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Federal Highway Administration
Docket Clerk, U.S. DOT Dockets
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Washington, D.C. 20590-0001

Federal Highway Administration (FHWA) Docket No. FHWA-97-2759, English Language Requirement; Qualifications of Drivers.

The California Highway Patrol (CHP) submits the following comments on the above captioned docket:

The CHP opposes any change to Title 49, Code of Federal Regulations (CFR) Section 391.11(b)(2) which would reduce the English language requirement for drivers operating in interstate commerce, particularly to the extent that it applies to drivers transporting materials requiring a hazardous materials endorsement. The California Department of Motor Vehicles currently provides the written commercial driver license (CDL) examinations in English and Spanish. The hazardous materials portion of the Spanish CDL test is given in English. It is our understanding that the Spanish written CDL test is designed to ensure applicants can read and understand simple English as used on road signs, pavement markings, etc.

Generally, government places greater regulation over those issues which offer a greater potential of danger to public safety and/or environmental protection. The potential risk associated with the operation of commercial motor vehicles is greater than the potential risk associated with the operation of passenger vehicles. Commercial vehicle operation potential risk consequences are even higher when the cargo represents a severe hazard by itself (hazardous materials, including hazardous wastes). The potential risk issues are further heightened when vehicular design exhibits unstable tendencies increasing the likelihood of a major spill (i.e., cargo tank vehicles).

State and local agencies currently employ electronic message boards over or alongside major highways which experience special intermittent hazardous conditions. The boards are designed to display short messages which can be seen and understood at highways speeds. Message boards would become ineffective if messages were required to be translated into every language spoken in California. Additionally, drivers must drive and park hazardous material laden vehicles in accordance with the laws, ordinances, and regulations of the jurisdiction in which they are operating (Reference 49 CFR 397.3). California and other states have established restrictions on the use of

designated bridges, tunnels and highways by vehicles transporting specified dangerous materials, and in some instances, mandatory brake/tire inspection locations. These restrictions, inspection locations or other information pertaining to dangerous loads are posted in English. The intricacy of specific posted information oftentimes does not translate easily into another language. The CHP is also not aware of any international signs which could be utilized to prohibit specific commodity movement through designated restricted areas such as the Caldecott Tunnel or the San Francisco Bay Bridge (i.e., a cargo tank inside the universal language red "NO" sign would prohibit all cargo tanks when in fact only cargo tanks hauling flammable liquids, liquefied petroleum gas or poisonous gas are prohibited in the Caldecott Tunnel). The inability of a driver to grasp a critical message about conditions or prohibitions ahead could easily compromise the safety of both the driver and the public.

U.S. Department of Transportation regulations contained in Title 49, CFR place special responsibilities on drivers involved in the transportation of hazardous materials:

- Drivers may not accept an unlawful shipment for transportation (Reference 49 CFR 177.801). The ability to read and understand shipping papers, emergency response information, and package markings, all required to be in English, is critical to this task. A driver that is not able to comprehend such information compromises his or her safety, as well as the safety of others. The ability to resolve possible shipping requirement discrepancies is significantly hampered by not being able to communicate in English with shipper representatives.

Miscommunication with shipper representatives can also result in shipments leaving prior to completion of all necessary shipping functions. For example: After loading a compartmentalized cargo tank the shipper provides the driver with one shipping paper and tells the driver to "wait" and someone will be out shortly with the shipping papers for the other half of the load, along with the appropriate markings and placards, and secure the dome covers. Not understanding this statement, the driver leaves.

- Drivers who participate in loading operations, as is often the case with bulk shipments, are required to fulfill those responsibilities lawfully (Reference 49 CFR 173.1[c]). It is important that drivers assuming these functions be able to verbally communicate with shipper representatives. There is a tendency in people with inadequate language skills to not ask clarifying questions which could prevent a problem that may well manifest itself later down the highway.
- Drivers attending specified loading or unloading operations are required to "prevent persons in the vicinity from smoking, lighting matches, or carrying any flame or lighted cigar, pipe or cigarette" (Reference 49 CFR 177.834[d]). Swift warnings, in English, in

these situations would appear to offer the quickest resolution to the potentially hazardous situation.

- Drivers are authorized to move hazardous material laden vehicles that are not properly placarded or marked or are otherwise in an emergency situation when the vehicle is escorted by a representative of a state or local government (Reference 49 CFR 177.823[a]). Successful vehicle escorting is largely dependent on good communication between the involved parties.
- Drivers are required to make immediate notification to DOT in the event of specified incidents (Reference 49 CFR 171.15). Expeditious notification can be hampered by language barriers. It is possible that DOT may be able to provide multilingual respondents in French and some Spanish dialects, but timely communication in other languages and or dialects may not be possible.
- Section 23112.5 of the California Vehicle Code requires drivers that spill or otherwise cause the release of a hazardous material on any of the state's highways to notify the CHP or other agency with traffic jurisdiction as soon as they have knowledge of the spill or release. This immediate notification process is a valuable tool in effecting timely state and local agency emergency response to hazardous material incidents. Information gathered from the driver may have a positive effect on responder safety and the affected community. Conversely, poor or nonexistent communication can result in just the opposite. The time spent trying to arrange an appropriate bilingual link could in some instances be the difference between life or death.

Although the FHWA authorizes states to administer CDL examinations in foreign languages, the examination should include a procedure to measure an individual's level of English proficiency beyond the level of highway warning signs. These same measures of national language proficiency could be incorporated into Canada's and Mexico's CDL examinations.

Sincerely,



L. DENNO, Chief
Enforcement Services Division