

ADDENDUM TO THE FINDING OF EMERGENCY

DEPARTMENT OF MOTOR VEHICLES

Title 13, Division 1, Chapter 2.4

The department made the following changes to the originally proposed emergency regulations:

§ 26.04. English Language Proficiency Requirements for Commercial Driver's License Applicants.

Section 26.04 was amended to add clarity to the ELP Assessment processes by making clear the following:

- The ELP assessment will be administered by a departmental Licensing-Registration Examiner, referred to in the proposed regulation as an "Examiner." DMV Examiners duties include, but are not limited to, administering driving tests on behalf of the department. Driving tests consist of administering written, oral, visual, and practical performance tests in the course of examining applicants for ability and fitness to operate various types or combinations of motor vehicles safely, including commercial vehicles.
- An ELP Assessment will be completed within 30 minutes
- The assessment shall consist of 15 oral questions, of which at least 10 should be answered correctly.
- The assessment shall consist of 4 traffic highway signs, of which at least 3 should be answered correctly.
- Clarify that a response is "appropriate in English" when the driver demonstrates clear understanding of the question or sign by giving an English-language response that is relevant and factually correct.

The department added additional clarity to ensure an affected driver will be aware of all facets of the assessment, including the amount of questions that will be asked and the duration of the test, prior to appearing at the department to take the assessment.

§ 26.06. English Language Proficiency Requirements for Existing Commercial Driver's License Holders.

Subsection (a) is amended to clarify the notice received by the department from the California Highway Patrol is an out-of-service notice, as described in 13 CCR Section 1239.

Subsection (a) is also amended add clarity to the ELP Assessment processes consistent with the amendments made in Section 26.04 including:

- The ELP assessment will be administered by a departmental Licensing-Registration Examiner, referred to in the proposed regulation as an "Examiner."
- An ELP Assessment will be completed within 30 minutes
- The assessment shall consist of 15 oral questions, of which at least 10 should be answered correctly.
- The assessment shall consist of 4 traffic highway signs, of which at least 3 should be answered correctly.
- Clarify that a response is "appropriate in English" when the driver demonstrates clear understanding of the question or sign by giving an English-language response that is relevant and factually correct.

Subsection (b) is amended to add clarification to the scheduling parameters of the assessment. Instead of specifying the department will schedule the assessment no earlier than seven days after the notice is mailed, the department is clarifying that the assessment will be scheduled no earlier than seven days and no more than two weeks after the date the notice is mailed. The department recognizes the impact of a commercial driver who has been deemed out of service. This amendment will make clear that the department will schedule an assessment as quickly as possible in an effort to get the driver tested.

Subsection (b)(3) is amended to clarify that the CDL knowledge test taken in English will establish the driver's English language Proficiency and to add a citation to the federal rule related to commercial driving tests.

Subsection (b)(4) requires the driver to establish good cause when they fail to appear or fail to schedule the second ELP assessment. As currently written, good cause is required to be provided to the department in writing and delivered to the department via U.S. mail no later than the scheduled assessment date. The department is amending subsection (b)(4) to clarify circumstances the department considers sufficient to justify good cause and to identify the method

by which a driver will provide documentation to the department to supporting their good cause.

Good cause exists under the following circumstances:

- A documented medical emergency involving the driver,
- Hospitalization or urgent medical treatment,
- Unforeseen vehicle breakdown or transportation disruption,
- Natural disaster or hazardous weather conditions,
- Civil emergencies, or
- A required attendance at a court proceeding or other legal or government appointment.

The driver is required to provide the department with documentation to verify their good cause circumstance and provide that documentation to the department via U.S. mail. The documentation is required to be physically received by the department no later than the scheduled assessment date.

Lastly, subsection (b)(4) is amended to clarify that a driver's failure to timely submit such notice and documentation shall result in a determination that good cause has not been established.

Subsection (b)(5) is amended to make clear that a driver who does not take or fails to take a second ELP assessment will be required to appear at the department to downgrade their commercial driver's license to a non-commercial driver's license and obtain a new photograph. This provision will reinforce the importance of a driver appearing for the required assessment and clarify the potential consequence of failing to take the assessment.

A driver who is required to downgrade their commercial driver's license does have the right to a driver safety hearing before the department. Subsection (b)(5) is amended to add citation to Section 115.04 in Article 2.4, related to driver safety, identifying the steps by which a driver can request a hearing.

Subsection (b)(6) is amended to make clear that a driver who does not appear to downgrade their commercial driver's license to non-commercial status will automatically be downgraded by the department thirty days after the date the restriction notice is mailed and the department will send written confirmation of the downgrade to the driver. This provision will clearly establish that the

department will downgrade the commercial driver's license regardless of whether the driver appears at the department or not.

The text originally proposed for adoption in subsection (b)(5) is moved to subsection (b)(7).

The text originally proposed for adoption in subsection (b)(6) is moved to subsection (b)(8), and is further amended to clarify that a driver who is required to downgrade their commercial driver's license after either failing or not having taken the CDL written test, specified in subsection (b)(3), but does not appear at the department for the downgrade will be downgraded by the department to non-commercial status after thirty days after the date the restriction notice is mailed. Written confirmation of the downgrade will be sent to the driver. Subsection (b)(8) is also amended to clarify the driver's appeal rights by citing Section 115.04 in Article 2.4, related to driver safety.

Addendum to the Fiscal Impact

In addition to the fiscal impacts identified in the department's Finding of Emergency, the department also makes the following determinations:

Costs to any local agency or school district requiring reimbursement pursuant to 17500 et seq.

- None.

Other non-discretionary costs or savings imposed upon local agencies.

- None.

Costs or savings in federal funding to the state.

- 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. 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.

Other Departmental Determinations

Non-Duplication Statement (1 CCR 12(b)(2))

- Sections 26.04 and 26.06 restate federal regulations, specifically §391.11 of Title 49, related to a commercial driver's ability to English sufficiently to converse with the public, understand highway traffic signs and signals, and respond to official inquiries. The department has determined the duplication necessary to ensure consistency and create uniform regulatory standards.

Imposition of a mandate on local agencies or school districts and, if so, whether the mandate requires state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4

- None.

Any technical, theoretical, and empirical study, report, or similar document, if any, upon which the agency relies.

- None.