MONTANA
Department of Transportation

# Language Access Plan

Ensuring Meaningful Access
for All Individuals

August 2026

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# Part A: Introduction

## MDT Mission & Values

The mission of the Montana Department of Transportation (MDT) is to plan, build, operate, and maintain a safe and resilient transportation system to move Montana forward.

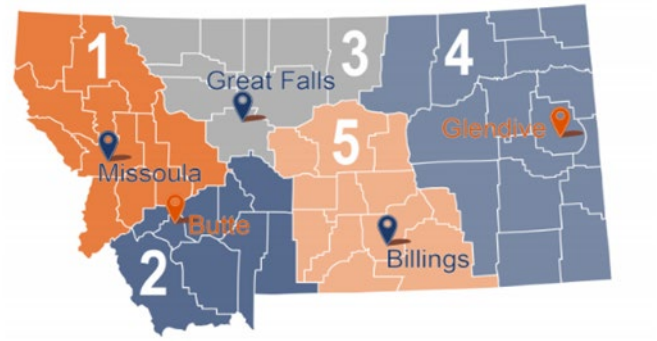
The core values that guide all MDT employee behavior, actions and approach are: Safety, Accountability, Customer Service, Leadership, Communication, Decision-Making and Disagreement, and Excellence.

## Organization

MDT is responsible for the planning, design, maintenance, operation, and management of Montana's state-owned roadways, walkways, rest areas, airports, and numerous public-use facilities. The departmental structure helps staff at the state, regional, and local level efficiently deliver transportation improvements, comply with relevant rules and regulations, and maintain and operate transportation infrastructure to enable daily movement of goods and people across the state.

Each division within the department provides a critical function toward meeting MDT's mission of ensuring Montana's transportation network continues to remain a quality resource for all users, and supports the growth of businesses, communities, and the Montana way of life. MDT's leaders, employees, and partners are focused on the future of our state and finding the best ways to move Montana forward, together.

Montana's geographic and demographic diversity means regions in Montana face different travel demands and transportation challenges. To address these unique challenges, the state is split into five transportation districts, each managed by district administrators focused on the individual transportation needs within their jurisdiction.




**District 1 - Missoula**
Phone: 406.523.5800

**District 2 - Butte**
Phone: 406.494.9600

**District 3 - Great Falls**
Phone: 406.454.5880

**District 4 - Glendive**
Phone: 406.345.8200

**District 5 - Billings**
Phone: 406.252.4138

## Part B: Purpose of the Language Access Plan

As a recipient of federal financial assistance, MDT is required to comply with Title VI of the Civil Rights Act of 1964 and related statutes, regulations, and authorities, and to deliver its federally assisted programs, services, and activities (Program(s))[1] in a fair and nondiscriminatory manner. This includes taking reasonable steps to provide limited English proficient (LEP) individuals with meaningful access to all MDT Programs. LEP individuals do not speak English as their primary language and have limited ability to speak, read, write or understand English. The purpose of the MDT Language Access Plan (LAP or Plan) is to ensure MDT communicates effectively with LEP individuals.

Meaningful access means providing language assistance that results in accurate, timely, and effective communication at no cost to the LEP individual. For LEP individuals, meaningful access denotes access that is not significantly restricted, delayed, or inferior compared to access provided to English proficient individuals.

This LAP provides guidance to MDT Programs for identifying LEP individuals, implementing language assistance measures, and defining staff responsibilities related to providing meaningful access for LEP individuals.[2]

MDT subrecipients may reference this Plan to address LAP/LEP responsibilities. In referencing this Plan, subrecipients must independently ensure compliance with the subrecipient's specific LAP/LEP requirements.

For further questions regarding this Plan, please contact:

Kim Vietz, Title VI Specialist
Office of Civil Rights
Montana Department of Transportation

406-444-6334
kvietz@mt.gov

## Part C: Authorities and Guidance

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, provides that no person "shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

[1] Program(s) include any activities, benefits, information, programs, projects or services provided by or delivered from any MDT division or district office.

[2] For the convenience of subrecipients and to optimize compliance with LAP/LEP requirements, MDT has arranged for subrecipients' no-cost use of MDT's contracted services for language assistance. Notwithstanding this arrangement, subrecipients remain responsible for complying with their respective LAP/LEP requirements. See e.g., USDOT Federal Transit Administration (FTA) Circular 4702.1B, Chapter III-7 through III-9.

U.S. Department of Transportation (USDOT) LEP Guidance, "Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons," (December 14, 2005) requires USDOT recipients take reasonable steps to ensure meaningful access to Programs for LEP individuals.

USDOT FTA Circular 4702.1B, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," (October 1, 2012) Chapter III, part 9, requires federal fund recipients and subrecipients take reasonable steps to ensure meaningful access to Programs for LEP individuals.

Executive Order 14224, "Designating English as the Official Language of the United States," 90 FR 11363 (March 1, 2025) designates English as the one official language of the United States.

USDOT Federal Motor Carrier Safety Administration (FMCSA), "English Language Proficiency Under 49 CFR § 391.11(b)(2)," MC-SEE-2026-0002 (April 16, 2026) (FMCSA ELP Memorandum)[3] requires placing drivers of commercial motor vehicles (CMV) out of service for English Language Proficiency (ELP) violations, defines the driver assessments for determining non-compliance with 49 CFR 391.11(b)(2), and requires MCS officers to communicate in English with CMV drivers during the driver interview. If the officer determines that the driver is in compliance, the officer may elect to conduct the remainder of the inspection using communication methods best suited to facilitate safe and effective completion of the inspection.

## Part D: Determining MDT's Obligation to Provide LEP Services (Four-Factor Analysis)

MDT uses the following four factors to evaluate its obligation to provide LEP services:[4]

Factor 1. The number or proportion of LEP persons eligible to be served or likely to be encountered by MDT program staff.
Factor 2. The frequency with which LEP individuals interact with the program.
Factor 3. The nature and importance of the program, activity, or service provided by the program.
Factor 4. The resources available to MDT's programs and resource costs.

The following four-factor analysis provides an agency-wide assessment for all of MDT's Programs. If sections of this assessment do not apply to specific programs, MDT program staff should work with the Office of Civil Rights (OCR) to conduct a more specific four-factor analysis to determine appropriate steps to ensure meaningful access for LEP individuals.

[3] FMCSA ELP Memorandum is Attachment B.
[4] See four-factor analysis in USDOJ and USDOT LEP Guidance.

## Factor 1: The number or proportion of LEP individuals eligible to be served or likely to be encountered by MDT staff

Programs that encounter a greater number of LEP individuals are more likely to require language assistance services.[5] Since MDT Programs serve both Montana residents and non-residents, this analysis considers resident and non-resident LEP individuals.

### Montana Residents

MDT evaluated the following external data sources linked from LEP.gov Data and Language Maps[6] to determine the best resources to evaluate the number of residents likely to be served or encountered by MDT Programs:

- Federal Government LEP Map Apps.
- U.S. Census Bureau LEP Data.
- U.S. Department of Health and Human Services LEP data.[7]
- U.S. Department of Education (USDOE) LEP data.
- Non-Governmental LEP Data and Maps.

See also, Attachment D: Resources. In addition, MDT consulted the Montana Department of Administration and the Montana Department of Commerce Census and Economic Information Center (CEIC).[8] MDT also reviewed data from the Montana Office of Public Instruction. MDT determined that US Census Bureau and CEIC census data from the 2024 American Community Survey (ACS) 5-Year Estimates yielded the most accurate information. [9]

Statewide census data indicated 0.94% of Montanans spoke English less than very well, with Spanish (0.39%) being the most commonly spoken non-English language. Census data in Attachment A, listed by county, identified 18 (of 56) counties in Montana where more than 1% of the population spoke English less than very well; however, no geographic area had a language use percentage other than English greater than 4.8%.[10]

USDOE data from Fall 2021 indicates that 2.4% of Montana's public school students were English learners.[11]

### Non-Residents

Several MDT programs that interact with LEP individuals are not included in these external data sources as the individuals do not reside in Montana. In June 2022, to better understand and capture interactions with these populations, MDT surveyed its employees

[5] USDOT LEP Guidance.
[6] LEP.gov is no longer available. .
[7] Resource for Entities Covered by Section 1557 of the Affordable Care Act Estimates of at Least the Top 15 Languages Spoken by Individuals with Limited English Proficiency for the 50 States, The District of Columbia, and the U.S. Territories (no longer available).
[8] The CEIC is the official State Data Center for Montana. The State Data Center program is one of the Census Bureau's partnerships to make data available locally.
[9] MDT evaluated the data from ACS Table C16001 and S1601 because it had the most recent data (2021) and provided data at the county level.
[10] ACS Table C16001 as refined by CEIC to be Montana-specific is available upon request.
[11] USDOE English Learners in Public Schools by State.

to determine the total number of interactions between staff and LEP individuals within the past year.[12]

## Factor 2: The frequency with which LEP individuals come in contact with MDT Programs

MDT utilized data from its employee survey to assess the frequency with which LEP individuals come in contact with MDT Programs.

- Of the 747 MDT employee survey respondents, 3.8% reported interactions with Spanish speaking LEP individuals during the year. MDT employee respondents reported Spanish as the language most frequently encountered.
    - 26% of MDT employee respondents that work directly or indirectly with members of the public encountered at least one LEP individual during the survey period.
    - MDT district office employees generally reported 5 or fewer encounters per year with LEP individuals. Most of these encounters involved serving the traveling public.
    - Motor Carrier Services (MCS) employees were the most likely to encounter LEP individuals, as 50% of MCS respondents encountered LEP individuals more than 26 times in a year. MCS respondents reported languages most frequently encountered as: Arabic, French, Punjabi, Russian, Spanish, and Urdu.

MDT reviewed survey results from the Yellowstone Airport in West Yellowstone, Montana and Yellowstone National Park (YNP). Both MDT Yellowstone Airport and YNP Visitor Use Study (2016)[13] respondents reported languages most frequently encountered as Mandarin and Spanish.

MDT also surveyed transit subrecipients in November 2022. The survey results indicated the following:

- 32% of MDT subrecipient respondents reported encountering at least one LEP individual (e.g., subrecipients answered “1-5 encounters” or “more than 26 encounters”) in the past year, most often a transit rider.
    - Subrecipient respondents reported Spanish as the language most frequently encountered.

## Factor 3: The nature and importance of the program or service provided by the program to people’s lives

The more important the program, or the greater the possible consequences of the contact to LEP individuals, the greater the need for language assistance services. MDT staff must determine whether denial or delay of access to programs could have serious implications for the LEP individual. Although all MDT Programs are important, generally, programs related to accessing benefits, opportunities, or rights are considered high importance.

Areas of high importance typically are:

[12] MDT Limited English Proficiency Survey (June 2022) is available upon request.
[13] YNP Visitor Use Study is available upon request.

- Programs that serve higher minority or LEP populations (i.e., Indian reservations); and
- Programs where the population is non-residential (e.g., airports, Motor Carrier Services, and district staff assisting the traveling public).

### Factor 4: The resources available to MDT Program staff and resource costs

The frequency and importance of MDT Program encounters for Montana's LEP populations will dictate the level of language services it should commit to provide. Some language services can be provided at little or no cost. Each Program should carefully explore the most cost-effective means of delivering competent and accurate language services by:

- Taking an inventory of the language assistance measures currently being provided, along with associated costs.
- Contacting OCR to determine what, if any, additional services are needed to provide meaningful access.
- Considering cost-effective practices for providing language services

Montana's demographic meets the threshold for written translation in Spanish and German.[14] The survey indicated that MDT Programs do encounter LEP individuals and need to be equipped to provide meaningful access. MDT provides the Language Identification and Assistance Guide to MDT employees, which prepares them to know when and how to provide interpretation services when interacting with LEP individuals.

Language assistance measures should be based on what is necessary and reasonable after considering the four-factor analysis. See Element II, Language Assistance Measures on page 9 for further information.

## Part E: Elements of MDT's Language Access Plan

Based upon the findings in the four-factor analysis, MDT staff will implement language assistance measures to address the identified needs of LEP populations served. MDT uses the following five elements from USDOT LEP Guidance to implement its Plan:

I. Identifying the Language Needs of LEP Individuals.
II. Implementing Language Assistance Measures.
III. Training Staff to Implement the Plan.
IV. Providing Notice to LEP Individuals.
V. Monitoring and Updating the LAP.

### Element I: Identifying Language Needs of LEP Individuals

MDT's assessment of the number of LEP individuals eligible to be served or encountered and the frequency of encounters is documented through the four-factor analysis in Part D of this Plan.

[14] See Safe Harbor for Written Translations under Element II.

ACS and employee survey data will not provide Title VI demographic data for all situations. Some Title VI impacts, such as right of way/relocations and public involvement, will require MDT to conduct surveys to collect demographic data from impacted persons.[15]

### Public Engagement

MDT's public involvement process ensures consistent communication that informs the public and stakeholders from initial project development through the completion of construction. To enhance communication on a project-specific and statewide level, MDT contracts with public involvement firms. As described further in Element III on page 10, OCR trains MDT employees and public involvement firms on LEP requirements, including language assistance measures in Element II and public notice requirements for public engagement in Element IV.

## Element II: Language Assistance Measures

MDT uses various language assistance services to ensure meaningful access for LEP individuals. Language assistance measures should follow USDOT LEP guidance and be based on what is necessary and reasonable after considering the four-factor analysis in Part D of this Plan.

### Safe Harbor for Written Translations

MDT follows USDOT LEP guidance regarding "safe harbor" provisions for translation of written documents. Under these provisions the following actions are considered strong evidence of compliance with USDOT's written-translation obligations:

| Size of Language Group | Recommended Provision of Written Language Assistance |
|---|---|
| **1,000 or more in the eligible population in the market area or among current beneficiaries** | Translated vital documents |
| **More than 5% of the eligible population or beneficiaries *and* more than 50 in number** | Translated vital documents |
| **More than 5% of the eligible population or beneficiaries *and* 50 or less in number** | Translated written notice of right to receive free oral interpretation of documents. |
| **5% or less of the eligible population or beneficiaries and less than 1,000 in number** | No written translation is required. |

Based on MDT's analysis of ACS data identifying language spoken at home, MDT meets the threshold requiring written translations of vital documents in Spanish and German. MDT has also arranged to provide interpretation and translation services to LEP individuals to ensure meaningful access to MDT Programs.

### Language Assistance Measures

- MDT's Language Identification and Assistance Guide (Guide) equips employees to identify the primary language of the LEP individual ("I Speak…"[16]) and explains how to obtain interpretation services via Language Link. For MCS officers, MDT included in the Guide an explanation of why a driver is receiving a Commercial Vehicle Safety Alliance inspection and what documents are being requested. This

[15] FHWA Limited English Proficiency Data Collection Walkthrough.
[16] "I Speak…" is translated into 71 languages, including those from Montana's tribal communities.

information is translated into the six most common languages encountered by MCS officers (Arabic, French, Punjabi, Russian, Spanish, and Urdu).
- MDT's Yellowstone Airport uses universal airport signage and graphics to assist with airport terminal and landside wayfinding. The signs are used internationally and can help passengers identify where airport services are located without having to read or understand English.
- MDT contracts with Language Link[17] to deliver interpretation and translation services in more than 300 languages and dialects. Language Link is available 24 hours a day, 7 days a week, year-round. MDT's contract also includes these services for its subrecipients.

## How to Assist LEP Individuals

Necessary language assistance may vary depending on the type of interaction.

LEP Callers and LEP Individuals who have In-Person Contact with Staff: MDT employees should use the Language Identification and Assistance Guide to determine the primary language of the LEP individual and contact Language Link to provide interpretation.

To ensure the best interaction when working with interpreters, MDT employees should:

- Briefly tell the interpreter the nature of the call.
- Speak directly to the LEP individual and not to the interpreter.
- Pause at the end of a complete thought.
- Provide the interpreter with clarification or repetition as requested to ensure accuracy.

Written Communication from LEP Persons: Written translation requests may take up to five (5) business days to receive from the date of request. To provide timely service, MDT staff should call the LEP individual using Language Link to respond. For formal written responses that need to be translated, contact MDT OCR to request a translation from Language Link.

## Element III: Training Staff

MDT employees need to know their obligations to provide meaningful access to programs for LEP individuals. MDT provides training for all employees, which includes:

- Review of MDT's current LAP and LEP policies and procedures.
- Requirements for providing meaningful access.
- How to work effectively with LEP individuals and interpreters.
- Coordinating with OCR to document LEP interactions.
- How to use available resources including the Language Identification and Assistance Guide and Language Link.

[17] Language Link partners with other federal, state, and local government entities and maintains certifications and standards within its industry. MDT employees should refer to the Guide, MDT website, or contact MDT OCR for more information on how to use this service.

OCR will annually assess agency employee training needs for providing meaningful access to LEP individuals, including training of management staff and new employees.

## Element IV: Providing Notice to LEP Persons

Any facilities where MDT interacts with the public in-person should have a "Public Notice of Rights Under Title VI" posted clearly and conspicuously. Based on EO 14224, MDT's four-factor analysis and USDOT's safe harbor guidance, notices will be published in English, Spanish and German. MDT will also post the Point to Your Language Poster[18], a resource from Language Link, in all public-serving facilities. Staff should use the Language Identification and Assistance Guide in interactions with LEP individuals. If staff experience an increase in LEP individuals accessing MDT programs, they should work with OCR to document and determine if additional resources should be provided to ensure meaningful access.

### Tribal Communities

MDT acknowledges tribal languages may be spoken in reservation communities or elsewhere in Montana. MDT employees can use Language Link to assist with interpretation or translation services.

### Public Engagement

MDT must consider LEP communities during all public engagement planning. If LEP communities were not previously included in the MDT assessment, employees should contact OCR to document the four-factor analysis and determine the level and type of language assistance necessary for a particular public engagement plan or activity.

MDT employees should be prepared to provide language assistance via Language Link throughout the public engagement process, whether the public engagement is virtual or in person. The Guide provides information on how to connect to Language Link through a virtual platform. Staff should determine what information the LEP individual is interested in receiving. If the information is not readily available in other languages, staff should request the LEP individual's contact information and follow up with the requested information in a timely manner.

MDT employees conducting outreach should regularly assess the needs of the populations frequently encountered or affected by their program to determine whether translation of outreach materials is needed. Community organizations may help determine what outreach materials are most helpful to translate, and some translations may be more effective when done in conjunction with other outreach methods, including utilizing ethnic media, schools, and religious or community organizations to help spread a message.

### Websites and Online Documents

Generally, MDT websites are considered a statewide resource, and the four-factor analysis should use statewide LEP data to determine necessary translations. However, where MDT employees determine a more specific LEP audience is likely to visit their webpage(s), the four-factor analysis should include a demographic analysis limited to that audience. For example, a district maintaining a project-specific webpage should consider the population likely to be affected by the project.

[18] Point to Your Language Poster is Attachment C.

## Element V: Monitoring and Updating the LAP

OCR will be responsible for reviewing changes in demographics and types of language assistance services to update and implement the LAP on an annual basis. This includes assessing changes in:

- Executive Orders and/or legislation.
- Current LEP populations in the service area or population affected or encountered.
- Frequency of encounters with LEP language groups.
- Nature and importance of activities to LEP individuals.
- Availability of resources, including technological advances and sources of additional resources, and the costs imposed.
- Whether existing assistance meets the needs of LEP individuals.
- Whether staff knows and understands the LAP and how to implement it.
- Whether identified sources for assistance are still available and viable.

Any changes will be reflected in future Plan updates.

## Attachment A: ACS Tables

As shown below, Census data indicates 0.94% of Montanans speak English less than very well with Spanish (0.39%) being the most commonly spoken non-English language.

Data Source: 2024 American Community Survey (ACS) 5-year
Table: C16001
CEIC refined ACS Table C16001 to be Montana-specific (June 22, 2026). The below table is an excerpt from the CEIC document. The full document is available upon request.

| Geography Name | Language | % of Population 5 years and over that speak English less than very well | Estimate: Speak English less than very well |
|---|---|---|---|
| Montana | All Languages other than English | 0.94% | 9,929 |
| Montana | Arabic | 0.00% | - |
| Montana | Chinese (incl. Mandarin, Cantonese) | 0.06% | 686 |
| Montana | French, Haitian, or Cajun | 0.04% | 395 |
| Montana | German or other West Germanic languages | 0.16% | 1,651 |
| Montana | Korean | 0.01% | 97 |
| Montana | Other and unspecified languages | 0.09% | 906 |
| Montana | Other Asian and Pacific Island languages | 0.06% | 588 |
| Montana | Other Indo-European languages | 0.03% | 311 |
| Montana | Russian, Polish, or other Slavic languages | 0.05% | 576 |
| Montana | Spanish | 0.39% | 4,082 |
| Montana | Tagalog (incl. Filipino) | 0.03% | 295 |
| Montana | Vietnamese | 0.03% | 342 |

ACS Table C16001 includes the primary language spoken for the state and countywide population who speak English less than very well. ACS Table S1601 combines all LEP individuals by county, regardless of primary language spoken. As shown below, in 18 of the 56 counties in Montana more than 1% of the population spoke English less than very well; however, no county had a language use percentage other than English greater than 4.8%.

## Montana & Counties: Population 5 years and over that speaks English less than very well

Data Source: 2024 American Community Survey (ACS) 5-year
Table: S1601
CEIC refined ACS Table S1601 to be Montana-specific (June 22, 2026). The below table is an excerpt from the CEIC document. The full document is available upon request.

| Geographic Area Name | % of Population 5 years and over that speak English less than very well |
|---|---|
| Montana | 0.94% |
| Beaverhead County | 1.82% |
| Big Horn County | 0.95% |
| Blaine County | 1.53% |
| Broadwater County | 0.66% |
| Carbon County | 0.32% |
| Carter County | 0.25% |
| Cascade County | 1.20% |
| Chouteau County | 0.22% |
| Custer County | 0.61% |
| Daniels County | 0.00% |
| Dawson County | 0.11% |
| Deer Lodge County | 0.36% |
| Fallon County | 0.00% |
| Fergus County | 1.10% |
| Flathead County | 0.73% |
| Gallatin County | 1.31% |
| Garfield County | 0.00% |
| Glacier County | 3.27% |
| Golden Valley County | 4.80% |
| Granite County | 1.12% |
| Hill County | 0.68% |
| Jefferson County | 0.79% |
| Judith Basin County | 0.36% |
| Lake County | 1.78% |
| Lewis and Clark County | 0.42% |
| Liberty County | 2.60% |
| Lincoln County | 1.63% |
| McCone County | 0.90% |
| Madison County | 0.00% |
| Meagher County | 0.21% |
| Mineral County | 0.00% |
| Missoula County | 1.10% |
| Musselshell County | 1.48% |
| Park County | 0.65% |
| Petroleum County | 0.00% |
| Phillips County | 0.61% |
| Pondera County | 1.42% |
| Powder River County | 0.12% |
| Powell County | 0.29% |

| Geographic Area Name | % of Population 5 years and over that speak English less than very well |
|---|---|
| Prairie County | 0.00% |
| Ravalli County | 0.62% |
| Richland County | 0.88% |
| Roosevelt County | 0.14% |
| Rosebud County | 1.07% |
| Sanders County | 1.13% |
| Sheridan County | 0.62% |
| Silver Bow County | 0.64% |
| Stillwater County | 0.20% |
| Sweet Grass County | 0.23% |
| Teton County | 1.08% |
| Toole County | 0.82% |
| Treasure County | 0.00% |
| Valley County | 0.16% |
| Wheatland County | 0.00% |
| Wibaux County | 2.02% |
| Yellowstone County | 0.86% |

# Attachment B: FMCSA ELP Memorandum

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
Acting Associate Administrator for Safety

**To:** All FMCSA Staff

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

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**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). FMCSA recommends that the inspector complete this evaluation by interviewing the driver using the guidelines included in Attachment A "Strategies for Communication with Non-Native Speakers of English and Examples of Driver Interview Questions." The inspector should conduct their portion of the driver interview in English, and, at a minimum, the inspector should include inquiries relating to:

1. The origin and destination of the trip.
2. The amount of time spent on duty, including driving time and the record of duty status (or logbook).
3. Information contained in the driver's license.
4. Information contained in shipping papers (including hazardous materials shipping papers, if applicable) for the load being transported.
5. Vehicle equipment subject to inspection.

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.
2. The inspector will select four signs from Attachment B, "Highway Traffic Signs Examples."
3. The inspector will ask the driver to explain the meaning of the four selected highway signs.
4. The inspector will explain to the driver that to be considered qualified in understanding highway traffic signs in English pursuant to the regulation, the driver must be able to explain satisfactorily the meaning of at least three of the four selected signs.[3]

If the inspector determines the driver is unable to read the English language sufficiently to understand the meaning of at least three of the four highway traffic signs, the inspector should cite the driver for a violation of 49 CFR § 391.11(b)(2).

*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**:

[3] The driver's explanation may be in any language, provided the inspector is able to understand the driver's explanation.

This policy applies to all FMCSA enforcement personnel who perform inspections of motor carriers and drivers in the United States[4] 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]

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[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

Digitally signed by PHILIP WALTER THOMAS III
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Philip W. Thomas
Acting Associate Administrator, MC-S Office of Safety
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue SE
Washington, D.C. 20590

## Attachment C: Point to Your Language Poster



**Point to your language.**
**An interpreter will be provided at no cost to you.**

**Arabic**
يرجى الإشارة إلى لغتك.
سيتم إمدادك بمترجم مجانًا.

**Burmese**
သင့်ဘာသာစကားကို ညွှန်ပြပါ။
စကားပြန်တစ်ဦးဖြင့် အခမဲ့ ပံ့ပိုးပါမည်။

**Cantonese**
請點擊您所選的語言。
我們會為您提供免費傳譯員服務。

**Farsi**
به زبان خود اشاره کنید. یک مترجم شفاهی به صورت رایگان در اختیارتان قرار خواهد گرفت.

**French**
Indiquez votre langue. On vous soumettra gratuitement un interprète

**Haitian Creole**
Montre ki lang ou pale.
Y ap ba w yon entèprèt gratis.

**Hindi**
अपनी भाषा की ओर संकेत करें।
आपको दुभाषिए की सेवा मुफ़्त प्रदान की जाएगी।

**Hmong**
Taw tes rau koj hom lus. Yuav muab ib tug neeg txhais lus rau koj tsis tau them nqi.

**Italian**
Indica la tua lingua.
Ti sarà fornito un interprete gratuitamente.

**Japanese**
お使いの言語を選択してください。
通訳を無料でご用意できます。

**Polish**
Wskaż swój język.
Zapewnimy ci tłumacza bezpłatnie.

**Portuguese**
Indique seu idioma.
Você terá direito a um intérprete sem custos.

**Punjabi**
ਆਪਣੀ ਭਾਸ਼ਾ ਦੀ ਚੋਣ ਕਰੋ।
ਤੁਹਾਨੂੰ ਦੁਭਾਸ਼ੀਏ ਦੀ ਸੇਵਾ ਮੁਫ਼ਤ ਮੁਹੱਈਆ ਕੀਤੀ ਜਾਵੇਗੀ।

**Russian**
Укажите свой язык. Переводчик будет предоставлен вам бесплатно.

**Somali**
Tilmaan luuqaddaada. Turjubaan ayaa si bilaash ah lagugu siin doonaa

**Spanish**
Señale su idioma. Se le proporcionará un intérprete sin costo para usted.

**Tagalog**
Ituro ang iyong wika. Ilalaan ang isang interpreter nang wala kang babayaran.

**Vietnamese**
Hãy trỏ tới ngôn ngữ của bạn. Bạn sẽ được cung cấp một thông dịch viên miễn phí.

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## Attachment D: Resources

MDT evaluated the following external data sources from LEP.gov Data and Language Maps to determine the best resources to evaluate the number of individuals likely to be served or encountered by a Program:

- Federal Government LEP Map Apps
  - Refers to U.S. Census Bureau LEP data, which is discussed in the next bullet.
- U.S. Census Bureau LEP Data
  - The most current resources at the statewide level refer to American Community Survey (ACS) data. ACS is a nationwide survey designed to provide communities with reliable and timely social, economic, housing and demographic data every year. No other resource provides such a wealth of social, economic, housing, and demographic information for the nation, states, and substate geographic areas.[19]
- U.S. Department of Education (USDOE) LEP data
  - Includes National Center for Education Statistics (NCES) for English Language Learners (ELL) on a statewide level. An English learner is an individual who has sufficient difficulty speaking, reading, writing, or understanding the English language to be denied the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in the larger U.S. society.
    - MDT also evaluated Montana Office of Public Instruction (OPI) data since USDOE data is at a statewide level. Data from OPI is broken down by school district and does not indicate a student's fluency in English nor what language is spoken at home. MDT compiled the OPI data by school district[20], but elected not to use it because the data does not provide the level of information needed for determining LEP populations likely to be served.
- Non-Governmental LEP Data and Maps
  - MDT elected not to use any of the resources listed under this section because data was either provided at the nationwide level, was based on statistics from several years ago, or used ACS data that MDT already evaluated.
- The Census and Economic Information Center (CEIC) within Montana Department of Commerce is the official State Data Center for the state.[21] CEIC provides current, easily accessible, and thorough economic and demographic analysis, data, maps, and expert assistance to meet the needs and requests of the people in the State of Montana. CEIC prepared census data for MDT from the 2024 ACS 5-Year Estimates, Table C16001 and S1601, which indicate language spoken at home for the population 5 years and older and whether English is spoken "very well" or less than "very well."

[19] Understanding and Using American Community Survey Data. Issued September 2020.
[20] MDT's evaluation of OPI data is available upon request.
[21] The State Data Center program is one of the Census Bureau's partnerships to make data available locally.