CLIENT ALERTS & INSIGHTS

UPDATE: English Language Proficiency Requirements for Drivers

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The Federal Motor Carrier Safety Administration (FMCSA) issued an internal agency enforcement policy on May 20, 2025 (the "Policy"), outlining its approach to English language proficiency (ELP) for commercial motor vehicle drivers. This Policy is more stringent than past enforcement posture and is effective immediately. It reverses a 2016 directive from the Obama Administration that discouraged placing drivers out of service for ELP violations.

No Change to FMCSR Driver Qualification

President Trump's recent Executive Order on "Enforcing Commonsense Rules of the Road for America's Truck Drivers" does not change the Federal Motor Carrier Safety Regulations (FMCSRs). The FMCSRs require motor carriers to qualify drivers against several standards shown at 49 CFR § 391.11. One of those requirements is that a driver must be able to "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 CFR § 391.11(b)(2).

The EO expressly recognizes that this requirement is and remains in force. The EO does not change the existing English proficiency requirement. It does, however, suggest that federal enforcement of this requirement has been absent in recent years, and the White House believes that the roads are less safe as a result.

The EO seeks to address this perceived government enforcement gap by directing the U.S. Department of Transportation's (DOT's) Federal Motor Carrier Safety Administration (FMCSA) to take new actions to enforce the existing English language proficiency requirement. The EO further requires the DOT to rescind its 2016 guidance limiting enforcement of this requirement and to issue new guidance in its place with procedures for FMCSA and law enforcement personnel. The Secretary of Transportation is authorized to take actions necessary to ensure that violations of the English language proficiency requirement result in the driver being placed out-of-service and to review non-domiciled commercial driver's licenses (CDLs) issued by state agencies.

New Regulatory Enforcement Policy Changes

Out-of-Service Criteria: The Policy does not change motor carrier compliance obligations under the Federal Motor Carrier Safety Regulations (FMCSRs). It does however signal that the FMCSA will begin placing drivers out-of-service for failing to demonstrate proficiency in reading, speaking, or understanding the English language.

Roadside Enforcement: The Policy also advises FMCSA personnel to initiate all roadside inspections in English. Drivers who cannot adequately communicate in response to the inspector's initial instructions are subject to a two-part test involving: (1) a verbal interview of the driver and (2) an assessment of the driver's ability to identify and interpret U.S. traffic signs. Failure to demonstrate ELP requirements during either part of the test may result in the driver being immediately placed out-of-service.

Consistent Enforcement: The Commercial Vehicle Safety Alliance (CVSA) added ELP violations to the North American Standard Out-of-Service Criteria, effective June 25, 2025, ensuring uniform enforcement of the Policy across all states. Once effective, inspectors may place the driver immediately out-of-service. When warranted, inspectors may initiate the disqualification of the driver from operating in interstate commerce.

Increased regulatory enforcement may lead to more frequent OOS orders for noncompliance, replacing the citations that have been common in recent years. These OOS orders risk the consequence of swift and immediate interruption to the business operations of drivers and their motor carriers. Shippers, brokers, and other commercial users of those services may also face interruption on a load-by-load basis where service providers are not compliant.

The message out of the White House is clear that motor carriers and drivers must prepare for increased scrutiny of driver qualification files over the coming months. It is time for trucking companies to review their driver qualification practices, policies, and recordkeeping to ensure that all drivers meet this requirement and can withstand stricter enforcement.

Key Takeaways for Motor Carriers

The risks of enforcement consequences from failing to comply with the ELP element of driver qualification requirements at 49 CFR § 391.11 is now higher. Motor carriers must ensure all drivers can meet the ELP requirements to avoid drivers being placed out-of-service. Enforcement against even a single driver will disrupt operations, shipper experiences, and published compliance metrics.

Now is the time to review driver qualification procedures and qualification files. ELP assessments and compliance or awareness training in preparation for enforcement will be helpful as industry transitions to the new Policy. The precise enforcement instructions were redacted in the published version of the Policy. This means that motor carriers do not know exactly what questions and enforcement standards may be used at roadside. At its most basic level, ensuring drivers are adequately proficient in English and industry terminology and have an in-depth familiarity with U.S. traffic signs will be valuable.

Benesch's Transportation and Logistics team stands ready to proactively advise on safety compliance best practices, driver qualification policies, and training programs, and to defend all manner of enforcement actions when those occur.

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