



U.S. Department
of Transportation

Federal Motor Carrier
Safety Administration

1200 New Jersey Ave, SE
Washington, DC 20590

October 20, 2025

Via Electronic Mail and UPS

The Honorable Bob Ferguson
Office of the Governor
PO Box 40002
Olympia, WA 98504

Chief John R. Batiste
Washington State Patrol
PO Box 42600
Olympia, WA 98504

**NOTICE REQUESTING ADDITIONAL INFORMATION FOR PROPOSED
DETERMINATION OF NONCONFORMITY**

Dear Governor Ferguson and Chief Batiste:

The Federal Motor Carrier Safety Administration (FMCSA or Agency) served the State of Washington 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 Washington State Patrol's Response to U.S. Department of Transportation's Notice of Proposed Determination of Nonconformity (Response). After considering the Response, FMCSA is requesting additional information for its consideration in determining whether Washington is performing in accordance with its approved Commercial Vehicle Safety Plan (CVSP) and is adequately meeting the qualifying conditions for MCSAP participation.

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 commercial motor vehicle 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, Washington's obligation to have a compatible law predates by decades the President's Executive Order 14286, "Enforcing Commonsense Rules of the Road for America's Truck Drivers" 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.

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

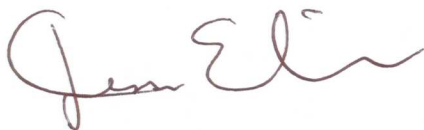
As a MCSAP-participating State, Washington is required to adopt and enforce compatible laws with the ELP requirement. 49 CFR § 350.303(a)–(c). FMCSA notified Washington that the enforcement of the ELP standard includes both administering ELP assessments and placing drivers who fail those assessments out-of-service. In its Response, Washington acknowledged its responsibility to enforce the ELP requirement for CMV drivers operating in Washington and described new policies, training, and oversight to ensure compliance with the ELP requirements. Washington's new policies were effective September 25, 2025, and training will be completed within weeks of the notification of all CVSA-certified officers.

Based on the corrective action described in the Response, FMCSA has determined that Washington's plan appears to demonstrate compliance with the MCSAP compatibility requirements and the qualifying conditions for MCSAP participation. However, before FMCSA issues a Final Determination, the Agency is requesting evidence of the plan's implementation and results. Specifically, please include a summary of all ELP-related violations issued since September 25, 2025, the date of implementation of Washington's new policies. In addition, please provide more details regarding the training described in the plan, including a copy of the training curriculum and statistics regarding the number of State Patrol employees who have completed the new training.

Washington has 30 days from the date of this Notice Requesting Additional Information to respond. The response should be sent to me at the above address or by email to Jesse.Elison@dot.gov. After reviewing the State's reply, the FMCSA Administrator will issue a final agency decision. Failure to respond within 30 days will result in the August 26, 2025 Notice becoming the Administrator's final determination of nonconformity.

FMCSA remains committed to working with Washington officials and stands ready to assist the State to ensure its full enforcement and compliance with federal safety requirements. Please direct all questions regarding this Final Determination to Philip Thomas, Deputy Associate Administrator for Safety, at philip.thomas@dot.gov.

Sincerely,

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

Jesse Elison
Chief Counsel
Federal Motor Carrier Safety Administration