



PETITION FOR DECERTIFICATION ORDER

May 27, 2025

Via US Mail, Email (SecretaryDuffy@dot.gov) &
FMCSA General Petition for Rulemaking Docket

The Honorable Sean Duffy
U.S. Secretary of Transportation
1200 New Jersey Ave. SE,
Washington, DC 20590

Re: PETITION FOR DECERTIFICATION OF AUTHORITY ORDER

Dear Secretary Duffy:

This is a **Petition for Decertification of Authority** pursuant to the power vested in the Secretary of Transportation under Federal Law 49 USC § 31312.

As you know, under 49 USC § 31312, the Secretary has --not only the authority but --a **duty** to prohibit states from issuing commercial driver's licenses (CDLs) whenever the Secretary determines that a state is in substantial noncompliance with Chapter 313, which governs CDLs.

Furthermore, 49 USC § 31308 of said chapter governs the issuance of CDLs by the states and calls for the Secretary to prescribe uniform standards for the issuance of CDLs. Those standards must at a minimum require that an individual issued a CDL pass written and driving tests for the operation of a commercial motor vehicle that comply with the minimum standards prescribed by the Secretary under section 31305(a)¹.

Requirements for state participation in the Federal CDL funding program are outlined in 49 USC § 31311².

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¹ "Minimum Standards for Testing and Fitness.—The Secretary of Transportation shall prescribe regulations on minimum standards for testing and ensuring the fitness of an individual operating a commercial motor vehicle."

² "The State shall adopt and carry out a program for testing and ensuring the fitness of individuals to operate commercial motor vehicles consistent with the minimum standards prescribed by the Secretary of Transportation under section 31305(a) of this title."

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Pursuant to 49 USC 31305(a)(7) the Secretary's regulations:

"shall ensure that an individual taking the tests is qualified to operate a commercial motor vehicle under regulations prescribed by the Secretary and contained in title 49, Code of Federal Regulations, to the extent the regulations apply to the individual;"

As you know, the Secretary's regulations require, as matters of minimum standards, fitness, and qualifications to drive CMVs, that drivers be English proficient (49 CFR § 391.11)³.

It is the SBTC's position that any state issuing CDLs that ignores the Secretary's duly-promulgated existing English proficiency regulation at 49 CFR 391.11 is in "substantial noncompliance" with Chapter 313 and the Secretary must under the duty established in 49 USC § 31312 prohibit each noncompliant state from issuing commercial driver's licenses upon making a determination of substantial noncompliance.,

On April 28, 2025, the President issued an Executive Order on Trucker English Proficiency⁴ wherein he stated:

My Administration will enforce the law to protect the safety of American truckers, drivers, passengers, and others, including by upholding the safety enforcement regulations that ensure that anyone behind the wheel of a commercial vehicle is properly qualified and proficient in our national language, English.

Sec. 2. Policy. It is the policy of my Administration to support America's truckers and safeguard our roadways by enforcing the commonsense English-language requirement for commercial motor vehicle drivers and removing needless regulatory burdens that undermine the working conditions of America's truck drivers. This order will help ensure a safe, secure, and efficient motor carrier industry.

³ (a) A person shall not drive a commercial motor vehicle unless he/she is qualified to drive a commercial motor vehicle. Except as provided in § 391.63, a motor carrier shall not require or permit a person to drive a commercial motor vehicle unless that person is qualified to drive a commercial motor vehicle.

(b) Except as provided in subpart G of this part, a person is qualified to drive a motor vehicle if he/she—

(2) 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;

⁴ <https://www.whitehouse.gov/presidential-actions/2025/04/enforcing-commonsense-rules-of-the-road-for-americas-truck-drivers/>

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Thereafter, on May 1, 2025, CVSA returned English proficiency violations to the Out-of-Service criteria effective June 25, 2025.⁵

On May 20, 2025, you issued an order in furtherance of the President's directive⁶ and FMCSA reversed its previous enforcement memo MC-ECE-2016-006⁷.

By way of background, this issue has been a matter of concern to industry, the Department, and the USDOT Inspector General for over two decades.

On May 8, 2002, the USDOT OIG published its findings after conducting a CDL Standards Audit⁸ and determined that FMCSA should require the states to test for English proficiency when administering the CDL written knowledge test.

Road signs in America are --and have always been --posted in the English language. As pointed out by FMCSA themselves in 2014...

History of the English Language Requirement

On December 23, 1936, as part of its newly-promulgated "Motor Carrier Safety Regulations," the Interstate Commerce Commission (ICC) established an English language requirement for drivers of motor vehicles operated in interstate or foreign commerce by common and contract carriers. The original wording, as contained in paragraph 3 of Part I [Qualification of Drivers] required that:

On and after July 1, 1937, no motor carrier shall drive, or require or permit any person to drive, any motor vehicle operated in interstate or foreign commerce, unless the person so driving possesses the following minimum qualifications: * * * (k) Ability to read and speak the English language, unless the person was engaged in so driving on July 1, 1937 or within one year prior thereto, but in any case ability to understand traffic and warning signs. (1 M.C.C. 1, at 18-19)

The preamble to the I.C.C decision stated that: It is evident that ability to read and speak English is important to any adequate compliance with safety regulations. Cognizance has been taken, however, of the existence in certain areas of numbers of drivers in present service who are unable to read or speak English, but even in these cases the ability at least to understand traffic and warning signs is required. (1 M.C.C. 1, at 7-8)

⁵ <https://cvsa.org/news/elp-oosc/>

⁶ <https://www.transportation.gov/briefing-room/us-transportation-secretary-sean-p-duffy-signs-order-announcing-new-guidance-enforce>

⁷ https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2025-05/FMCSA%20ELP%20Guidance%20with%20Attachments%20Final%20%285-20-2025%29_Redacted.pdf

⁸ See OIG May 8, 2002 CDL Standards Audit Report: <https://www.oig.dot.gov/sites/default/files/mh2002093e.pdf>

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On May 27, 1939, the ICC made certain changes and additions to the Motor Carrier Safety Regulations, including elimination of the exceptions granted by the original rules for those drivers unable to read and speak English. As stated in that notice,

"The intent of the Commission to require such ability of all drivers in this service has been unmistakable since 1937, and the intervening period of more than two years is regarded as sufficient to justify the removal of the exception." (14 M.C.C. 669, at 675)

Section 391.11(b)(2) of the Federal Motor Carrier Safety Regulations (FMCSRs) currently states that a person is qualified to drive a commercial motor vehicle if he/she "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."

In 2002, the USDOT OIG suggested FMCSA needed to respect Section 391.11(b)(2) and address the fact that **"... the Federal standard on CDL testing and licensing does not place any requirement on the States to test for language proficiency."**

OIG also proclaimed: "Establishing performance-oriented English proficiency standards and an agreed to testing protocol would discourage license shopping across States and establish consistent, nondiscriminatory practices nationwide."

Despite FMCSA's assertion in the Federal Register (FR) in 2011 in Volume 76 Issue 89 (Monday, May 9, 2011) that "This final rule incorporates all of the OIG's recommendations," FMCSA did not, in fact, follow OIG's 2002 recommendation that FMCSA respect long-standing ICC precedent from 85 years ago and establish "performance-oriented English proficiency standards" and an accompanying "testing protocol" or "place any requirement on the States to test for language proficiency."

FMCSA purported in that FR issue:

"Section 703(a) of the SAFE Port Act required the Secretary of Transportation to issue regulations implementing the recommendations contained in a memorandum issued by the DOT's Office of the Inspector General (OIG) on June 4, 2004, concerning verification of the legal status of commercial drivers. Section 703(b) required the Secretary, in cooperation with the Department of Homeland Security, to issue a regulation to implement the recommendations contained in a report issued by the OIG on February 7, 2006 ["Oversight of the Commercial Driver's License Program"] that set forth steps needed to improve anti-fraud measures in the CDL program. In a 2002 CDL audit report, the OIG recommended that FMCSA require testing protocols and performance oriented requirements for English language proficiency. This final rule incorporates all of the OIG's recommendations. A discussion of these recommendations can be found in the preamble to the NPRM for this rule. Many of the operational

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procedures suggested by the OIG for carrying out the recommendations have also been adopted."

FMCSA misrepresented that the issues identified in 2002 by the OIG ("Improving the Testing and Licensing of Commercial Drivers" Audit Report) were addressed in their 2011 rulemaking. The truth is, they were not.

So, after we petitioned FMCSA for preemption or new rulemaking in January and they declined to do either, we re-petitioned them in March 2022 and have now asked OIG to examine this matter again through a 20-year follow-up audit on English proficiency standards in the interest of public safety. Simply stated, it's long past due.

Herein lies the problem. FMCSA Guidance states:

Question 1: Does the State have any role in certifying compliance with §391.11(b)(2) of the Federal Motor Carrier Safety Regulations (FMCSRs), which requires driver competence in the English language?

Guidance:

No. The driver must certify that he or she meets the qualifications of part 391. The State is under no duty to verify the certification by giving exams or tests.

Neither do doctors get to chime in:

FMCSA's Form MCSA-5875 to medical examiners: "When determining a driver's physical qualification, please note that English language proficiency (49 CFR part 391.11 General qualifications of drivers) is not factored into that determination."

That's a wink and a nod to medical examiners to keep quiet if they are certifying the driver is qualified but they know the driver is not really because he can't read English.

Like the OIG in 2002, the SBTC believes the onus on enforcing the Federal English proficiency driver qualifications and CDL testing regulations should be placed on the states through written English proficiency knowledge exams, not the industry, motor carriers or "self-certifying" drivers. The best way to determine if drivers can read English road signs is to obviously administer the CDL knowledge exam in, well, English. It's simply common sense.

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While FMCSA points to a requirement that CDL applicants must speak English during skills testing without the use of an interpreter⁹, we now know that this requirement alone has not prevented drivers who can't communicate proficiently in English from obtaining CDLs over the past 23 years.

As a result of this negligent motor carrier safety policy making, many Americans have **lost their lives or have suffered serious personal injury** due to truck drivers not being able to read police emergency signs warning truckers to "slow down" because there is an "accident ahead."

Such was the case in the **incident that took the life of 18 year college freshman Connor Dzion in Florida in 2017**, once year after FMCSA recklessly told its enforcement personnel and the states to stop placing drivers they have determined were not qualified to drive under Federal regulations because they were not proficient in the English language out-of-service.

Last Friday, the SBTC's proposed "Connor's Law" bill was introduced into Congress by the Hon. Dave Taylor (R;OH). Bill HR 3608 has now been referred to the Transportation & Infrastructure Committee for consideration. This bill would codify the President's executive order requiring non-English-speaking truckers be placed out of service in furtherance of the existing aforementioned Federal regulation.

The SBTC has identified multiple states that offer written CDL knowledge tests in languages other than English without testing for English proficiency. Notwithstanding the proposed Connor's Law amendment, this failure to test for English proficiency appears to currently violate the minimum standards required under 49 USC § 31308 insofar as the states are required to abide by the Federal driver qualification regulations.

The states we believe are in **substantial noncompliance** and are thereby irresponsibly and dangerously posing unwarranted **risk of death and serious personal injury** to the motoring public in America include: Alabama, Arizona, California, Colorado, Florida, Illinois, Louisiana, Maryland, Nevada, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Oregon, South Carolina, Texas & Virginia.

Comes now, the SBTC to respectfully request that you please **invoke 49 USC § 31312 and issue decertification of authority orders to these states, suspending their authority to issue CDLs** until such time as they come into substantial compliance and require CDL applicants to demonstrate English proficiency during CDL knowledge testing in accordance with Federal law, regulation, and the President's Executive Order.

⁹ See FMCSA's attached July 8, 2022 letter to SBTC denying our request for FMCSA to make the states test for English proficiency during written knowledge testing.

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We also request that you immediately suspend all applicable Federal funding pursuant to 49 USC § 31311 & § 31314¹⁰.

For too long, the FMCSA has ignored the May 2002 OIG audit recommendations and the states have skirted Federal law and regulation on the English language proficiency issue with impunity. We respectfully request the Trump Administration take immediate action to hold the states accountable for testing for English proficiency. While putting unqualified drivers found during roadside inspections out of service is an important step in addressing this public policy problem, we must address the underlying problem of these unqualified drivers being issued CDLs and put into service in the first place. That problem lies with these non-compliant states.

On behalf of our 21,000+ small business members, America's 3.9 million truck drivers, and the motoring public, we pray you will immediately act and shut down the unqualified licensing mills in these states in the interest of public safety. No mother like Mellissa Dzion, mother of Connor Dzion, should ever have to bury her son in America again because the states license truckers who can't read simple signs that say "slow down... accident ahead." You have the power to change the current reckless paradigm and make the roads safe again.

Thank you.

Sincerely,

/JAMES LAMB/

Executive Director

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¹⁰ "The Secretary of Transportation shall withhold up to 5 percent of the amount required to be apportioned to a State under section 104(b)(1), (3), and (4) [1] of title 23 on the first day of the fiscal year after the first fiscal year beginning after September 30, 1992, throughout which the State does not comply substantially with a requirement of section 31311(a) of this title."

cc: Mr. Steven G. Bradbury
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