



Owner-Operator Independent Drivers Association

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February 14, 2020

Jim Mullen
Acting Administrator
Federal Motor Carrier Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, D.C. 20590

Re: Docket # FMCSA-2019-0151 “National Association of the Deaf Petition for Rulemaking; Hearing Requirement for Commercial Motor Vehicle Drivers”

Dear Acting Administrator Mullen:

The Owner-Operator Independent Drivers Association (OOIDA) is the largest trade association representing the views of small-business truckers and professional truck drivers. OOIDA has more than 160,000 members located in all fifty states that collectively own and operate more than 240,000 individual heavy-duty trucks. OOIDA’s mission is to promote and protect the interests of its members on any issues that might impact their economic well-being, working conditions, and the safe operation of commercial motor vehicles (CMVs) on our nation’s highways.

At this time, OOIDA opposes the National Association of the Deaf’s (NAD) petition for rulemaking to rescind the requirement for interstate drivers of CMVs to be able to hear. Currently, there is insufficient data showing that repealing the hearing requirement would improve safety. OOIDA also disagrees with NAD’s assertion that, “there is an extreme shortage of qualified CDL drivers.” As such, OOIDA recommends that FMCSA maintains the current exemption program until sufficient safety data can be gathered and analyzed.

In their petition, NAD does not present any substantive safety data regarding the performance of hearing impaired drivers. In 2017, FMCSA noted that their own internal data, “analyzed the records of 218 CDL holders with hearing exemptions. Drivers with hearing exemptions had a lower crash rate than the national average, had a lower violation rate than the control group, and had fewer driver out-of-service violations. FMCSA acknowledges that the numbers involved in the comparison are small and will endeavor to provide updated information as numbers grow.” OOIDA agrees that the data set was not sufficient and believes more analysis must be conducted to determine the safety performance of CDL holders with hearing exemptions.

OOIDA recognizes concerns about ensuring the safety of deaf and hard of hearing individuals at facilities where trucks are loaded and unloaded, and terminals at which trucks may be operated with workers walking around. Various audible signals and warning sounds are part of the daily routine for drivers when they are on the road, performing pre/post-trip inspections, and working in and around loading/unloading areas. The exemption program should be maintained to ensure hearing impaired individuals can operate safely in these situations.

NAD's claim that there is an "extreme shortage of qualified CDL drivers," is a misleading justification for granting the petition. Far too many stakeholders and lawmakers have accepted the driver shortage myth, which illustrates a troubling lack of understanding about the trucking industry. Taking a closer look at what's actually occurring in trucking will reveal there is no driver shortage at all. The American Trucking Associations' (ATA) quarterly reports on driver turnover show the rates among large carriers are particularly troubling – generally falling anywhere between 70 and 100% annually since 2011. In their most recent report, the organization estimated the annualized rate for 2019 through the third quarter at 96%. Further dispelling the driver shortage myth, the ATA's press release on the December 2019 report explains, "Large carriers reduced the number of drivers they employed, in keeping with lackluster freight levels..." It continues, "During the first two quarters of the year, larger carriers added drivers, but in the third quarter they started **right-sizing their fleets** [emphasis added]."¹ By no means does this sound like an industry suffering from a shortage of drivers.

Evidence from multiple federal agencies further dispels the shortage myth. By FMCSA's estimates, there are over 400,000 new CDLs issued annually, which shows there is certainly no shortage of new entrants to the industry.² Additionally, a 2019 analysis from the Bureau of Labor Statistics found the labor market for truckers is similar to that of other blue-collar professions, and that while there is certainly a high rate of turnover in some parts of the trucking industry, there doesn't appear to be evidence of a shortage.³ Thus, the fictional driver shortage should not be used as reason to repeal the current hearing requirements.

OOIDA also urges FMCSA to maintain the language in 49 CFR 391.11(b)(2) which requires drivers to, "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." Experience has shown that a CMV driver's ability to communicate effectively in English is critical from a safety perspective.

¹ American Trucking Associations, *Turnover Rate at Truckload Carriers Rose in Third Quarter*, December 19, 2019, <https://www.trucking.org/article/Turnover-Rate-at-Truckload-Carriers-Rose-in-Third-Quarter>.

² FMCSA, Regulatory Evaluation of Entry-Level Driver Training Notice of Proposed Rulemaking Regulatory Impact Analysis Initial Regulatory Flexibility Analysis (March 2016).

³ Bureau of Labor Statistics, Monthly Labor Review, *Is the U.S. labor market for truck drivers broken?* (March 2019).

There is insufficient data showing that repealing the hearing requirement would improve safety. OOIDA recommends FMCSA deny the NAD petition for rulemaking and continue granting individual exemptions under the current waiver system.

Thank you,

A handwritten signature in black ink, appearing to read "Todd Spencer". The signature is written in a cursive, flowing style.

Todd Spencer
President & CEO
Owner-Operator Independent Drivers Association, Inc.