



U.S. Department
of Transportation

Federal Motor Carrier
Safety Administration

1200 New Jersey Ave, SE
Washington, DC 20590

October 15, 2025

Via Electronic Mail and UPS
The Honorable Gavin Newsom
Governor of California
1021 O Street, Suite 9000
Sacramento, CA 95814

Via Electronic Mail and UPS
Alicia Fowler, Esq.
General Counsel
California State Transportation Agency
400 Capitol Mall, Suite 2340
Sacramento, CA 95814

NOTICE OF FINAL DETERMINATION OF NONCONFORMITY

Dear Governor Newsom and Ms. Fowler:

The Federal Motor Carrier Safety Administration (FMCSA) served the State of California a Notice of Proposed Determination of Nonconformity pursuant to 49 U.S.C. § 31102 and 49 CFR § 350.231 (Notice) on August 26, 2025. The Notice proposed a finding of noncompliance with the Motor Carrier Safety Assistance Program (MCSAP) qualifying conditions and served as formal notice of potential sanctions. FMCSA reviewed California's Response to the August 26, 2025, Notice of Proposed Determination of Nonconformity (Response). After considering California's Response, FMCSA has made a Final Determination of Nonconformity, finding that California is not performing in accordance with its approved Fiscal Year 2024 and Fiscal Year 2025 Commercial Vehicle Safety Plans (FY24 and FY25 CVSPs) and is not adequately meeting the qualifying conditions for MCSAP participation. Specifically, FMCSA has determined that California has not adopted a compatible law, regulation, standard, or order to implement the English language standard in 49 CFR § 391.11(b)(2) adequately. California has failed to comply with the MCSAP compatibility requirements that California has certified in its mandatory annual MCSAP CVSPs. Therefore, pursuant to 49 CFR § 350.231, FMCSA is withdrawing approval of California's FY24 and FY25 CVSPs effective October 15, 2025. Therefore, no expenses incurred after October 15, 2025, and vouchered for reimbursement from FY24 or FY25 MCSAP funding will be approved and paid.

To remain eligible for MCSAP funding, a State must adopt and enforce laws, regulations, standards, and orders on commercial motor vehicle (CMV) safety that are compatible with the Federal Motor Carrier Safety Regulations (FMCSRs) in 49 CFR parts 390, 391, 392, 393, 395, 396, and 397. 49 CFR § 350.207(a)(2). This includes requiring CMV drivers to "read and speak the English language sufficiently to converse with the general public, to understand highway

traffic signs and signals in the English language, to respond to official inquiries, and to make entries on reports and records.” 49 CFR § 391.11(b)(2).

The English language proficiency standard in 49 CFR § 391.11(b)(2) is not a new requirement; it has been a core component CMV safety since 1970—prior to the existence of the MCSAP.¹ Thus, California’s obligation to have a compatible law, regulation, standard, or order predates by decades the President’s Executive Order 14286, “Enforcing Commonsense Rules of the Road for America’s Truck Drivers”² and the Commercial Vehicle Safety Alliance’s (CVSA) June 25, 2025 amendment of the North American Standard Out-of-Service Criteria to include 49 CFR § 391.11(b)(2) (English Language Proficiency (ELP)) as an out-of-service violation.³

As a MCSAP-participating State, California is required to adopt and enforce laws, regulations, standards, or orders compatible with the ELP requirement. 49 CFR § 350.303(a)–(c). FMCSA notified California that the enforcement of the ELP standard includes both administering ELP assessments and placing drivers who fail those assessments out of service. California’s argument that its driver licensing laws, regulations, standards, and orders are identical to or have the same effect as the FMCSRs is inapposite to the obligation under MCSAP identified by FMCSA for several reasons. First, California conflates its responsibilities under the commercial driver’s license (CDL) program with its responsibilities under MCSAP.⁴ Compliance with the CDL testing standards in 49 CFR parts 383 and 384 is not part of the MCSAP program. 49 CFR §§ 350.105 (definition of “FMCSRs”), 350.207(a)(2). In addition, assuming *arguendo* that California’s assurance that conducting CDL skills tests in English and requiring driver’s license applicants to be able to read and understand highway traffic and directions signs is sufficient to ensure drivers’ compliance with 49 CFR § 391.11(b)(2), as a MCSAP-participating State, California’s obligation to enforce the ELP requirements in 49 CFR § 391.11(b)(2) does not cease after its issuance of a license. California’s licensure procedures are demonstrably inadequate to enforce 49 CFR § 391.11(b)(2).⁵ FMCSA data collected from June 25, 2025 to October 2, 2025 shows that 474 unique California-licensed drivers have been cited in other States for ELP violations. Moreover, California’s reliance on its State driver licensing laws fails to address the English proficiency of the thousands of interstate drivers licensed in other jurisdictions who operate within California’s borders each day. The ELP requirement is a continuing safety obligation, and its enforcement must be equally continuous.

¹ See Miscellaneous Amendments, 35 Fed. Reg. 6458, 6461 (Apr. 22, 1970).

² 90 Fed. Reg. 18759 (Apr. 28, 2025).

³ California asserted that 49 CFR § 385.4(b)(1) expressly incorporates by reference the CVSA out-of-service criteria into the FMCSRs. This is incorrect. FMCSA has only incorporated by reference the CVSA out-of-service criteria for commercial highway vehicles transporting transuranics and highway route controlled quantities of radioactive materials. Accordingly, California’s related arguments are misplaced and will not be addressed. See 49 CFR § 385.4(b).

⁴ Compare 49 U.S.C. § 31102(c) (MCSAP responsibilities) with 49 U.S.C. § 31311(a) (CDL program responsibilities).

⁵ California argues that drivers holding a California-issued CDL were involved in fatal crashes at a rate 39.4% lower than the National average while drivers holding a Texas-issued CDL were involved in fatal crashes at a rate almost 50% higher than drivers holding a California-issued CDL. However, the issue is whether California is enforcing ELP violations, not what its fatal crash rate may be. Therefore, FMCSA finds that this argument is irrelevant.

California also argued that no Federal regulation explicitly requires that ELP be established through roadside inspections and that 49 CFR § 391.11(b)(2) has not been amended to impose such a requirement. The Response explained that California follows the April 2024 version of the CVSA's out-of-service criteria, which does not include non-compliance with 49 CFR § 391.11(b)(2) as an out-of-service criteria, and that the latest version will not be incorporated until the next annual review process in April 2026.

California's arguments are misplaced, and a delay until April 2026 is unacceptable. As noted previously, the ELP standard in 49 CFR § 391.11(b)(2) has not changed and the requirement is a continuing safety obligation. There is no basis for delayed enforcement of this core safety regulation. As a MCSAP-participating State, California is required to conduct inspections necessary to enforce compatible laws, regulations, standards, and orders on CMV safety. In this regard, it is well settled that the National MCSAP elements include "driver inspections," which occur at roadside, and that States are required to have adequate legal authority to perform those inspections. 49 CFR §§ 350.203, 350.207(a)(6). Yet, FMCSA data demonstrates that California is not fulfilling its obligation. From June 25, 2025 through August 21, 2025, California inspectors conducted 69,268 inspections, 34,069 of which resulted in at least one violation. Of those 34,069 inspections, only one contained a violation relating to ELP (391.11B2-S, 391.11B2-Q, 391.11B2-Z).⁶

Lastly, in FY24, during California's MCSAP National Program Review, the State reported that it adopted and enforced laws, regulations, standards, and orders that are compatible with the FMCSRs as a condition of continued MCSAP eligibility. In support of that statement, California provided FMCSA with a copy of the California Highway Patrol's (CHP) Commercial Enforcement Manual (Manual). However, the Manual states:

Title 49, Code of Federal Regulations (CFR), Section 391.11, requires the operator of a CMV to be able to read and write the English language. This regulation is not adopted by California; therefore, this requirement shall not be enforced or appear on the CHP 407F, CHP 343A, or any enforcement document.⁷

The CHP Commercial Enforcement Manual shows that, for FY24, California failed to adopt and enforce State laws, regulations, standards, or orders compatible with the ELP requirement in § 391.11(b)(2). Since then, California has not provided, nor has FMCSA received, any information indicating that the Manual has been updated to require roadside enforcement of the ELP requirement in § 391.11(b)(2).

Although California asserts that it enforces compatible laws on the ELP requirement prior to issuing a commercial driver's license, as the above analysis establishes, its Response fails to adequately explain how the State ensures continued enforcement of that requirement after a

⁶ In its Response, California stated that the CHP's records do not support the data FMCSA presented. However, FMCSA compiled this data on August 19, 2025, from the roadside inspection reports California submitted through the Motor Carrier Management Information System (MCMIS), as required under 49 CFR 350.207(a)(12). Further, FMCSA notes that California did not submit any additional data from CHP in its Response.

⁷ See CHP Commercial Enforcement Manual at page 3-4.

license is issued. Further, the number of California-licensed drivers cited for violations of 49 CFR § 391.11(b)(2) demonstrates that reliance on the CDL skills test alone is insufficient to ensure compliance with the ELP standard prior to licensing. Accordingly, California's claimed adherence to the CDL skills testing requirement not only fails to establish adequate enforcement of 49 CFR § 391.11(b)(2), but also overlooks the obligation to ensure that all interstate drivers operating within California, regardless of where they are licensed, meet the ELP requirement. FMCSA has therefore determined that California has falsely certified in its annual CVSP submissions that it has adopted and is enforcing a compatible law, regulation, standard, or order necessary to implement the ELP requirement in § 391.11(b)(2). As a result, California is not in compliance with the MCSAP compatibility requirements.

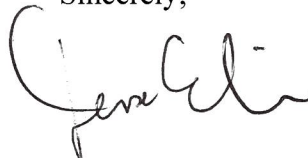
Therefore, pursuant to 49 CFR § 350.231, FMCSA is withdrawing approval of California's FY24 and FY25 CVSPs effective October 15, 2025. As such, vouchers submitted for approval for expenses incurred after this date will be ineligible for MCSAP reimbursement from FY24 or FY25 grant funding. In addition, FMCSA will neither approve California's FY26 CVSP nor award the State any FY26 MCSAP funding. FMCSA will continue to withhold approval of the California's FY26 CVSP nor award FY26 MCSAP funding until California adopts and enforces a law, regulation, standard, or order that is compatible with the ELP requirement in 49 CFR § 391.11(b)(2).

FMCSA is deeply disappointed by California's delayed enforcement and obfuscation in addressing its clear non-compliance with a fundamental safety regulation. The State of California's inaction on a fundamental safety regulation disregards the shared responsibility between FMCSA and its State partners to uphold the uniform enforcement of the FMCSRs. Partnership with States through MCSAP funding is central to FMCSA's mission because it enables States to conduct critical roadside inspections, compliance reviews, and enforcement actions that prevent crashes and save lives. FMCSA depends on its State partners to apply these resources responsibly and in full alignment with Federal requirements. California's failure to do so undermines not only the safety of its own roadways but also the longstanding cooperative framework that underpins the National framework of advancing CMV safety.

While FMCSA regrets that withholding Federal funds has become necessary, the Agency remains committed to working with California officials and stands ready to restore funding as soon as California begins full enforcement and compliance with Federal safety requirements.

Please direct all questions regarding this Notice to Philip Thomas, Deputy Associate Administrator for Safety, at philip.thomas@dot.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Jesse Ellison", with a stylized flourish at the end.

Jesse Ellison
Chief Counsel