U.S. Department
of Transportation

Federal Motor Carrier
Safety Administration

1200 New Jersey Ave, S.E.
Washington, D.C. 20590

November 13, 2025

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

Mr. Steve Gordon, Director
California Department of Motor Vehicles
2415 1st Avenue
Mail Station F101
Sacramento, CA 95818

CONDITIONAL DETERMINATION

Dear Governor Newsom and Mr. Gordon:

The U.S. Department of Transportation's Federal Motor Carrier Safety Administration (FMCSA or Agency) served the State of California a Preliminary Determination of Noncompliance (preliminary determination) in accordance with 49 CFR § 384.307(b) on September 26, 2025. The preliminary determination proposed a finding that DMV has failed to meet the requirement for substantial compliance with the standards for issuing non-domiciled commercial learner's permits (CLPs) and commercial driver's licenses (CDLs)[1] set forth in 49 CFR § 384.212.[2] FMCSA reviewed California's "Response to the September 26, 2025, Letter Regarding Commercial Learning Permit and Commercial Driver's License Issuance" (Response), which

[1] FMCSA notes that California issues non-domiciled CLPs and CDLs as "limited term" CLPs and CDLs. However, this conditional determination uses the term "non-domiciled" CLPs and CDLs to ensure consistent terminology with Federal regulations.

[2] On September 29, 2025, FMCSA issued an interim final rule (IFR) amending Federal regulations in 49 CFR Parts 383 and 384 applicable to State Driver's Licensing Agencies' (SDLAs) issuance of non-domiciled CLPs and CDLs. *See* Restoring Integrity to the Issuance of Non-Domiciled Commercial Drivers Licenses, 90 Fed. Reg. 46509 (Sept. 29, 2025). On November 10, 2025, the U.S. Court of Appeals for the District of Columbia Circuit issued an Order in *Lujan v. FMCSA*, Case No. 25-1215, that administratively stayed the IFR until further notice. Because the transactions detailed in the preliminary determination occurred prior to publication of the IFR, the regulations cited in this conditional determination reflect the pre-IFR text of Parts 383 and 384, specifically the 2024 edition of Title 49 of the Code of Federal Regulations, which is currently in effect.

DMV submitted on October 26, 2025. FMCSA also convened an informal conference on October 30, 2025 with Director Gordon and other DMV representatives to provide California an opportunity to inform FMCSA of its implemented or planned corrective actions, as well as present or discuss any other information for FMCSA's consideration. Further, through email and telephonic communications that occurred on November 5 and 6, 2025, DMV provided information about its action to rescind approximately 17,000 noncompliant non-domiciled CLPs and CDLs.

FMCSA issues this conditional determination after considering DMV's action to rescind approximately 17,000 noncompliant non-domiciled CLPs and CDLs. FMCSA will base its final determination on DMV's implementation of the required corrective actions set forth in the preliminary determination. DMV must provide FMCSA evidence of its corrective action plan implementation as set forth in section III below. DMV's failure to implement, or undue delay in implementing, the required corrective actions will result in FMCSA issuing a Final Determination of Substantial Noncompliance and withholding up to four percent of certain Federal-aid Highway funds as well as possible decertification of California's CDL program, as described in section III.

I. Background

The Commercial Motor Vehicle Safety Act of 1986,[3] as amended, established performance standards with which State CDL programs must comply to avoid having amounts withheld from Highway Trust Fund apportionment under 49 U.S.C. § 31314 and to avoid CDL program decertification under 49 U.S.C. § 31312.[4] In this regard, States are required to be in substantial compliance with the requirements of 49 U.S.C. § 31311(a) and its implementing regulations in 49 CFR part 383 and part 384, subpart B. Under 49 CFR § 384.301(a), to be in substantial compliance with 49 U.S.C. § 31311(a), a State must meet each and every standard of part 384, subpart B by means of "the demonstrable combined effect of its statutes, regulations, administrative procedures and practices, organizational structures, internal control mechanisms, resource assignments (facilities, equipment, and personnel), and enforcement practices." As part of its oversight, FMCSA conducts comprehensive Annual Program Reviews (APR) of State CDL programs, in accordance with 49 CFR § 384.307, to verify that States are in substantial compliance.

Under 49 U.S.C. § 31311(a)(12)(B)(ii), States are authorized to issue non-domiciled CDLs, but they must do so in accordance with regulations prescribed by FMCSA. The Agency's regulations in effect at the time that the transactions detailed on the preliminary determination occurred provided that States that issue non-domiciled CLPs and CDLs may only accept as valid proof of lawful presence (i) an unexpired employment authorization document (EAD) issued by the United States Customs and Immigration Service (USCIS) or (ii) an unexpired foreign passport accompanied by an approved I-94 form documenting the driver's most recent admittance into the United States (hereinafter "lawful presence documents").[5] In addition, State procedures for

[3] 49 U.S.C. § 31301 *et seq*.

[4] 49 U.S.C. § 31311(a).

[5] 49 CFR §§ 383.71(f)(2)(i), 383.73(f)(3), 384.201, 384.212(b).

issuing, renewing, or upgrading a non-domiciled CLP and CDL must, at a minimum, be identical to those pertaining to any other CLP or CDL.[6]

The requirement that States accept as valid only *unexpired* lawful presence documents also required States to make the period of validity of the non-domiciled CLP or CDL less than or equal to the period of validity of the driver's lawful presence document(s). In other words, because FMCSA's regulations considered only unexpired lawful presence documents to be valid, DMV was required to ensure that the non-domiciled CLP or CDL period of validity *did not exceed* the expiration of the driver's lawful presence documents. Therefore, State driver's licensing agencies were required to ensure that the validity of non-domiciled CLPs or CDLs did not exceed the expiration date of drivers' lawful presence documents specified in 49 CFR § 383.71(f)(2)(ii).

In addition, with one exception, States may not issue a non-domiciled CLP or CDL to citizens of Mexico or Canada. In this regard, FMCSA has determined that the Canadian Provinces and Territories issue CDLs in accordance with standards that are consistent with 49 CFR part 383.[7] Citizens of Canada are authorized to operate a commercial motor vehicle in the United States with a Canadian CDL and, therefore, are prohibited from obtaining a non-domiciled CDL. Similarly, FMCSA has determined that the United Mexican States issues Licencias Federales de Conductor (Mexican CDLs) in accordance with standards that are consistent with 49 CFR part 383.[8] Citizens of Mexico are authorized to operate a commercial motor vehicle in the United States with a Mexican CDL and, therefore, are prohibited from obtaining a non-domiciled CDL within the United States. FMCSA issued guidance stating that citizens of Mexico who are present in the United States under the Deferred Action for Childhood Arrivals (DACA) program are excepted from the prohibition.[9] While the guidance is in effect, States are permitted to issue a non-domiciled CLP or CDL to citizens of Mexico or Canada *only* if they are present in the United States under the DACA program. FMCSA has not identified any other exceptions to this general prohibition.

FMCSA initiated an APR of DMV's CDL program in August 2025 (2025 APR) in accordance with 49 U.S.C. § 31311 and 49 CFR § 384.307. As set forth in the September 26, 2025 preliminary determination of the non-domiciled driver records sampled during the 2025 APR, FMCSA found that approximately 25 percent failed to comply with requirements in 49 CFR parts 383 and 384. The 2025 APR uncovered evidence of systemic policy, procedural, and programming errors. In this regard, of the driver records sampled, FMCSA observed a substantial number of transactions where DMV issued non-domiciled CLPs and CDLs that exceeded the expiration date of the driver's lawful presence document(s) and issued non-

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[6] *Id*. at § 383.73(f)(2).

[7] The Canadian Provinces and Territories issue CDLs in conformity with the Canadian National Safety Code. Since December 29, 1988, FMCSA has determined that the Canadian National Safety Code is in accordance with the standards set forth in 49 CFR part 383. *See* 49 CFR §§ 383.23, fn. 1; 383.71(f)(1)(i); and 383.73(f)(1).

[8] *See id.*

[9] *See* https://www.fmcsa.dot.gov/registration/commercial-drivers-license/may-state-drivers-licensing-agency-sdla-issue-non-domiciled. FMCSA rescinded this guidance on September 29, 2025, as part of the IFR. However, due to the administrative stay of the IFR, this guidance remains in effect.

domiciled CDLs to citizens of Mexico who are not present in the United States under the DACA program at the time of issuance. In addition, through FMCSA's review of DMV's training manuals and discussions with DMV personnel during the 2025 APR, the Agency discovered that DMV continued to have a policy of issuing "temporary" CLPs and CDLs to drivers pending final determination of the driver's eligibility for a commercial credential and without reporting the issuances to the Commercial Driver's License Information System (CDLIS) as required in 49 CFR §§ 384.212 and 384.225.

FMCSA found that the repeated errors discovered during the 2025 APR evinced an unacceptable deviation from FMCSA's regulations when issuing non-domiciled CLPs and CDLs and indicated a systemic breakdown in DMV's issuance process for non-domiciled CLPs and CDLs. Accordingly, as set forth in the preliminary determination, FMCSA determined that DMV must take the following immediate corrective actions:

- Immediately pause issuing non-domiciled CLPs and CDLs;
- As soon as practicable, identify all unexpired non-domiciled CLPs and CDLs that were not issued in compliance with parts 383 and 384;
- Conduct an internal audit to identify all procedural and programming errors; training and quality assurance problems; insufficient policies and practices; and other issues that have resulted in widespread noncompliance in issuing non-domiciled CLPs and CDLs;
- Notify FMCSA of the audit findings and the number of unexpired noncompliant non-domiciled CLPs and CDLs;
- Take immediate action to correct the deficiencies identified in DMV's internal audit and in the preliminary determination;
- Take immediate action to void or rescind all unexpired noncompliant non-domiciled CLPs and CDLs and reissue the licenses in accordance with parts 383 and 384 in effect at the time of the reissuance;
- Resume issuing non-domiciled CLPs and CDLs only after the State ensures that all statutes, regulations, administrative procedures and practices, organizational structures, internal control mechanisms, resource assignments (facilities, equipment, and personnel), and enforcement practices meet each and every standard of subpart B of part 384 and 49 U.S.C. § 31311.

The preliminary determination required DMV to take the immediate corrective action of pausing all non-domiciled CLP and CDL issuances. However, DMV failed to fully pause non-domiciled CLP and CDL licensing by continuing to process certain types of upgrades. On October 15, 2025, DMV upgraded the non-domiciled CDL of a driver by removing the K (intrastate only) restriction. On October 21, 2025, this driver operated a semi-truck on a California freeway, struck a queue of stopped vehicles, and fatally injured three people. If California had complied with the corrective action of pausing non-domiciled CDL issuance required in the preliminary determination, the driver would not have an interstate CDL, and the crash may have been avoided. Further, DMV upgraded the driver's non-domiciled CDL without applying the standards of the IFR, which was in effect at the time the upgrade occurred. If DMV had applied the standards of the IFR, as required at the time, the driver would have been ineligible for a non-domiciled CDL.

II. FMCSA Appropriately Issued the Preliminary Determination

Notwithstanding California's implemented or planned corrective actions, the DMV argued in its Response that its internal audit did not corroborate a substantial failure to comply with relevant Federal regulations. In this regard, DMV contends that no regulations in 49 CFR parts 383 and 384 required the State to issue non-domiciled CLPs and CDLs with an expiration date that did not exceed the expiration date of the driver's lawful presence documents. DMV also argues that FMCSA's pre-IFR regulations did not prohibit DMV from issuing non-domiciled CLPs or CDLs to citizens of Mexico and Canada who are not present in the United States under the DACA program. Lastly, DMV contends that the preliminary determination's updated finding from the 2024 APR regarding the DMV's continued issuance of "temporary" or "interim" non-domiciled CDLs is inconsistent with DMV's understanding of the 2024 APR. FMCSA addresses DMV's arguments below.

DMV argues that FMCSA's regulations did not require the State to issue non-domiciled CLPs and CDLs with an expiration date that did not exceed the expiration date of the driver's lawful presence documents. While DMV acknowledges that California regulations prohibit DMV from issuing a non-domiciled CLP or CDL that exceed the driver's legal presence,[10] DMV argues that FMCSA did not impose such a requirement. DMV also suggests that FMCSA's recent publication of the IFR that amended the regulatory framework to clarify this obvious requirement constitutes an admission that no such requirement existed when the transactions at issue were discovered during the 2025 APR. However, the language of 49 CFR §§ 383.71, 383.73, and 383.153 demonstrates that California's assertion is erroneous.[11] The regulatory universe of non-domiciled CLPs and CDLs is premised on the basic notion that a non-domiciled driver's commercial motor vehicle driving privileges cannot extend beyond that driver's lawful presence in the United States. Moreover, FMCSA's IFR amended parts 383 and 384 to underscore *existing* substantive rules governing the period of validity for non-domiciled CLPs and CDLs, not to create new rules on non-domiciled CLP and CDL periods of validity that did not exist prior to FMCSA's publication of the IFR.[12]

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[10] *See* Cal. Code Regs. tit. 13, § 26.02(c) ("A commercial driver's license or commercial learner's permit issued to a person submitting documents pursuant to 26.01(b) [*i.e.,* a "valid, unexpired employment authorization document" or a "valid, unexpired foreign passport with an approved I-94 form"] 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).").

[11] DMV relies on two cases for the proposition that the decision to amend part 383 implies the original regulation did not encompass the amended provisions. *See United States v. Greene*, No. 1:23-CR-52 (RDA), 2025 WL 310128 at *5 (E.D. Va. Jan. 27, 2025); *Hecker v. Deere & Co.*, 496 F. Supp. 2d 967, 973 (W.D. Wis. 2007), *aff'd on other grounds*, 556 F.3d 575 (7th Cir. 2009). FMCSA finds these cases inapposite. *Hecker* concerned regulations in which a regulatory proposal explicitly acknowledged that the regulations did not cover certain activities, while no such acknowledgment exists here. In *Greene*, the statutory/regulatory interpretation analysis is in the criminal context and relies in significant part on the rule of lenity, which requires that courts resolve statutory ambiguity in defendants' favor. FMCSA's preliminary determination, of course, was not a criminal prosecution, so the rule of lenity does not apply.

[12] While the IFR clarified existing rules governing the period of validity for non-domiciled CLPs and CDLs, it also implemented new standards governing non-domiciled driver eligibility, evidence of lawful immigration status, and document verification and retention by State driver licensing agencies. *See generally* 90 Fed. Reg. 46509.

49 U.S.C. § 31308 is the statutory basis for part 383's minimum standards for CDL expiration dates. It governs State issuance of CLPs and CDLs and permits FMCSA to issue regulations that compel all CDLs and CLPs to contain "the dates between which the license or learner's permit is valid." Pursuant to this statutory authority, FMCSA issued regulations requiring that CLPs and CDLs issued by the States "must contain . . . the date of issuance and the date of expiration of the license."[13] Under 49 CFR §§ 383.73(a)(3) and 383.73(b)(9), FMCSA mandates that CLPs be valid for no more than one year from the date of issuance, while CDLs may not be valid for more than eight years from the date of issuance. However, these rules merely provide a regulatory ceiling for CLP and CDL expiration generally. States must follow additional procedures prior to issuing non-domiciled CLPs and CDLs. These additional rules further restrict the period of validity for such credentials. First, under regulations in effect at the time the transactions at issue occurred, FMCSA obligated the States to require proof of an applicant's legal presence prior to issuing a non-domiciled CLP or CDL.[14] In addition, FMCSA required that "[a]n applicant domiciled in a foreign jurisdiction must provide an *unexpired* employment authorization document (EAD) issued by USCIS or an *unexpired* foreign passport accompanied by an approved I–94 form documenting the applicant's most recent admittance into the United States."[15]

Whenever possible, regulations must be read in harmony to avoid redundancy and surplusage.[16] DMV's claim that the State may issue a non-domiciled CLP or CDL that remains valid after a driver's lawful presence in the United States expires is rooted in an isolated reading of regulatory text that disrupts the overall framework. DMV's interpretation of §§ 383.71, 383.73, and 383.153 would render the requirements regarding verification of lawful presence in §§ 383.73(f)(3) and 383.71(f)(2)(i) meaningless. If a State may issue a non-domiciled CLP or CDL that expires after the expiration of the driver's lawful presence document, § 383.71(f)(2)(i)'s mandate to present an unexpired EAD or foreign passport would be irrelevant and inconsequential. Similarly, there would be no reason to verify lawful presence as § 383.73(f)(3) requires. FMCSA's interpretation of its own regulations avoids this conflict. Under FMCSA's regulatory framework, States must require proof of legal presence, in the form of an unexpired EAD or foreign passport, and ensure the expiration date of the CLP or CDL does not exceed the expiration date stated on the driver's lawful presence documents. Viewed in the totality, the regulatory framework demands this result.

Further, DMV's reading of FMCSA's pre-IFR regulations would allow non-domiciled drivers unlawfully present in the United States to operate commercial motor vehicles, at odds with the

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[13] 49 CFR §§ 383.153(a)(7); 383.153(b)(2)(vi).

[14] 49 CFR § 383.73(f)(3).

[15] 49 CFR § 383.71(f)(2)(i) (emphasis added).

[16] *See, e.g.*, *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 669 (2007) (cautioning against reading a regulation "in a way that makes part of it redundant"); *Scherr v. Marriott Int'l, Inc.*, 703 F.3d 1069, 1078 (7th Cir. 2013) ("We do not construe regulations in such a way as to render other provisions of the regulations meaningless or superfluous.").

clear intent of FMCSA's non-domiciled CLP and CDL regulations.[17] The absurdity doctrine cuts against DMV's interpretation. Permitting States to issue non-domiciled CLPs and CDLs to individuals in a manner that permits them to continue operating commercial motor vehicles without being lawfully present in the United States is illogical, unreasonable, and contrary to the fundamental purpose of FMCSA's regulations establishing legal presence requirements for all CLP and CDL applicants: to ensure CLP and CDL drivers, including non-domiciled drivers, operate commercial motor vehicles while *lawfully present* in the United States.[18]

Moreover, FMCSA is unpersuaded by DMV's argument that the Department of Homeland Security (DHS) expressly approved DMV's non-domiciled CLP and CDL issuance practices. At the outset, FMCSA's preliminary determination of noncompliance was based on DMV's compliance with FMCSA's regulations, not DHS's regulations.[19] In addition, FMCSA notes that the noncompliant transactions cited in the preliminary determination are inconsistent with the DHS guidance presented in DMV's response. The Response states that DHS advised that, if a response received from USCIS's online verification service, Systematic Alien Verification for Entitlements (SAVE), shows a clearly defined legal presence end date, DMV should use that date as the expiration date for the applicant's driver's license or identification card. However, FMCSA's preliminary determination cited many transactions where DMV issued a non-domiciled CDL or CLP that exceeded the driver's clearly defined EAD expiration date as shown in SAVE.[20] In fact, FMCSA did not cite any transaction where the expiration date of the non-domiciled CLP or CDL matched the later of either the expiration of the EAD or foreign passport presented by the driver or a SAVE query report generated at the time the transaction occurred.

DMV also contends that it was not a violation of FMCSA's pre-IFR regulations to issue non-domiciled CLPs or CDLs to citizens of Mexico and Canada who are not present in the United States under the DACA program.[21] DMV suggests that FMCSA's regulations cannot be construed to exclude citizens of certain nations categorically from non-domiciled CDL eligibility. In this regard, DMV argues that 49 CFR § 383.5 defines an individual's "domicile" as "that State where a person has his/her true, fixed, and permanent home and principal residence and to which he/she has the intention of returning whenever he/she is absent." This is incorrect.

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[17] As the Supreme Court has consistently reaffirmed, "[w]here the literal reading of a [regulatory scheme] would 'compel an odd result,' we must search for other evidence of [regulatory] intent to lend the [scheme] its proper scope." *Public Citizen v. U.S. Dep't of Just.*, 491 U.S. 440, 454 (1989) (*quoting Green v. Bock Laundry Machine Co.*, 490 U.S. 504, 509 (1989)); *see also U.S. v. Am. Trucking Assn's, Inc.*, 310 U.S. 534, 543-44 (1940) ("When aid to construction of the meaning of words, as used in the [regulation], is available, there certainly can be no 'rule of law' which forbids its use, however clear the words may appear on 'superficial examination'") (citations omitted).

[18] *See* 76 Fed. Reg. 26854, 26856 (May 9, 2011); 73 Fed. Reg. 19282, 19285 (Apr. 9, 2008).

[19] DMV's argument that its non-domiciled issuance practices are consistent with DHS requirements is further belied by the fact that the REAL ID regulations also prohibit States from issuing limited term driver's licenses and identification cards that exceed the applicant's legal presence. *See* 6 CFR § 37.21.

[20] *See* Preliminary Determination at section III(a).

[21] DMV states that its internal audit found that it issued non-domiciled CDLs to citizens of Canada and notes that FMCSA's preliminary determination made no mention Canadian CDL holders. However, in the driver records sampled during the 2025 APR, FMCSA found no instances of non-domiciled CDL issuance to citizens of Canada, hence its omission from the preliminary determination. Nonetheless, this conditional determination addresses the ineligibility of Mexican and Canadian citizens for a non-domiciled CLP or CDL.

DMV's argument omits material portions of the definition, resulting in a construction that aligns with its preferred interpretation. The term defined in § 383.5 is "State of domicile," not "domicile." Under § 383.5, the term "State" is defined as "a State of the United States and the District of Columbia." Thus, that definition only applies to individuals applying for a regular CDL as a U.S. citizen or lawful permanent resident. Said another way, the definition of "State of domicile" has no bearing on whether an individual who is a citizen of a foreign jurisdiction qualifies for a non-domiciled CDL under relevant regulations. This is underscored by § 383.71(f)(3)(ii), which indicates, for non-domiciled CLP and CDL applicants, that "no proof of domicile is required."[22]

The plain language of 49 CFR § 383.23(b)(1) demonstrates that Mexican and Canadian citizens may not obtain a non-domiciled CLP or CDL. Under § 383.23(b)(1), the only drivers permitted to obtain non-domiciled CDLs are those *not* from "a jurisdiction that the Administrator has determined tests drivers and issues CDLs in accordance with, or under standards similar to, the standards [adopted by FMCSA] . . . so long as that person meets the requirements of § 383.71(f)." The regulation categorically excludes all other individuals. This necessarily includes individuals domiciled in Canada and Mexico, as footnote 1 to § 383.23(b)(1) explains, because Mexico and Canada are jurisdictions for which the Administrator has issued an equivalency determination and entered into a reciprocity agreement.[23] Accordingly, Mexican and Canadian citizens cannot obtain non-domiciled CLPs or CDLs from any State because they are able to operate commercial motor vehicles in the United States using Mexican or Canadian CDLs.[24] Put simply, citizens of foreign jurisdictions for which an equivalency determination has been made (*i.e.*, Mexico and Canada) are not eligible to obtain a non-domiciled CDL.

In addition, DMV's interpretation flouts regulatory guidance published by FMCSA in 2019, which stated:

> [D]rivers who are citizens of Canada and Mexico are not eligible for non-domiciled CDLs because FMCSA has determined that commercial licenses issued by Canadian provinces and territories, and the United Mexican States, are in

[22] In its 2008 Notice of Proposed Rulemaking (NPRM) that proposed amendments to the definition of "State of domicile," FMCSA noted, "If a State requires proof of domicile…, then those applicants who can demonstrate that they permanently live in the State, *i.e., U.S. citizens and lawful permanent residents*, would be successful." 73 Fed. Reg. 19285 (emphasis added). The NPRM further underscores the inapplicability of "State of domicile" to applicants domiciled in a foreign jurisdiction.

[23] Moreover, the very definitions of "commercial driver's license" and "commercial learner's permit" in § 383.5 illustrate FMCSA's decision to recognize properly issued Mexican and Canadian CDLs as equivalent to U.S. CDLs. Section 383.5 qualifies the definitions of a CDL and CLP as credentials "issued to an individual by a State or other *jurisdiction of domicile*, in accordance with the standards contained in [part 383]." In a 2023 final rule amending §§ 384.208 and 384.209, FMCSA explained, "in accordance with § 383.23(b)(1), CDLs issued by Canadian Provinces and Territories in conformity with the Canadian National Safety Code and the Licencias Federales de Conductor issued by the United Mexican States are in accordance with the standards of 49 CFR part 383." 88 Fed. Reg. 80169, 80174 (Nov. 17, 2023).

[24] Contrary to California's assertion, section 383.23(b)(1) does not establish that this prohibition extends only to individuals who already possess a CDL. Though the footnote references the single license requirement, it does not limit the broad scope of the regulation's language. Such a reading would stretch the plain language of §§ 383.23(b)(1) and 383.71(f)(1)(i) beyond its limit.

> accordance with the standards established by our rules. Therefore, all Mexican and Canadian drivers must have an appropriate commercial license from his or her home country.[25]

This guidance was in effect at the time of the transactions at issue in the 2025 APR. DMV cannot escape the inexorable conclusion that citizens of Canada and Mexico are ineligible for non-domiciled CDLs due to FMCSA's equivalency determinations. The plain language of relevant regulations, alongside the Agency's regulatory guidance, foreclose any argument to the contrary.

Lastly, DMV argues that the preliminary determination's updated finding from the 2024 APR regarding the DMV's continued issuance of "temporary" or "interim" non-domiciled CDLs is inconsistent with DMV's understanding of the 2024 APR. However, the State Compliance Records Enterprise (SCORE) system shows, on November 13, 2024, that FMCSA issued finding number FD-104079, citing DMV's continued issuance of temporary CDLs without reporting the issuance to CDLIS.

For the reasons stated above, the Agency appropriately issued the preliminary determination and DMV's arguments are unavailing. DMV failed to comply with the requirements for issuing non-domiciled CLPs and CDLs set forth in § 384.212 because it (1) issued non-domiciled CLPs or CDLs with an expiration date that exceeded the expiration of the driver's lawful presence documents, and (2) issued non-domiciled CLPs or CDLs to citizens of Mexico not present in the United States under the DACA program. Further, DMV failed to comply with § 384.225 because it continued issuing "temporary" or "interim" non-domiciled CLPs and CDLs without reporting the transaction to CDLIS and without verifying the driver's legal presence. Under 49 CFR § 384.301, any one of these categories of noncompliance was sufficient to issue the preliminary determination and would also be a sufficient basis upon which to make a final determination of substantial noncompliance if DMV fails to complete the required corrective actions.

III. California's Corrective Action Plan

FMCSA's preliminary determination set forth specific corrective actions DMV must undertake to avoid having amounts withheld from Highway Trust Fund apportionment under 49 U.S.C. § 31314 and to avoid CDL program decertification under 49 U.S.C. § 31312. The required corrective actions centered on DMV immediately pausing issuance of non-domiciled CLPs and CDLs; identifying non-domiciled CLPs and CDLs that were not issued in accordance with FMCSA's standards; conducting an internal audit to identify the reasons for noncompliance and notifying FMCSA of its findings; immediately acting to correct the deficiencies identified in the internal audit; acting to void or rescind all unexpired noncompliant non-domiciled CLPs and CDLs; and reissuing the licenses subject to the standards in parts 383 and 384, as amended.[26] DMV was also permitted to resume non-domiciled CLP and CDL issuance only after it is able to meet each and every standard of subpart B of part 384 and 49 U.S.C. § 31311.[27] Under 49 CFR § 384.307(c), DMV's corrective action must be adequate to correct the deficiencies noted in the

[25] 84 Fed. Reg. 8464, 8470-71 (Mar. 8, 2019).

[26] Preliminary Determination at Sec. IV.

[27] *Id*.

preliminary determination and must be implemented on a schedule mutually agreed upon by FMCSA and DMV.

In its Response and during the October 30, 2025 informal conference, DMV described the corrective actions that it has implemented or intends to implement. DMV explained that upon receipt of the preliminary determination, it complied with the corrective action requiring an immediate pause in issuing non-domiciled CLPs and CDLs. DMV also reported that it immediately began an in-depth audit of its policies and procedures surrounding the issuance of non-domiciled CLPs and CDLs and the approximately 65,000 records of non-domiciled CDL holders. While the internal audit remains on-going, DMV reported that "the audit revealed some technical limitations, mostly with DMV's programming system . . . that may result in gaps in the reviews that would be required for consistency with State requirements. DMV is working to address these limitations expeditiously. As DMV's audit proceeds, it will continue to timely identify and remedy any such issues." Further, DMV explained that it identified approximately 20,000 non-domiciled CDLs with expiration dates that exceed their drivers' legal presence documents but stated that the majority of those were "issued appropriately based on the results from SAVE…." DMV further stated that the internal audit identified 3,970 non-domiciled CDLs issued to Mexican citizens who are not DACA recipients, that DMV stopped issuing temporary CDLs pending DHS verification of legal presence, and that DMV is instituting procedures to ensure that all records, such as SAVE query reports, are filed and preserved correctly. DMV also explained that it is "currently working to identify and correct any programming limitations that could result in a CDL expiration date that exceeds a person's lawful presence" and that it is working to "correct any programming limitations that result in incomplete CDLIS reporting." DMV also stated it intends to comply with the IFR when non-domiciled CLP and CDL issuance resumes.[28]

In addition, through email and telephonic communications with FMCSA that occurred on November 5th and 6th, DMV stated that it initiated State proceedings to rescind approximately 17,000 noncompliant non-domiciled CLPs and CDLs. DMV further stated that it continues to review all non-domiciled CLPs and CDLs and anticipates completion by November 15, 2025.

Based on DMV's action to rescind approximately 17,000 noncompliant non-domiciled CLPs and CDLs, FMCSA issues this conditional determination. FMCSA acknowledges that DMV has implemented, or indicates that it will implement, some of the corrective actions required in the preliminary determination. However, as noted above, DMV did not immediately pause all non-domiciled CLP and CDL licensing but continued to process certain non-domiciled CLP and CDL upgrades, including upgrading the non-domiciled CDL of a driver who was subsequently involved in a fatal crash. FMCSA is disappointed that DMV did not comply with the required corrective action of pausing all non-domiciled CLP and CDL licensing. FMCSA emphasizes that it is important that DMV's corrective action include an immediate pause of non-domiciled CLP and CDL licensing until DMV ensures that its practices comply with each and every standard of 49 CFR part 384, subpart B, in effect at the time DMV resumes non-domiciled CLP and CDL licensing, and 49 U.S.C. § 31311.

[28] As noted above, due to the administrative stay, the IFR is, until further notice, not in effect. Until further notice, States are not prohibited from issuing non-domiciled CLPs and CDLs and commercial learner's permits in accordance with the Federal regulations and guidance in effect immediately prior to issuance of the IFR.

FMCSA further emphasizes that the timely rescission of all unexpired non-domiciled CLPs and CDLs that failed to meet the requirements of parts 383 and 384, as interpreted by FMCSA, at the time of issuance—and the reissuance of the licenses in accordance with parts 383 and 384, in effect at the time of reissuance—is critically important to the overall framework of the required corrective action plan. DMV's failure to rescind and reissue *all* noncompliant non-domiciled CLPs and CDLs, including those issued to citizens of Canada and Mexico not present under the DACA program, will render its overall corrective action plan materially deficient and wholly inadequate to correct the deficiencies noted in the preliminary determination.

DMV must provide additional information about the noncompliant non-domiciled CLPs and CDLs subject to rescission, including: (1) a breakdown of all identified credentials subject to recission by category of noncompliance (*e.g.*, total number of where the expiration date exceeds the driver's legal presence documents); (2) confirmation that the credentials subject to rescission include all non-domiciled CLPs and CDLs that expire after the expiration of the driver's legal presence document(s), that were issued to Citizens of Canada or Mexico not present under the DACA program, or that were issued with other deficiencies identified in the preliminary determination; and (3) the approximate date by which the rescission of noncompliant non-domiciled CLPs and CDLs and reissuance, if eligible, will be completed and recorded on the CDLIS driver record. In addition, DMV must provide FMCSA the findings of the internal audit, including a description of any procedural and programming errors, training and quality assurance problems, insufficient policies and practices, and other issues that have resulted in widespread noncompliance in issuing non-domiciled CLPs and CDLs. DMV must also describe its implemented, or planned, actions to correct any technical, procedural, or policy limitations identified in the internal audit, as well as actions to train or retrain staff. Further, while DMV stated that it will correct programming limitations that resulted in incomplete CDLIS reporting for temporary CDLs, DMV failed to state how it will correct its current practice of issuing temporary non-domiciled CLPs or CDLs before validating the driver's lawful presence. Therefore, DMV must also provide information on its implemented, or planned, corrective actions to address this deficiency. DMV must provide the additional information **no later than December 1, 2025**.

DMV cannot demonstrate substantial compliance with the standards for issuing non-domiciled CLPs and CDLs until it has completed the required corrective actions within the mutually agreed-upon schedule. Further, upon DMV's notification that it has completed the required corrective actions, FMCSA will conduct a supplemental review of DMV's non-domiciled CLP and CDL issuance practices to verify that the corrective actions have been completed.

DMV's failure to complete, or undue delay in completing, the required corrective actions as set forth in the preliminary determination will result in FMCSA issuing a Final Determination of Substantial Noncompliance and withholding up to four percent of the National Highway Performance Program and the Surface Transportation Block Grant Program funds beginning in Fiscal Year (FY) 2027 that would otherwise be apportioned to California under 23 U.S.C. § 104(b)(1) and (2).[29] Under 49 U.S.C. § 31314(d) and 49 CFR § 384.403, funds withheld following a substantial noncompliance determination are no longer available for apportionment

[29] Four percent of these funds totals approximately $158,318,508.

to California. Further, DMV may also be subject to decertification of its CDL program in accordance with 49 U.S.C. § 31312 and 49 CFR § 384.405.

IV. Conclusion

FMCSA remains committed to working with DMV officials and stands ready to assist the State to ensure its substantial compliance with the standards for issuing non-domiciled CLPs and CDLs. Please direct all questions regarding this Notice to Philip Thomas, Deputy Associate Administrator for Safety, at philip.thomas@dot.gov.

Sincerely,

Derek D. Barrs
Administrator