



U.S. Department
of Transportation

Federal Motor Carrier
Safety Administration

1200 New Jersey Ave, SE
Washington, DC 20590

Date: April 16, 2026

INTERNAL AGENCY ENFORCEMENT POLICY

From: Philip W. Thomas
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To: All FMCSA Staff

ACTION: English Language Proficiency Under 49 CFR § 391.11(b)(2)
(MC-SEE-2026-0002)

PURPOSE:

This policy memorandum provides guidance to Federal Motor Carrier Safety Administration (FMCSA) enforcement personnel providing oversight of Title 49 of the Code of Federal Regulations (49 CFR) part 391 in conducting North American Standard (NAS) Driver and Vehicle Inspections who need to evaluate whether drivers can satisfy the English Language Proficiency (ELP) qualification requirements in 49 CFR § 391.11(b)(2) by responding to official inquiries and understanding highway traffic signs and signals in the English language. This policy also provides guidance on placing drivers out-of-service (OOS) for discovered violations of 49 CFR § 391.11(b)(2).

CANCELLATION:

This memorandum rescinds and supersedes the policy memorandum entitled, “English Language Proficiency Testing and Enforcement Policy (MC-SEE-2025-0001),” dated May 20, 2025.

BACKGROUND:

Pursuant to 49 U.S.C. § 31502(b), FMCSA may prescribe safety of operation requirements for the qualification of drivers operating commercial motor vehicles (CMVs) in interstate commerce. In accordance with 49 CFR § 391.11(a), a person shall not drive a CMV, as defined in 49 CFR § 390.5T, in interstate commerce unless the individual meets the driver qualification requirements in 49 CFR part 391. Under 49 CFR § 391.11(b)(2), the Secretary has determined that a person is qualified to drive a CMV in interstate commerce 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, to respond to official inquiries, and to make entries on reports and records. Pursuant to the regulation, a driver who cannot 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, is not qualified to operate a CMV in interstate commerce in the United States.

Effective April 1, 2005, the Commercial Vehicle Safety Alliance (CVSA) amended its NAS OOS criteria to include violations of 49 CFR § 391.11(b)(2).¹ In a July 20, 2007 policy memorandum, FMCSA issued guidance instructing inspectors to cite drivers and motor carriers for violations of 49 CFR § 391.11(b)(2) when a driver failed to communicate in English sufficiently to understand and to respond to official inquiries and directions, and to place the driver OOS. The same memorandum provided guidance and an assessment tool to confirm a driver's ability to communicate English sufficiently to understand and to respond to official inquiries and directions. In a second policy memorandum, effective February 1, 2008, FMCSA staff and enforcement personnel were provided guidance for evaluating a driver's ability to understand U.S. highway traffic signs. The 2008 policy allowed the driver to explain his/her understanding of the highway traffic signs in a language other than English, provided the inspector was able to understand the explanation.

On October 1, 2014, FMCSA published regulatory guidance titled, "Driver Qualifications; Regulatory Guidance Concerning the Applicability of Language Requirement to Drivers Who Do Not Meet the Hearing Standard" (79 Fed. Reg. 59139). This guidance explained that the English language requirement should not be construed to prohibit operation of a CMV by hearing-impaired drivers who can read and write in the English language but do not speak, for whatever reason, and were granted exemptions by FMCSA. Specifically, the guidance advises that a driver who is granted an exemption from 49 CFR § 391.41(b)(11) would not be considered unqualified under the ELP requirement in 49 CFR § 391.11(b)(2) if the driver is capable of reading and writing in the English language. In that circumstance, the hearing-impaired driver satisfies the English language requirement. This regulatory guidance continues to remain in effect.

Effective April 1, 2015, CVSA removed 49 CFR § 391.11(b)(2) from its OOS criteria. FMCSA subsequently canceled its 2007 and 2008 policies on citing non-compliance with 49 CFR § 391.11(b)(2) as an OOS violation. On June 15, 2016, FMCSA issued policy memorandum "English Language Proficiency Testing and Enforcement Policy (MC-ECE-2016-006)" to provide guidance to FMCSA personnel conducting safety investigations, audits, and inspections of CMVs and drivers. The policy removed the requirement to place drivers OOS for ELP violations and changed the Agency's standard for determining non-compliance with the ELP requirements of 49 CFR § 391.11(b)(2).

¹ In accordance with the definition of "out-of-service order" under 49 CFR § 390.5T, violations of § 391.11(b)(2) may only be considered an OOS condition if included within the NAS OOS criteria which is developed and maintained by CVSA.

Under the 2016 policy, FMCSA personnel were directed to cite drivers for violations of 49 CFR § 391.11(b)(2) but not to place them OOS.

On April 28, 2025, the President issued Executive Order 14286, “Enforcing Commonsense Rules of the Road for America’s Truck Drivers,”² which called upon FMCSA to rescind the 2016 guidance document and to issue new enforcement guidance to FMCSA personnel, outlining inspection procedures necessary to ensure compliance with the requirements of 49 CFR § 391.11(b)(2). FMCSA was required to take all necessary and appropriate actions, consistent with applicable law, to ensure that the OOS criteria were revised such that a violation of the ELP requirement would result in the driver being placed OOS, including by working with the relevant entities responsible for establishing the OOS criteria.

Consistent with this Executive Order, FMCSA published an internal agency enforcement policy titled, “English Language Proficiency Under 49 CFR § 391.11(b)(2) (MC-SEE-2025-0001)” on May 20, 2025. This policy rescinded the guidance document MC-ECE-2016-006 and provided new guidance to FMCSA and enforcement personnel outlining the inspection procedures for enforcement of violations of 49 CFR § 391.11(b)(2). FMCSA also consulted with CVSA, and the CVSA Board of Directors approved a revision to the CVSA OOS Criteria to make a violation of 49 CFR § 391.11(b)(2) an OOS condition, effective June 25, 2025.

This memorandum rescinds enforcement policy MC-SEE-2025-0001 and replaces it with this updated policy (MC-SEE-2026-0002) to clarify OOS criteria for ELP violations by:

- Streamlining the highway traffic signs examples in Attachment B (which was Attachment 2 to the May 2025 policy) to remove those signs with little to no lettering or words, ensuring inspectors can accurately assess the driver’s ability to read and speak the English language to understand highway traffic signs and signals; and
- Making clear that a driver who fails the ELP assessment in a U.S.-Mexico border commercial zone is not excepted from being placed OOS where there is evidence that the driver’s current trip involved, or would involve, CMV operations in the U.S. outside of such zones.

FMCSA inspectors should follow the procedures set forth in this enforcement policy when evaluating the qualification of a driver; regulated entities are not bound by this enforcement policy but are bound by the driver qualification standard in 49 CFR § 391.11(b)(2).

The failure to adequately enforce driver qualification standards poses serious safety concerns and increases the likelihood for a crash. As part of the driver qualification standard, FMCSA believes a driver’s failure to comply with the ELP qualification requirements constitutes a safety risk and that this risk was underestimated in previous agency enforcement discretion. Increased enforcement and the consequence of placing a driver out of service, instead of simply citing a driver for the violation, will lead to increased safety.

POLICY:

² See 90 FR 18759 (May 2, 2025), available at <https://www.federalregister.gov/documents/2025/05/02/2025-07786/enforcing-commonsense-rules-of-the-road-for-americas-truck-drivers>.

This policy advises FMCSA personnel to initiate all roadside inspections in English. If the inspector's initial contact with the driver indicates that the driver may not understand the inspector's initial instructions, the inspector should conduct an ELP assessment to evaluate the driver's compliance with 49 CFR § 391.11(b)(2). This assessment should consist of a (1) driver interview; and (2) highway traffic sign recognition assessment.

Step 1. Driver Interview – Determining a Driver's Ability to Respond Sufficiently to Official Inquiries

The inspector should evaluate the driver's ability to respond sufficiently to official inquiries and directions in English, as required by 49 CFR § 391.11(b)(2). (b) (7)(E)

[REDACTED]

[REDACTED]

Because the driver interview is a means of establishing the driver's ability to respond to official inquiries by speaking English sufficiently, the inspector should inform the driver that the driver should respond to the inspector in English. Tools to facilitate communication such as interpreters, I-Speak cards, cue cards, smart phone applications, and On-Call Telephone Interpretation Service should not be used during the driver interview, as those tools may mask a driver's inability to communicate in English.

If the inspector determines the driver is unable to respond to official inquiries in English sufficiently, the inspector should cite the driver for a violation of 49 CFR § 391.11(b)(2).

If the driver is unable to respond sufficiently to official inquiries as outlined in Step 1, the inspector should not proceed to Step 2 of the ELP Assessment.

Step 2. Highway Traffic Sign Recognition Assessment – Determining a Driver's Ability to Understand Sufficiently U.S. Highway Traffic Signs Including Changeable Signs in the English Language

The inspector should evaluate the driver's ability to understand sufficiently U.S. highway traffic signs by conducting 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 CMV. To conduct this assessment, the inspector should perform the following steps:

1. Explain to the driver that one of the qualifications to drive a CMV that the inspector is evaluating is that the driver can understand the meaning of U.S. highway signs.

(b) (7)(E) [Redacted]

[Redacted]

Documentation for a Violation of 49 CFR § 391.11(b)(2)

If the inspector cites the driver for a violation of 49 CFR § 391.11(b)(2), the inspector must document all evidence to support the identified violation including the driver’s responses or lack thereof. The inspector should also place the driver immediately OOS, unless the U.S.-Mexico border commercial zones exception, as described in the APPLICABILITY section, applies. When warranted, FMCSA may also initiate an action to disqualify the driver from operating CMVs in interstate commerce.

If the driver is placed OOS, the inspector should advise the driver that it is unlawful to operate a CMV while OOS and that the driver should not operate CMVs in interstate commerce until the condition is remedied.

If the inspector determines that the driver is in compliance with the regulation’s requirements to have the ability to respond to official inquiries and to understand highway traffic signs and signals, 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:

(b) (7)(E) [Redacted]

This policy applies to all FMCSA enforcement personnel who perform inspections of motor carriers and drivers in the United States⁴ engaged in interstate operation of CMVs as defined in 49 CFR § 390.5T.

However, when conducting inspections within a U.S.-Mexico border commercial zone (i.e., a commercial zone designated in 49 CFR part 372, subpart B, along the U.S.-Mexico border), FMCSA enforcement personnel should determine the scope of the driver's current trip before applying the OOS criteria:

1. **Movements Outside the U.S.-Mexico Border Commercial Zones (OOS Required):** If the driver's current trip (as evidenced by bills of lading, dispatch records, equipment interchange receipts, driver statements, or other related shipping documents) involved, or would involve, transportation in the U.S. that would take the driver outside of the U.S.-Mexico border commercial zones:
 - **Action:** If the driver fails the ELP assessment, the inspector should cite the driver for violating 49 CFR § 391.11(b)(2) and place the driver OOS.
 - **Examples:** A driver picking up a load at a Laredo, TX warehouse (inside the zone) for delivery to Detroit, MI (outside the zone); a driver picking up a load in Detroit, MI (outside the zone) for delivery to a warehouse in Laredo, TX (inside the zone); a driver entering the U.S. from Nuevo Laredo, Mexico (outside the U.S.) with a load for delivery to San Antonio, TX (outside the zone); or a driver delivering a load from San Antonio, TX (outside the zone) to a delivery point in Mexico (outside the U.S.).
2. **Movements Within the Border Commercial Zones Only (No OOS):** If the driver's current trip would not involve transportation in the U.S. that would take the driver outside of the U.S.-Mexico border commercial zones (even if the cargo itself is ultimately destined for a U.S. location outside of a border commercial zone via a different driver):
 - **Action:** If the driver fails the ELP assessment, the inspector should cite the driver for violating 49 CFR § 391.11(b)(2), but not place the driver OOS.
 - **Example:** A driver transporting a shipment from Nuevo Laredo, Tamaulipas (Mexico), to a local trans-load facility or warehouse within the Laredo, TX commercial zone.

In accordance with prior guidance issued in 2014, drivers who are hearing impaired but have obtained an exemption from the hearing standard in 49 CFR § 391.41(b)(11), shall not be deemed unqualified and placed OOS under 49 CFR § 391.11(b)(2) if they are unable to communicate orally in English.⁵

⁴ This policy does not apply to inspections in Puerto Rico, Guam, the Northern Mariana Islands, or American Samoa.

⁵ See *Driver Qualifications; Regulatory Guidance Concerning the Applicability of Language Requirement to Drivers Who Do Not Meet the Hearing Standard*, 79 Fed. Reg. 59139 (Oct. 1, 2014).

EFFECTIVE DATE: This policy is effective immediately. All Federal inspectors are to begin implementing this policy for all CMV drivers entering and operating within the U.S. and take all necessary actions to place drivers OOS in accordance with this policy. Inspectors must document the evidence of the violation and for the OOS order so that, when warranted, FMCSA may initiate the driver disqualification proceedings if a driver is deemed unqualified under 49 CFR § 391.11(b)(2).

FMCSA notes that on May 1, 2025, CVSA voted to incorporate violations of 49 CFR § 391.11(b)(2) into the NAS OOS criteria, effective June 25, 2025. That update to the OOS criteria incorporated FMCSA's May 2025 policy (MC-SEE-2025-0001). Once CVSA incorporates this updated policy (MC-SEE-2026-0002) into the OOS criteria, this policy will provide uniform enforcement by Federal and State inspectors.

Should you have any questions or need additional information, please contact Bill Mahorney Chief, Enforcement Division, at (202) 493-0001 or bill.mahorney@dot.gov.

Attachments:

- A. Strategies for Communication with Non-Native Speakers of English and Examples of Driver Interview Questions
- B. Highway Traffic Signs Examples

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Strategies for Communication with Non-Native Speakers of English and Examples of Driver Interview Questions

Inspectors may explain in English or any language that can be understood by the driver, that (1) the inspector will conduct their portion of the driver interview in English; (2) as a means of establishing the driver's ability to communicate (speak) in English sufficiently, the inspector will be evaluating the driver's ability to respond in English, so drivers should respond to the driver interview questions in English; and (3) if the inspector determines the driver is unable to respond sufficiently to official inquiries in English, the inspector will cite the driver for a violation of 49 CFR § 391.11(b)(2).

The inspector should speak slowly, but naturally; be mindful not to rush the questions; and paraphrase (in English) as appropriate.

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Attachment B: Highway Traffic Signs Examples

(b) (7) (E)