

Gavin Newsom
Governor

Toks Omishakin
Secretary

400 Capitol Mall, Suite 2340
Sacramento, CA 95814
916-323-5400
www.calsta.ca.gov

September 25, 2025

Via Email jesse.elison@dot.gov and First-Class Mail

Jesse Elison, Chief Counsel
U.S. Department of Transportation
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue SE
Washington, DC 20590

RE: Response to August 26, 2025, Notice of Proposed Determination of Nonconformity

Mr. Elison:

This correspondence responds to the Federal Motor Carrier Safety Administration's August 26, 2025, Notice of Proposed Determination of Nonconformity. As discussed in detail below, the State of California is fully compliant with Motor Carrier Safety Assistance Program requirements, applicable federal regulations, and California's Commercial Vehicle Safety Plan approved by the Federal Motor Carrier Safety Administration earlier this year.

1. The Motor Carrier Safety Assistance Program Grant and Applicable Federal Regulations

The Federal Motor Carrier Safety Administration (FMCSA) provides formula grants to states under the Federal Motor Carrier Safety Assistance Program. See generally Fed. Motor Carrier Safety Admin., *Understanding U.S. Department of Transportation FMCSA Grants*, <https://www.fmcsa.dot.gov/grants>. The Program's purpose is "to improve commercial motor vehicle safety by . . . adopting and enforcing effective motor carrier, commercial motor vehicle, and driver safety regulations and practices consistent with Federal requirements." 49

U.S.C. § 31102(b). To be eligible for assistance, states must adopt and enforce regulations and standards “compatible” with federal regulations, including the Federal Motor Carrier Safety regulations. See *id.* § 31102(c)(1).

The Secretary of Transportation is charged with promulgating regulations “specifying tolerance guidelines and standards for ensuring compatibility of intrastate commercial motor vehicle safety laws, including regulations, with Federal motor carrier safety regulations to be enforced . . . To the extent practicable, the guidelines and standards *shall allow for maximum flexibility* while ensuring a degree of uniformity that will not diminish motor vehicle safety.” 49 U.S.C. § 31102(e) (emphasis added).

The Secretary’s regulations applicable to commercial vehicle carriers are designed “to determine the safety fitness of motor carriers, to assign safety ratings, to direct motor carriers to take remedial action when required, and to prohibit motor carriers receiving a safety rating of ‘unsatisfactory’ from operating” a commercial motor vehicle. 49 C.F.R. § 385.1(a). Among the numerous regulations concerning “Qualifications of Drivers and Longer Combination Vehicle Driver Instructors” is the requirement that a commercial motor vehicle driver “[c]an 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 C.F.R. § 391.11(b)(2).

In addition, the Secretary has incorporated by reference the Commercial Vehicle Safety Alliance’s “North American Standard Out-of-Service Criteria and Level VI Inspection Procedures . . . [dated] April 1, 2024” into the federal regulations. These criteria identify “critical vehicle inspection items and details the criteria that can prohibit a motor carrier or driver from operating a commercial motor vehicle for a specified period of time or until the condition is corrected.” Com. Vehicle Safety Alliance, *Out-of-Service Criteria*, <https://cvsa.org/inspections/out-of-service-criteria/>; see also 49 C.F.R. § 385.4(b)(1). The Commercial Vehicle Safety Alliance issued an “emergency action letter” in June 2025 stating that its board has voted “to add non-compliance with Title 49 Code of Federal Regulations (CFR) 391.11(b)(2) to the CVSA North American Standard Out-of-Service Criteria, effective June 25.” As noted, 49 C.F.R. § 385.4(b)(1) expressly incorporates by reference the Commercial Vehicle Safety Alliance’s materials dated April 1, 2024. The regulation has not been amended since August 21, 2024, and thus does not incorporate the June 16, 2025, emergency action letter.

To qualify for Motor Carrier Safety Assistance Program funding, a State Lead Agency (here, the California Highway Patrol) must, among other things,

submit a Commercial Vehicle Safety Plan describing the state's "objectives, strategies, activities, and performance measures that cover a 3-year period, including the submission of the [Plan] for the first year and annual updates thereto for the second and third years." 49 C.F.R. §§ 350.207(a)(2), 350.105. Under the regulations, a state's Lead State Agency is responsible for ensuring the state's laws and regulations are "compatible" with federal requirements. *Id.*, § 350.303(a). "Compatibility" is defined as "State laws, regulations, standards, and orders on [commercial motor vehicle] safety that . . . are identical to or have the same effect as" the Federal Motor Carrier Safety Regulations." *Id.* § 350.105 (emphasis added).

2. California Is Complying with Federal Laws and Regulations

California's laws, regulations, standards, and orders are either identical to or have the same effect as the federal safety requirements—including the English language proficiency requirement. California properly enforces this requirement through its commercial driver's licensure procedures.

Under California Vehicle Code section 15250 (a)(1), "[a] person shall not operate a commercial motor vehicle unless that person has in their immediate possession a valid commercial driver's license of the appropriate class." In addition, "[a] person shall not be issued a commercial driver's license until passing a knowledge test and driving test for the operation of a commercial motor vehicle that complies with the minimum federal standards established by the federal Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570) and Part 383 of Title 49 of the Code of Federal Regulations, and has satisfied all other requirements of that act as well as any other requirements imposed by this code." Cal. Veh. Code § 15250(b)(2)(A).

Aside from this explicit incorporation of federal standards—which alone is sufficient to meet the "compatib[ility]" requirement—California law also includes an independent requirement of English language proficiency for commercial drivers. In particular, before being issued a commercial license, California law requires an applicant to pass:

- "A test of the applicant's ability to read and understand simple English used in highway traffic and directional signs." Cal. Veh. Code § 12804.9(a)(1)(B); and
- "An actual demonstration of the applicant's ability to exercise ordinary and reasonable control in operating a motor vehicle by driving it under the supervision of an examining officer." (*Id.*, subd. (D).)

Moreover, under California regulations, the entire commercial vehicle road test must be conducted in English. Cal. Code Regs. Tit. 49 §§ 391.11(b)(2), 383.133(c)(5). The California Commercial Driver Handbook is consistent with this rule. See Cal. Com. Driver Handbook Section 1.1.2 (“*All skills tests must be conducted in English.* An interpreter is prohibited for the [California Driver’s License] skills test.”) (emphasis added); see also *id.* at Section 13 - Road Test (“Interpreters are prohibited.”). The driving exam is conducted in accordance with both State and federal regulations.

Ultimately, California law is unambiguous: “[The DMV] shall not issue a driver’s license to, or renew a driver’s license of, any person: . . . Who is unable to read and understand English used in highway traffic and directional signs.” Cal. Veh. Code § 12805(a)(5). Thus, California incorporates and enforces an English language proficiency requirement by incorporating it into its testing and licensure process.

Further, California has—as has the federal Department of Transportation—fully incorporated the Commercial Vehicle Safety Alliance’s Out-of-Service Criteria into state law by reference. Cal. Code Regs. Tit. 13, § 1239 (“This article incorporates by reference portions of the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria (rev. April 1, 2025), including Part I, Part II, Part III, Part IV, and Appendix.”).

Thus, despite the FMCSA’s assertion in its Notice that California “is not adequately meeting the qualifying conditions for [Motor Carrier Safety Assistance Program] participation,” California has in fact adopted and is “enforcing compatible laws, regulations, standards, and orders” on commercial motor vehicle safety. 49 C.F.R. 350.207(a)(2). California law—specifically, California Vehicle Code section 12804.9 and 12805—prohibit a person who is unable “to read and understand simple English used in highway traffic and directional signs” from obtaining a commercial driver’s license. California tests for the required English language proficiency by conducting skills and road tests entirely in English, and without the assistance of an interpreter, before awarding new applicants a commercial driver’s license. And California has adopted the April 1, 2024 version of the Commercial Vehicle Safety Alliance’s out-of-service

criteria in its entirety, consistent with the federal regulations. Cal. Code Regs. Tit. 13, § 1239.¹ Accordingly, California's laws and regulations "are identical to or have the same effect as" applicable federal laws.

3. California is Appropriately Implementing its Commercial Vehicle Safety Plan

The California Highway Patrol is the State Lead Agency "responsible for administering" California's Commercial Vehicle Safety Plan. See Cal. Com. Vehicle Safety Plan Fiscal Years 2024-2026 (approved by FMCSA Aug. 2, 2024). California's plan shows that its Department of Motor Vehicles is the State's Motor Carrier Safety Assistance Program Grant sub-recipient and shares enforcement responsibility with the California Highway Patrol, consistent with 49 C.F.R. § 350.207(a)(6). See *id.* Annual Update FY 2025 (accepted Dec. 17, 2024) at 5 ("The California Department of Motor Vehicles administers the [Program's] requirement for registrants of [commercial motor vehicles] to demonstrate, at the time of registration, knowledge of the Federal Motor Carrier Safety Regulations.").

California's Department of Motor Vehicles determines that commercial driver's license holders have the requisite English language proficiency by testing applicants' knowledge of basic English and requiring that all driving skills and road tests be conducted in English unaided. Enforcing state and federal regulations through licensing procedures is specifically sanctioned by federal law. See, e.g., 9 C.F.R. § 391.15(b)(1) ("A driver is disqualified for the duration of the driver's loss of his/her privilege to operate a commercial motor vehicle on public highways, either temporarily or permanently, by reason of the revocation, suspension, withdrawal, or denial of an operator's license, permit, or privilege").

¹ California Code of Regulations, Title 13, Section 1239 is typically updated on an annual basis in April, most recently in April 2025. The same update will occur during the next annual review cycle and, absent unforeseen circumstances, will incorporate the latest version of the Commercial Vehicle Safety Alliance's out-of-service criteria. This process is entirely consistent with federal law which, upon changes to federal requirements, provides states up to three years to adopt "compatible" laws, regulations, standards or orders reflecting new federal requirements. See 49 C.F.R. § 350.303(b) ("Compatibility deadline. As soon as practicable, but no later than 3 years after the effective date of any new addition or amendment to the [Federal Motor Carrier Safety Regulations] or [federal hazardous materials regulations], the State must amend its laws, regulations, standards, and orders to ensure compatibility").

The FMCSA's Notice states that "[u]nder 49 C.F.R. §350.207(a)(2), States must enforce the [English language proficiency] requirement to remain eligible for [Program] funding. Enforcement of this requirement includes administering [English language proficiency] tests and placing drivers who fail [them] out of service." California does so through its comprehensive licensing process, which requires English language testing and mandates that all skills and road tests required to obtain a license are conducted in English without aid or assistance.

The FMCSA's Notice also states that "data show that California is not enforcing the [English language proficiency] standard during roadside inspections and is failing to place out of service drivers who are not in compliance." But there is no federal requirement that English language proficiency be established through "roadside inspections." 49 C.F.R. § 391.11(b)(2) has not been amended to require roadside tests for English language proficiency. And the FMCSA's guidelines on assessing English language proficiency do not obligate State Lead Agencies to conduct examinations or impose enforcement procedures during roadside inspections. See U.S. Dep't of Transp., *Internal Agency Enforcement Policy* (May 20, 2025), available at <https://www.fmcsa.dot.gov/newsroom/updated-internal-agency-enforcement-policy-english-language-proficiency>. Instead, the policy is clearly directed to the Agency's own employees and agents. See, e.g., *id.* at 1 ("This policy memorandum provides guidance to Federal Motor Carrier Safety Administration enforcement personnel."). Nonetheless, as noted above, we anticipate that the latest version of the Commercial Vehicle Safety Alliance's out-of-service criteria, including lack of English language proficiency as a basis for out-of-service status, will be incorporated in California regulations during the next annual review process.

Thus, in California, the licensing process that confirms English language proficiency *before* a license is issued fully complies with federal requirements. As such, and in recognition of this compliance, California's Commercial Vehicle Safety Plan, which outlines California's licensing scheme, has been approved by FMCSA as compliant with federal laws and regulations for many years. Further, FMCSA conducts annual performance reviews of the Motor Carrier Safety Assistance Program and has not identified California's enforcement of the English language proficiency requirement as non-compliant.

Further, California requests further information about the data cited in FMCSA's August 26, 2025 Notice. The California Highway Patrol's records do not support FMCSA's contention that "out of 69,268 inspections conducted by California State inspectors, 34,069 resulted in at least one violation being issued.

Of those 34,069 inspections, only one contained a violation relating to ELP[.]” Accordingly, we welcome clarification from FMCSA on this point.

Moreover, as FMCSA is surely aware, there is no existing process for state agencies to notify agencies in other states of out-of-service determinations. There is also a delay between when an out-of-service report is issued and when that information is available on federal databases for states to view. And once available, those reports do not flag English language proficiency violations for review during roadside stops. Thus, even if a California inspector interacted with a driver who had been cited for insufficient English language proficiency in another state, the inspector would have no practicable way to know about that state’s prior determination. The allegation that California has failed to “give full faith and credit to the previous inspection” is unfounded.

Although California is fully compliant with federal regulations and other requirements governing the Motor Carrier Safety Assistance Program, we nonetheless are continuously exploring ways to improve operations and increase safety for all members of the traveling public. To that end, in addition to incorporating the latest version of the Commercial Vehicle Safety Alliance’s out-of-service criteria in California regulations, California’s Department of Motor Vehicles also plans to create a process for validating English language proficiency of drivers transferring a commercial license issued by another state to California and for re-assessing commercial drivers cited for lack of English language proficiency.

Finally, we observe that California’s efforts to ensure safe operations by commercial driver’s license holders are reflected in FMCSA and National Highway Traffic Safety Administration data. In 2023, the last year for which full data is available, California commercial driver’s license holders were involved in fatal crashes at a rate 39.4% lower than the national average. By comparison, Texas commercial driver’s license holders (the only state with more such license holders than California) were involved in fatal crashes at a rate almost 50% higher than California commercial license holders.²

² Fatal crash data is drawn from the National Highway Traffic Safety Administration’s Fatality Analysis Reporting System (FARS, available at: <https://cdan.dot.gov>), and data regarding numbers of commercial driver’s license holders by state of issuance is drawn from FMCSA (FMCSA, Analysis & Information Online, available at: <https://ai.fmcsa.dot.gov>).

4. Conclusion

As shown above, California has complied and will continue to comply with applicable federal laws and regulations. Accordingly, California has met the qualifying conditions for Motor Carrier Safety Assistance Program funding.

We would welcome further discussion of your Notice or the contents of this letter. Should you have questions, or need any further information, please contact me and I can ensure you receive the information you need. I can be reached at (916) 261-4102 or Alicia.Fowler@calsta.ca.gov.

Sincerely,

Alicia Fowler

Alicia Fowler
General Counsel
California State Transportation Agency

SA2025304807
44800842