

Enforcing English Proficiency: Employers of Commercial Drivers Face New FMCSA Guidance

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Takeaways

- DOT inspectors will enforce new guidance for English language proficiency among commercial motor vehicle drivers beginning 06.25.25.
- Drivers who do not speak and understand English sufficiently will be placed out-of-service.
- Planning and thoughtful, timely communication with your drivers is the key to compliance, uninterrupted customer service, and driver retention.

Related links

- [Mandating English Proficiency for Truck Drivers: Trump EO Shifts Policy for Transportation Industry](#)
- [Enforcing Commonsense Rules of the Road for America's Truck Drivers](#) (EO)
- [U.S. Transportation Secretary Sean P. Duffy Signs Order Announcing New Guidance to Enforce English Proficiency Requirement for Truckers](#) (press release)
- [Internal Agency Enforcement Policy on ELP](#)

Article

Businesses that employ drivers of commercial motor vehicles who operate in interstate commerce (CMV drivers) have some work to do before June 25, 2025. That is when CMV drivers who cannot speak and understand English sufficiently to meet the Department of Transportation (DOT) [English language proficiency qualification standard](#) (ELP Standard) will start being taken out-of-service. Here is what you need to know to prepare for the shift in enforcement to ensure continued timely service to customers and to retain drivers.

On April 28, 2025, President Donald Trump issued [Executive Order 14286](#), directing the secretary of transportation and the Federal Motor Carrier Safety Administration (FMCSA) to take certain steps to ensure CMV drivers can meet the ELP Standard set forth in 49 CFR § 391.11(b)(2) and to place drivers out-of-service (OOS) if they cannot do so.

On May 20, 2025, Transportation Secretary Sean Duffy [announced](#) issuance of new guidance to enforce the ELP Standard. The guidance is explained in the FMCSA's May 20, 2025, [Internal Agency Enforcement Policy](#) (New FMCSA Policy). The publicly available policy is redacted, perhaps to avoid sharing details that could potentially risk enforcement efforts. The New FMCSA Policy rescinds the more lenient 2016 policy. It outlines the steps below that inspectors should begin taking to enforce the ELP Standard.

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New FMCSA Policy:

Step 1: Assessment of Ability to Respond to Official Inquiries

- FMCSA personnel will initiate all roadside inspections in English.
- The driver will be told to respond in English. Tools like interpreters, I-Speak cards, cue cards, smart phone applications and On-Call Telephone Interpretation Services cannot be used, as they may conceal a driver's inability to communicate in English.
- If it appears the driver may not understand the inspector's initial instructions, the inspector will conduct an ELP assessment. The ELP assessment will consist of a driver interview and a highway traffic sign recognition assessment.
- If the inspector determines the driver is unable to respond to official inquiries in English sufficiently, the driver will be cited for a violation of 49 CFR § 391.11(b)(2).

Step 2: Assessment of Ability to Understand Road Signs

- If the driver responds to the inspector sufficiently in English, the inspector will conduct a Highway Traffic Sign Assessment to include highway traffic signs that conform to the Federal Highway Administration's Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD) and electronic-display changeable (a.k.a. "dynamic") message signs the driver may encounter while operating a commercial motor vehicle.

Step 3: Documentation and Consequences of Failure to Pass the ELP Assessment

- If the inspector cites the driver for a violation of the ELP Standard, the inspector must document all evidence to support the violation including the driver's responses or lack thereof.
- The inspector will place the driver immediately out-of-service once a violation of the ELP Standard is incorporated into the North American Standard Out-of-Service Criteria, which has already been approved and will become effective June 25, 2025.
- The inspector will, when warranted, initiate an action to disqualify the driver from operating commercial motor vehicles in interstate commerce.

Step 4: Conducting the Remainder of the Inspection If the Driver Passes the ELP Assessment

- If the inspector determines that the driver meets the ELP Standard, the inspector may elect to conduct the remainder of the inspection using the communication methods and techniques best suited to facilitate the safe and effective completion of the inspection.

Applicability Of the Policy:

- The New FMCSA Policy applies to all FMCSA enforcement personnel conducting inspections of motor carriers and drivers in the U.S., except in Puerto Rico, Guam, the Northern Mariana Islands, or American Samoa.
- When performing inspections of CMV drivers in the border commercial zones along the U.S.-Mexico border, FMCSA enforcement personnel should cite drivers for violations, but should not place the driver out-of-service or initiate an action to disqualify them from driving in interstate commerce.
- Drivers with hearing impairments who have obtained exemptions from the DOT

hearing standard shall not be deemed unqualified and placed out-of- service if they are unable to communicate orally in English.

Implementation and Future Changes:

- The policy is effective immediately, and FMCSA inspectors are required to implement it for all CMV drivers operating in the U.S.
- The Commercial Vehicle Safety Alliance (CVSA) has already voted to incorporate violations of 49 CFR § 391.11(b)(2) into the OOS criteria, effective June 25, 2025.
- As part of its regulation scheme, the DOT is reviewing state security procedures in their issuance of Commercial Drivers Licenses.
- On May 20, 2025, Transportation Secretary Sean Duffy is reported to have stated that the Department will be reviewing non-domiciled CDLs and improving upon the verification protocols for both domestic and international credentials.

Next Steps for Employers

Planning and thoughtful, timely communication with your drivers is the key to compliance, uninterrupted customer service, and driver retention. If you would like to discuss steps you can take now to make sure that your CMV drivers can meet the ELP Standard, please contact the Jackson Lewis attorney with whom you regularly work or a member of the Jackson Lewis Transportation Industry Group.

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