising or other business materials used by the requester and prohibits any use of the letters "DMV" from being used in a manner that one could infer any official connection between the department and the advertiser. This prohibition is listed in Section 350.52(a)(13).

#### *B. Information Use*

Provision B.2. prohibits a requester from selling or transferring ownership of a vehicle or vessel if the information received reflects a status of a Department of Justice (DOJ) stop. The requester is required to notify the local police department regarding the vehicle or vessel whenever its location is known. This provision is already adopted in Section 350.18(b)(3).

#### *C. Security*

##### Provision C.1.

Provision C.2. requires a requester who sells information to another requester to maintain a monthly record of the request, including the date, the information requested, and the identity of the end user for a period of two years. The two- year requirement identified on the agreement is

outdated. Section 350.48(b) contains the same information retention requirements but for a period of five years.

Provision C.3. requires a requester who is an end user and receives residence address to maintain that information for a period of two years and maintain monthly records on inquiries, including specified information. Section 350.48(c) already contains the requirements and in greater detail.

Provision C.4. requires the requester to submit to electronic or manual audits at the discretion of the department on one business day notice. This provision is already adopted in Section 350.50(b), however, Section 350.50(b) requires the records to be made available immediately.

Provision C.4. requires the requester to agree to allow on-site audits during business hours. This provision is also contained in Section 350.50(b), requiring the business to be open to an audit of the records during normal business hours.

Provision C.4. requires the requesters records to be available for a period of two years. This provision is contained in Section 350.48(c), requiring records to be retained for a period of two years.

Provision C.4. requires the requester, upon account suspension or revocation, to surrender records to the department no later than the third business day after the date of the suspension. This provision is consistent with the requirements of Section 350.53(a).

Provision C.4. requires the department to provide a copy of the surrendered records to the requester no later than 60 days from the date of surrender. This provision is consistent with the requirements of Section 350.53(c).

Provision C.5. requires the requester to maintain the security and integrity of the information it receives. Provision C.5. also explains that violations of this provision will be grounds for action by the department. This provision is consistent with Vehicle Code section 1808.47 requiring any person who has access to confidential information to protect the confidentiality of those records. As part of the application process, the requester also requires the requester to establish procedures to protect the department's confidential records and Section 350.20 requires the requester to pay to the department all civil damages occasioned to the department due to the failure to protect confidential records.

Provision C.6. requires address information to be placed in a manner that the information cannot be viewed by the public. This provision is consistent with Vehicle Code section 1808.47 requiring the requester to develop procedures to protect the confidential records they access.

Provision C.7.a. and C.7.b. contain certifications to be completed by a requester who will access residence addresses. Certification C.7.a. is signed by a requester who is a financial institution, a self-insured requester, an insurance company, an attorney, a vehicle manufacturer, a vehicle manufacturer's agent, a vehicle dealer, a vehicle dealer's agent. Certification C.7.b. is signed by a requester who is not an entity identified in the previous certification criteria. This information is a part of the application process.

#### D. Fees

Provision D.1. requires the requester to pay fees specified in the regulations. This provision is not necessary as payment of fees are a part of the application process and the fees are already contained in Section 350.44.

Provision D.2. specifies that the requester will be billed monthly and the bill shall be paid in full. Provision D.2. requires that, if an account remains unpaid for sixty days after the date of invoice, the requester account will be revoked. Provision D.2. also provides for a dispute process that will prevent the requester code from being revoked. This provision is consistent with Section 350.46(a).

Subsection (b) is renumbered to subsection (a) and an additional amendment is made to remove the words "agreement includes" and replace with "applicant agrees."

Subsection (a)(1) and (a)(2) are amended to remove references to the agreement and replace with the term "commercial requester account." The applicant will not complete an agreement, however, they will be required to comply with the program requirements provided in the regulation and associated statutes.

Subsection (a)(4) is amended to remove reference to the Security Statement, form INF 1110. The correct form will be the Information Security Statement, form INF 1128, which is incorporated by reference in Section 350.34(d).

Subsection (c) is repealed. The text requires the applicant to sign the agreement and provide an indication of the city, county, and state in which the

document was executed. The agreement is no longer used by the department so subsection (c) is not necessary.

§ 350.20. Certifications Required with Commercial Requester Applications for Access to Residence Address Information.

The NOTE section contains a non-substantive amendment to remove an unnecessary space in the reference to Civil Code section 1798.24.

§ 350.28. Commercial Requester Code Holder's Request for Information.

Subsection (a) is amended to clarity that media requests are to be made by telephone. The department no longer accepts in person information requests.

§ 350.34. Additional Security Requirements for Online Access.

Section 350.34 contains a non-substantive amendment to remove the word "On-line" and replace with "online." The department made corresponding changes throughout the regulations and provided them for the 45-day comment period, however, the reference in Section 350.34 was inadvertently missed.

Subsections (c) and (d) are amended to update the reference and revision date of the form INF 1128. Current regulation identifies the form INF 1128 as the Employee Information Security Statement. The form name is changed to the Information Security Statement and the new revision date is 7/2025. Changes to the INF 1128 are as follows:

- The words "Information Services Branch" is removed from the top of the form.
- The federal law reference under item 4 is revised to ensure the words on the form are consistent with the federal law.
- The second page of the form is revised to correct the capitalization on the word "Government."

§ 350.36. Casual Requests for Information.

Subsection (a) is amended to remove reference to a commercial request account being made in person at a field office. All casual requests are required to be submitted by mail or electronically through the department's website. Field offices no longer process casual requesters.

§ 350.38. Identification of Casual Requesters.

Subsection (a) is amended to remove reference to casual requests being made in person. All casual requests are required to be submitted by mail or through

the department's website, as provided in Section 350.36. The department no longer accepts information requests in person at field offices.

§ 350.44. Cost of Information.

Subsection (c)(2) is amended to remove reference to requests being made in person. The department no longer accepts information requests in person at field offices.

§ 350.47. Requester Code Holder – Electronic Access.

Section 350.47 is amended to remove the term "Upon the effective date of the regulation," due to lack of necessity.

Subsection (b) is amended to add the word "and" at the end of the subsection.