

FINDING OF EMERGENCY
DEPARTMENT OF MOTOR VEHICLES
Title 13, Division 1, Chapter 2.4

The Department of Motor Vehicles (department) proposes to adopt Sections 26.04 and 26.06 in Article 2.1, Chapter 1, Division 1, Title 13 of the California Code of Regulations, related to English language proficiency assessments for commercial driver license holders and applicants.

Authority and Reference

Authority: Vehicle Code sections 1651, 12818, and 15250

Reference: Vehicle Code section 15250; Section 391.11 of Title 49, Code of Federal Regulations.

- Vehicle Code section 15250 prohibits a person from operating a commercial motor vehicle unless that person has in their immediate possession a valid commercial driver's license (CDL) of the appropriate class.
- Vehicle Code section 12818 authorizes the department to reexamine a driver when it has cause to believe the driver may be unable to safely operate a vehicle.
- Section 391.11 of Title 49, Code of Federal Regulations establishes general qualifications of commercial drivers. Section 391.11(b)(2) further establishes that a person is qualified to drive a commercial motor vehicle if they can read and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, and to respond to official inquiries.

Notice of Proposed Emergency Action (1 CCR §48)

Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the department provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory actions with the department. After submission of the proposed emergency to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.

Public Availability

The department will make the proposed regulatory text available for a period of five days beginning **August 24, 2026** through **August 28, 2026**. The proposed action will be posted on the department's website at <https://www.dmv.ca.gov/portal/about-the-california-department-of-motor-vehicles/california-dmv-rulemaking-actions/>.

Comments shall be submitted to the department at the following addresses:

Department of Motor Vehicles

Legal Affairs Division

2415 First Avenue, MS C-128

Sacramento, CA 95814

Email: LADRegulations@dmv.ca.gov

Office of Administrative Law

300 Capitol Mall, Suite 1250

Sacramento, CA 95814

Email: Staff@oal.ca.gov

Finding of Emergency

An emergency regulation must address a situation that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare.

Federal law requires that a commercial driver be able to converse with the public, understand traffic signs and signals, and respond to official inquiries. A significant public safety risk exists when commercial drivers lack sufficient English language proficiency to understand traffic control devices, communicate with law enforcement, or respond appropriately during emergencies.

The Department of Motor Vehicles (DMV) finds that the immediate adoption of emergency regulations is necessary to protect public safety and maintain compliance with rapidly changing federal commercial driver licensing requirements.

Recent federal actions have created an immediate and compelling need for statewide English language proficiency assessment standards. On October 15, 2025, the Federal Motor Carrier Safety Administration (FMCSA) withdrew approval of California's FY24–FY25 Commercial Vehicle Safety Plan, resulting in the loss of \$40.69 million in Motor Carrier Safety Assistance Program (MCSAP)

funding. These funds support commercial vehicle safety inspections, traffic enforcement, safety audits, and public outreach. FMCSA determined that California lacked a compatible regulation implementing the English language proficiency requirement of 49 CFR section 391.11(b)(2). The withdrawal of this funding immediately reduces the State's commercial vehicle safety enforcement capacity and creates significant risks to public safety. Although the withdrawal of MCSAP funding occurred in October 2025, the impact on DMV has only recently become apparent, as DMV is now receiving an unprecedented number of California Highway Patrol (CHP) referrals requiring English language proficiency evaluation. Additionally, the State remains ineligible for reimbursement and will continue to lose federal commercial vehicle safety funding until DMV adopts regulations compatible with federal English language proficiency requirements. Thus, the financial harm is ongoing and will continue to worsen absent immediate regulatory action.

Simultaneously, CHP has reported a substantial increase in out-of-service orders issued to drivers unable to demonstrate required English proficiency during enforcement encounters. This surge correlates with updated federal guidance directing strict enforcement of the English language requirement. Although CHP has long possessed authority to enforce the federal English language requirement, the volume of out-of-service orders for English-language deficiencies has increased significantly in recent months. As a result, DMV is now receiving a heightened and sustained volume of CHP referrals requiring English language proficiency evaluation—an operational burden that did not previously exist. This influx has created an immediate need for a standardized, legally authorized regulatory process because DMV cannot lawfully determine licensing consequences or provide drivers with administrative remedies without regulations in place. Without a statewide assessment framework, California lacks a uniform, defensible method to evaluate drivers referred by CHP, resulting in inconsistent enforcement, uncertainty for drivers, and ongoing risks to roadway safety. These developments constitute substantial evidence that continued delay in adopting a statewide regulatory assessment process will result in ongoing public safety risks, administrative inconsistency, and continued federal sanctions.

To address these issues, the proposed emergency regulations establish clear English language proficiency assessment requirements for both commercial driver's license applicants and existing CDL holders. Section 26.04 requires CDL applicants to complete an English language proficiency assessment before taking the commercial skills test. Section 26.06 establishes the procedures for assessing existing CDL holders referred by CHP, including notice, testing,

retesting opportunities, and the resulting licensing actions. These requirements create a uniform statewide process that enables DMV to evaluate English language proficiency in a consistent, legally supported manner.

Immediate adoption of these emergency regulations is therefore necessary to establish a standardized English language proficiency assessment for CDL applicants and existing CDL holders. Emergency adoption is essential to restore federal compatibility, support reinstatement of critical federal safety funding, ensure consistent evaluation of CHP referrals, and prevent improper or unreviewed loss of commercial driving privileges.

While CHP continues to enforce federal English language standards during roadside inspections, the absence of DMV regulations prevents the State from establishing a uniform, legally defensible process to evaluate drivers referred by CHP and to determine the appropriate licensing action. Without these regulations, DMV cannot process CHP referrals consistently, cannot ensure that qualified drivers retain their commercial driving privileges, and cannot lawfully determine when a driver must be downgraded for failing to meet federal English proficiency requirements. This regulatory gap keeps California out of compliance with federal compatibility requirements, prolongs the loss of \$40.69 million in federal commercial vehicle safety funding, and undermines the State's ability to administer the CDL program effectively.

Delay caused by the regular rulemaking process would prolong federal non-compliance, extend the loss of essential safety enforcement funding, and increase the risk of unsafe commercial vehicle operation on public roadways. Emergency action is also necessary to ensure that commercial drivers have access to a clear assessment process and appropriate administrative remedies. These circumstances collectively threaten the public peace, health, safety, and general welfare and therefore require immediate regulatory action.

Necessity

Immediate adoption of emergency regulations is required to establish a standardized English language proficiency assessment method applicable to both CDL applicants and existing license holders. Without emergency action, California remains out of alignment with federal requirements, continues to lose federal safety funding, and cannot promptly or consistently evaluate drivers identified by CHP who may not meet English proficiency standards.

Failure to adopt these regulations on an emergency basis will result in continued operational disruptions, inconsistent enforcement, increased roadway safety

risks, and prolonged federal non-compliance. Drivers may experience improper or automatic license downgrades without the benefit of a uniform assessment process or access to administrative review. The regulations are necessary to facilitate timely assessments and allow qualified drivers to retain their commercial driving privileges, while ensuring that drivers who cannot meet federal English proficiency standards do not operate commercial motor vehicles on California's roads.

Informative Digest/Policy Statement Overview

The department is proposing to adopt a regulation that establishes the process by which the driver will be provided notice of the required assessment and the steps that will be taken by the department when the driver successfully or unsuccessfully completes the assessment or fails to submit to the assessment.

The process will begin with the department receiving out-of-service notification from the CHP that the driver has not demonstrated English language proficiency after testing by CHP. At this time, a Driver Safety case will be opened within the department's Driver Safety Office. The department will schedule an English Language Proficiency (ELP) assessment. Once the driver demonstrates they can sufficiently converse in English, staff will conduct an evaluation of whether the driver understands traffic signs.

If the driver successfully completes the ELP assessment, the department will issue a No Action Letter to the driver and the Driver Safety case will be closed. If the driver does not successfully complete the ELP assessment, they will be provided another opportunity. If the driver successfully completes the second assessment, the department will issue a No Action Letter to the driver and the Driver Safety case will be closed.

A driver who does not pass the second assessment will be referred to take a written CDL test administered in English. If the driver successfully completes the written CDL test, the department will issue a No Action Letter to the driver and the Driver Safety case will be closed.

A driver who fails to take the written CDL test or fails to pass the written CDL test will be referred to a field office to downgrade their commercial driver's license to a Class C driver's license and obtain a new photograph.

This proposed action also provides guidance related to the administrative process available to commercial drivers who have lost their commercial driver's license or are at risk of losing their commercial driver's license based on

non-compliance with Section 391.11(b)(2) of Title 49 of the Code of Federal Regulations. More specifically, the driver can request a Driver Safety hearing in accordance with Section 115.04 of Article 2.4.

Section 115.04 requires a driver, within ten days of receiving notice, to request a hearing in writing, by telephone, or electronically through the department's website, and provide specified information. For purposes of this adoption, the driver's receipt of the notice provided after a failed CDL written test or after failure to take the required ELP assessment or CDL written test is the beginning of the 10-day timeframe by which a driver may demand a hearing, as specified in Vehicle Code section 14100.

Other Matters Prescribed by Statutes Applicable to the Specific State Agency or to any Specific Regulation or Class of Regulations

No other matters are prescribed by statute applicable to the Authority or to any specific regulation or class of regulation pursuant to Government Code section 11346.1(b) or 11346.5(a)(4), pertaining to the emergency regulations or to the Authority.

Consistency with Existing State Regulations

The department has conducted a review of other state regulations and has determined this action is neither inconsistent nor incompatible with existing state regulations.

Consistency with Federal Regulations and Statutes

This proposed action is consistent with the provisions of 49 CFR 391.11, requiring that commercial driver be able to read and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals, and respond to official inquiries.

Mandate of Local Agencies or School Districts

The department has determined that the emergency regulations do not impose a mandate on local agencies or school districts.

Documents Incorporated by Reference

There are no documents incorporated by reference.

Fiscal Impact

The department anticipates it will incur ongoing costs of approximately \$525,000 to comply with the federal requirements. The costs will be absorbed by the department within its existing budget and resources.

Availability of Rulemaking Documents

The department has prepared proposed regulatory text in addition to this findings of emergency. Documents related to this proposed regulatory action can be accessed at <https://www.dmv.ca.gov/portal/about-the-california-department-of-motor-vehicles/california-dmv-rulemaking-actions/>.