



ADVOCATES
FOR HIGHWAY
AND AUTO SAFETY

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**English Language Requirement: Qualifications of Commercial
Drivers, Advance Notice of Proposed Rulemaking
62 FR 45200 et seq., August 26, 1997**

Advocates for Highway and Auto Safety (Advocates) submits these comments in response to the possible weakening of English language requirements currently contained in 49 CFR § 391.11(b). Although Advocates agrees that discrimination against foreign commercial drivers cannot be tolerated in any form, it is crucial that drivers from other countries operating in the U.S. under present arrangements pursuant to the North American Free Trade Agreement (NAFTA) be able to comprehend the often complicated traffic control environment of U.S. highways and become familiar with Federal Motor Carrier Safety Regulations, as well as other important safety regulations that bear directly on highway and environmental safety, such as the Hazardous Materials Regulations of the Research and Special Programs Administration.

Unfortunately, numerous recent reports, including media investigations and reports from the U.S. General Accounting Office, have documented that drivers entering the U.S. do not often have even basic English comprehension. Moreover, a high percentage of these drivers have no working knowledge of U.S. safety regulations and do not understand highway signage containing crucially important safety information. The quantity and persistence of the evidence



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showing that this is a widespread, chronic problem is overwhelming and, as a result, a lack of English proficiency may be linked with many highway crashes and other highway incidents, such as hazardous materials spills.

Accordingly, any proposed changes in current regulation, including English language comprehension, must be weighed against overarching needs of public safety which is the pre-eminent concern for FHWA under prevailing federal law. A "performance-based" approach to English language comprehension and usage in crucially important areas of commercial vehicle operating safety may result in unacceptably low levels of English proficiency which can directly endanger the travelling public because of driver inability to comprehend highway signs, understand and apply motor carrier and hazardous materials transportation regulations, and obey U.S. traffic laws and ordinances. If FHWA adopts amendments that fundamentally reduce the quality of English comprehension and usage required by federal regulation, the net result will be an elevation of risk which can be viewed as directly conflicting with current federal motor carrier safety legislation and with prevailing case law. Changes in regulatory requirements must be consistent with the public interest and the safe operation of commercial motor vehicles. Agency action which arguably reduces the need for adequate comprehension of English can be regarded as a failure to act consistent with the needs of safety in establishing agency policy.

Certain strategic actions can be undertaken to improve foreign driver comprehension of important laws and regulations, such as translations of traffic laws and ordinances and of motor carrier safety and hazardous materials regulations. Other strategies, however, are not practical options, such as systematic replacement of traffic control devices, particularly of signage,

because of the enormous costs and the need for massive actions by state, county, and municipal highway authorities along U.S. highway rights of way. The widespread substitution of bilingual or trilingual signage beyond current border states is not economically feasible and within current federal and state budgetary constraints and would require an enormous diversion of maintenance forces, use of very large amounts of expensive materials, and significant levels of personnel resources and costs. In addition, commercial motor vehicle drivers who have little or no proficiency in English and who lack basic comprehension of U.S. regulations will present a challenge to state and local law enforcement agencies that do not have a large percentage of bilingual officers, especially in non-border jurisdictions.

Moreover, Advocates does not believe that the Secretary would entertain such a change in the use and comprehension of English in air transportation, where English is the required language for communication between pilots and air traffic controllers. Yet, commercial motor vehicles are far more numerous than airliners and they are annually involved in many more fatal crashes and near misses than airliners. Pilots who lack proficiency in English increase the risk of a crash from a potential breakdown in communication with ground controllers when attempting to land. Similarly, commercial motor vehicle operators who lack basic comprehension of safety regulations and signage also pose risks to themselves and other highway users if they are unable to readily understand or comprehend critical safety regulations and information.

In closing, Advocates wants to reiterate the potential highway safety effects of any contemplated amendment to the current requirement for English proficiency by commercial

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drivers. Already an increasing number of commercial drivers in border regions presently do not have English proficiency, are not acquainted with U.S. traffic laws and ordinances or with U.S. motor carrier and hazardous materials handling and transportation requirements, thereby elevating the overall risk of crashes and hazardous materials incidents. The FHWA has a major legal and moral obligation to protect public safety and to ensure that changes in language comprehension standards do not increase safety risks on our highways.

Respectfully submitted,

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