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DEPT. OF TRANSPORTATION  
DOCKET SECTION  
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October 17, 1997

Federal Highway Administration  
Department of Transportation  
Docket Clerk, Room PL-401  
400 Seventh Street, SW  
Washington, DC 20590-0001

RE: Docket No. FHWA-97-2759<sup>-36</sup>; English Language Requirement;  
Qualification of Drivers

Gentlemen:

This is in response to your request for comments on the above-captioned advance notice of proposed rulemaking.

I've been in the trucking industry for over forty (40) years, of which, 28 were in the unionized LTL sector with a major motor carrier, while the last 12 have been with a major nonunion truckload refrigerated carrier. My present company transports general commodities and hazardous materials, as well as refrigerated products with it's over 1,800 power units. My experience in safety began in 1971 with my appointment as Director of Safety & Compliance, for a major LTL motor carrier and continues to this date in positions of greater responsibilities in Safety & related areas.

Let me comment on this proposal:

First, I strongly believe FHWA should continue with it's present requirement, e.g...Section 391.11(b) (2) of the FMCSR "... 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." While the American Civil Liberties Union (ACLU) raised the issue of a possible conflict with Title VI of the Civil Rights Act of 1964, I don't believe they have a full appreciation for the current environment nor the demands placed on today's commercial drivers.

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More specifically, let me address some issues and personal experience on drivers who after being hired, exhibited English language problems. Although we, as a motor carrier comply with the present regulations, in the past we've hired a few drivers who at the offset, presented themselves as qualified in meeting the requirements of 391.11(b)(2), however, as situations later developed, we found them to have problems in communicating information necessary to the proper handling of vehicular accidents, hazardous materials incidents, diesel spills, etc.

We've hired drivers from Spanish speaking countries, e.g. Mexico, Guatemala, etc., as well as drivers from the Middle East, Europe and a few drivers formerly from Russia. These are individuals who are in the USA legally and have permission to work.

It is rather unfortunate they don't always possess the language skills to succeed in our industry because our industry sorely needs commercial motor vehicle (CMV) drivers at this time. But it is also absolutely necessary they understand the English language sufficiently to comply with the complexity of regulations required of today's CMV drivers. This ranges from the FHWA Federal Motor Carrier Safety Regulations, Hazardous Materials Regulations, EPA Regulations, as well as a variety of State requirements. Frankly, those regulations are difficult enough for U. S. citizens to comprehend, let alone folks coming from other countries.

Issues we've encountered with drivers who marginally meet this requirement, have been:

1. Compliance with the Hazardous Materials Regulations. This is especially true as we as carriers try to meet our obligations to the motoring public, our company, the environment, as well as the driver. It has been extremely difficult to communicate with someone who does not understand English as we try to explain the importance and necessity of "what to do" whenever an accident or incident occurs. You can try to prepare the driver on how to comply with all regulations, but when an incident occurs, communications is paramount to insuring it is properly controlled.
2. Handling of "diesel spills". EPA regulations are explicit on our responsibilities, but again, the important issue is to maintain communications with your driver, who is at the scene and trying to explain the extent of the problem. We end up hiring adjusters to help us resolve these problems, but here again, we need drivers who can identify the problem and communicate it to their dispatchers and/or safety personnel to allow us to properly handle the issue(s) at hand. Communications are paramount in order to resolve these incidents without harm to the public or the driver.

3. Technology. The ability to understand and use current technology, which includes satellite systems is important. Driver applicants who do not have a basic understanding of the English language have a problem in working with this new technology. As the professional CMV driver's job becomes more "complex" it's important we insure drivers possess the skills and have the ability to keep up with technology.

4. Responding to official inquiries. This is absolutely necessary, especially on issues involving accidents, citations and driver-equipment compliance reports issued by Federal/State agencies.

5. Ability to make entries on reports and records. The combination of company policies/procedures and regulatory requirements, e.g. Driver's Record of Duty Status, pre & post trip inspections, accident reports, hazardous materials incident reports, etc. A driver who doesn't understand the English language would have a serious problem complying with this requirement.

6. Ability to communicate with Shippers and Receivers. An absolute necessity in today's competitive trucking industry. We entrust our drivers with equipment valued at approximately \$100,000; a load valued anywhere from \$25,000 to \$1,000,000 and the responsibility for safely operating his/her motor vehicle. We also expect the driver to deliver the product in good condition and to work with our Claims Department and the Receiver's representative in case of shortages and/or damages, etc. Again, communications is absolutely necessary.

Perhaps the ACLU is comparing the the trucking industry to the operation of taxi cabs and the variety of folks driving taxi cabs in major metropolitan cities. Just think of the language problems encountered with these cab drivers. It's not uncommon for us to meet all types of individuals from different ethnic origins possessing a variety of driving skills and comprehension abilities as they try to maneuver taxi cabs around our cities. Let me assure the ACLU that driving a CMV with a maximum gross weight of 80,000 lbs is a task which cannot be compared to driving a taxi. I recognize that FHWA understands the complexity of the Professional Driver's job, and relaxing the requirements of Part 391.11(b)(2) will not help promote safety on our highways.

FHWA is seeking information on "...are there cases where states have put drivers out of service because of their inability to read or speak English was viewed as a safety risk?" I'm sure State agencies will respond to this question. As indicated earlier, we try to hire only drivers meeting the requirements of Part 391.11(b)(2) however, if later on, we find the driver deficient in this requirement, we'll place him/her out of service because we feel they are a safety risk to the motoring public as well as themselves.

FHWA also asks? "...How is English proficiency or a working knowledge of English measured, what language task(s) should a driver be able to perform and what performance-orientated standards should FHWA adopt?" This is a difficult question. There are basic skills which a driver must have to safely operate a CMV, as well as the ability to properly respond to accidents, incidents and emergency situations which may arise during the course of his/her duties. The driver is also faced with complying with a variety and complexity of regulations, e.g. FMCSR, Hazardous Materials, etc., as well as completing reports, etc. The commodities being transported must also be considered, especially if they are hazardous. Establishing tasks covering a variety of situations would also be difficult. Let's not further complicate this requirement. I believe the motor carrier has the responsibility of insuring drivers are indeed able to meet the present requirements of Part 391.11(b)(2) and that the driver is able to perform his/her duties without placing the motoring public, the driver or the motor carrier in jeopardy.

I sympathize and empathize with the great number of individuals from different ethnic backgrounds coming to the USA seeking a better life. My own parents came from Mexico in the 1930s and settled in California, where I was born. However, I don't believe we can afford to compromise Safety by relaxing the current language requirement.

I strongly believe this regulation should remain as presently established. Our responsibilities to the motoring public, our company and it's employees demand we hire drivers who possess the basic communications skills to do our jobs SAFELY.

Sincerely,



Angel E. Arzaga  
VP, Safety & Risk Management

AEA/mm/FHWA97-2759