

U.S. Department of Labor
Employment and Training Administration
OFFICE OF FOREIGN LABOR CERTIFICATION
Permanent and Temporary Labor Certification Programs

Minimum Job Requirements for the Operation of Commercial Motor Vehicles (CMVs)
May 14, 2026

1. If an employer seeks permanent or temporary labor certification from the Department of Labor (Department) to employ a foreign national to perform duties which require the foreign national to operate a CMV, what are the applicable federal requirements?

Pursuant to 49 U.S.C. §§ 31132, 31136(a), and 31502(b), the Department of Transportation (DOT) possesses the authority to establish regulatory standards for a person to operate a CMV in interstate commerce. Under 49 C.F.R. § 391.11(a), the Federal Motor Carrier Safety Administration (FMCSA) has provided that an individual, which includes foreign nationals, shall not operate, nor shall a motor carrier require or permit an individual to operate, a CMV unless they possess the necessary qualifications to do so. 49 C.F.R. § 391.11(b) specifies the precise qualifications that an individual **MUST** satisfy in order to operate a CMV, unless the individual is covered by one of the listed exemptions. As such, an individual will be qualified to operate a CMV if he or she:

1. Is at least 21 years old;
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;
3. Can, by reason of experience, training, or both, safely operate the type of CMV he or she drives;
4. Is physically qualified to drive a CMV in accordance with subpart E of 49 C.F.R. part 391;
5. Has a currently valid commercial motor vehicle operator's license issued only by one State or jurisdiction;
6. Is not disqualified to drive a CMV under the rules in 49 C.F.R. § 391.15; AND
7. Has successfully completed a driver's road test and has been issued a certificate of driver's road test in accordance with 49 C.F.R. § 391.31, or has presented an operator's license or a certificate of road test which the motor carrier that employs him or her has accepted as equivalent to a road test in accordance with 49 C.F.R. § 391.33.

Furthermore, under 49 C.F.R. part 383, the FMCSA establishes standards to help prevent or reduce truck and bus accidents, fatalities, and injuries by requiring a person operating a CMV to possess a single Commercial Driver's License (CDL) and by disqualifying any person who operates CMVs in an unsafe manner. With certain limited exceptions listed in 49 C.F.R. § 383.3, a person operating a CMV must hold a CDL if he or she operates in interstate, intrastate, or foreign commerce and drives a CMV as defined in 49 C.F.R. §

383.5. A commercial learner's permit (CLP) is also considered a valid CDL for the purpose of behind-the-wheel training, so long as the CLP holder possesses a valid driver's license issued by the same State or jurisdiction and is accompanied by an individual who holds a valid CDL. If the CLP is issued to a CDL holder, it authorizes accompanied behind-the-wheel training in a CMV for which the holder's CDL is not valid. The FMCSA establishes the requirements for a CLP under 49 C.F.R. § 383.25.

Finally, it is important to note that President Trump's Executive Order (EO) 14286, *Enforcing Commonsense Rules of the Road for America's Truck Drivers*, issued on April 28, 2025, rescinds a guidance document, "English Language Proficiency Testing and Enforcement Policy MC-ECE-2016-006," that was previously issued in 2016 during the Obama administration. Consistent with this EO, FMCSA issued enforcement policy [guidance](#) on May 20, 2025, which made clear that if a CMV driver is found to be in violation of 49 C.F.R. § 391.11(b)(2), they will be cited for the violation **AND** placed in out-of-service status, unless they fall into the narrow exception listed for drivers operating CMVs in border commercial zones along the U.S.-Mexico border, in which case they will be cited for a violation but not otherwise placed in out-of-service status or disqualified. Additionally, the tools to facilitate communication that were previously permitted (e.g., interpreters and smart phone applications) are no longer to be used by CMV drivers during the English language proficiency (ELP) assessment, given their potential to mask the driver's inability to communicate in English. Finally, when it is warranted, the inspecting officer may commence an action to disqualify the CMV driver from operating CMVs in interstate commerce.

2. As an employer, what must I include in my job order and application seeking temporary or permanent labor certification for jobs requiring operation of a CMV in light of existing DOT FMCSA requirements and consistent with President Trump's Executive Order, *Enforcing Commonsense Rules of the Road for America's Truck Drivers*, issued on April 28, 2025?

Previously, a job order and/or application seeking temporary or permanent labor certification for jobs requiring the operation of a CMV stated that the provisions of 49 C.F.R. § 391.11(b) must be met for certification. While proficiency in the English language remains a bona fide job requirement that many employers already disclose on job orders and/or applications entailing the operation of a CMV, the explicit inclusion of language requiring ELP for all employers has not previously been required. Accordingly, consistent with the President's Executive Order entitled, *Enforcing Commonsense Rules of the Road for America's Truck Drivers*, and building off of the President's Executive Order entitled, *Designating English as the Official Language of the United States*, all job orders and/or applications seeking temporary or permanent labor certification for jobs requiring the operation of a CMV must include an ELP standard consistent with 49 C.F.R. § 391.11(b)(2). Additionally, possessing knowledge of the structure and content of the English language is already an expected qualitative skill by those employers who presently employ U.S. workers in occupations involving the operation of CMVs (e.g., SOC Code [53-3032](#), Heavy and Tractor-Trailer Truck Drivers), as reflected in the Occupational Network (O*NET) system. As such, many employers currently do, in their

job orders and/or applications for temporary or permanent labor certification, list some iteration of an ELP standard. More details on how this standard may be stated to ensure prospective foreign workers are qualified to operate a CMV can be found in Question 3.

The entity responsible for certifying job orders and applications for temporary or permanent labor certification is the Office of Foreign Labor Certification (OFLC), which maintains regulations governing the adequacy and sufficiency of these documents and which correspondingly reviews them to ensure that the job details and requirements are typical for the specific occupation and compliant with existing laws and regulations. For example, employers of H-2B and CW-1 workers are required to provide assurances and abide by certain enumerated obligations when employing temporary nonagricultural foreign workers, including 20 C.F.R. §§ 655.20(z) and 655.423(w) which require employers to comply “with all applicable Federal, State, [Commonwealth] and local employment-related laws and regulations, including health and safety laws.” For H-2A employers, under 20 C.F.R. § 655.135(e), employers are required to “comply with all applicable Federal, State, and local laws and regulations, including health and safety laws,” during the employment period listed in the application for temporary employment certification. The Permanent Labor Certification program (PERM) regulations contain a similar provision, found at 20 C.F.R. § 656.10(c)(7), which requires employers to attest that the “job opportunity’s terms, conditions and occupational environment are not contrary to Federal, state or local law.” As such, the Department is now requiring that employers include an express ELP standard in their job orders and/or applications for temporary or permanent labor certification for jobs that require a foreign worker to operate a CMV.

Importantly, employers should understand that although existing FMCSA regulations provide a number of exemptions from CDL requirements, particularly in the agricultural industry, the driver qualification requirements found in 49 C.F.R. § 391.11, including the ELP requirement, still apply to all drivers who are operating a CMV in interstate commerce regardless of whether they are required to possess a CDL under FMCSA regulations or not. In other words, a driver may not be required under existing FMCSA regulations to possess a CDL, but could still be subject to the driver qualification provisions found in 49 C.F.R. Part 391, including 49 C.F.R. § 391.11.

Finally, employers are reminded that other agencies involved in the employment-based visa petition or issuance processes may have additional evidentiary requirements regarding ELP. Employers should therefore be aware that the sub-regulatory guidance in these FAQs only covers employers’ obligations in relation to the Department’s role in the employment-based visa processes, and does not exhaustively cover other obligations that employers have in relation to the imposed requirements by the other agencies involved in the employment-based visa processes (e.g., State Department) or the administration of ELP requirements (e.g., DOT/FMCSA [internal enforcement policy](#)). The Department is promulgating this guidance only to ensure that employer filings of job orders and/or applications for temporary or permanent labor certification for foreign workers that will be operating CMVs universally and consistently comply with the federal requirement that such foreign workers demonstrate proficiency in the English language.

3. How should an ELP requirement be described in the job order and/or application? What occurs if this requirement is not included in the job order and/or application as mandated by federal regulations?

Employers should include language in the job order and/or application that is consistent with the federal regulatory standards under 49 C.F.R. § 391.11(b)(2) concerning ELP. For example, a statement enumerating an ELP standard to include in a job order or temporary/permanent labor certification application would be in compliance if it stated the following:

“The worker must be able to read and speak the English language sufficiently to converse with the general public, understand highway traffic signs and signals in English, respond to official inquiries, and make entries on reports and records.”

If a job order and/or application for temporary or permanent labor certification involves a position that requires a foreign worker to operate a CMV and does not include an ELP standard that complies with this guidance, the application may be issued a notice of deficiency under 20 C.F.R. §§ 655.31 (H-2B temporary nonagricultural visa program), 655.141 (H-2A temporary agricultural visa program), or 655.431 (CW-1 temporary employment on the Commonwealth of the Northern Mariana Islands). If an employer does not make the necessary modifications to their application by including the required ELP standard, their job order and/or application for temporary or permanent labor certification may be denied under 20 C.F.R. §§ 655.142(a)-(b) (H-2A), 655.31(b)(4) and 655.32(c) (H-2B), or 655.431(b)(3) and 655.432(c) (CW-1). Furthermore, omission of the ELP standard from an application in the Permanent Labor Certification Program (PERM) may result in a denial determination under 20 C.F.R. § 656.24. Employers are reminded that the material terms and conditions of employment, including all job requirements, must not be contrary to federal, state or local laws and regulations. The ELP standard requirement for job orders and applications for temporary or permanent labor certification that require a foreign worker to operate a CMV will go into effect prospectively on **Monday, June 15, 2026**.

Additionally, while not required, there are certain steps employers may take, including adding additional details along with the language referenced above, to further screen prospective foreign employees for ELP. The FMCSA has already provided extensive [guidance](#) on their website regarding the steps a motor carrier can undertake in order to assess a CMV driver’s ELP during the driver qualification process, and this guidance can be adapted to aid employers in describing ELP qualifications and skills in their job orders and applications for temporary or permanent labor certification. For example, employers could choose to include in their job orders and/or applications:

- A statement that prospective drivers of CMVs should be capable of answering, in English, questions relating to the amount of time one spends on duty, including drive time and logbook information, trip information, information that is included in the

- CDL, information contained in shipping papers for the particular cargo being transported, and various pieces of equipment that may be subject to inspection;
- An advisement that foreign nationals will not be permitted to use various translation tools and services, such as interpreting services, I-Speak cards, cue cards, smart phones, or other similar tools and services, to aid their communication with inspecting officers during the English language proficiency assessment; and
 - Where feasible, depictions or descriptions of various signage found in the Federal Highway Administration's (FHWA) Manual on Uniform Traffic Control Devices (MUTCD) found here: <https://mutcd.fhwa.dot.gov/>. Additionally, employers may simply provide notice that prospective drivers of CMVs should be able to sufficiently understand and explain the meaning of U.S. highway signs.