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DEPARTMENT OF TRANSPORTATION

BEFORE THE

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FEDERAL HIGHWAY ADMINISTRATION

DOCKET SECTION

UNITED STATES DEPARTMENT OF TRANSPORTATION

**COMMENTS OF THE
OWNER OPERATOR INDEPENDENT DRIVERS ASSN., INC.**

**IN RESPONSE TO
ADVANCE NOTICE OF PROPOSED RULEMAKING
REQUEST FOR COMMENTS**

**FHWA Docket No. FHWA-97-2759-42
RIN 2125-AE19**

English Language Requirement; Qualifications of Drivers

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October 27, 1997

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I. INTRODUCTION

A. Procedural Statement

These comments are submitted by the Owner Operator Independent Drivers Association, Inc. ("OOIDA" or "Association") in response to the request for comments and establishment of a docket published by the Federal Highway Administration ("FHWA" or "Agency"), Docket No. FHWA-97-2759, 62 Fed. Reg. 165 (August 26, 1997). A revision to the requirement in 49 CFR 391.11(b)(2) of the Federal Motor Carrier Safety Regulations ("FMCSRs") that drivers of commercial motor vehicles operated in interstate commerce be able to read and speak the English language sufficiently to converse with the general public, understand highway traffic signs and signals, respond to official inquiries, and make entries on reports and records.

B. Interest of the Owner Operator Independent Drivers Assn., Inc.

The Owner Operator Independent Drivers Assn., Inc. is a not-for-profit corporation incorporated in 1973 under the laws of the State of Missouri, with its principal place of business in Grain Valley, Missouri. The more than 39,000 members of OOIDA are small business men and women in all 50 states and Canada who collectively own and operate more than 66,000 individual heavy duty trucks and small truck fleets. Owner-operators represent nearly half of the total number of Class 7 and 8 trucks operated in the United States. The mailing address of the Association is:

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Grain Valley, Missouri 64029
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www.oida.com

OOIDA is the national trade association representing the interests of independent owner-operators and professional drivers at both the federal and state levels. The Association advocates the views of owner-operators and professional drivers in a number of areas on issues that affect owner-operators and small business truckers. OOIDA is active in all aspects of highway safety. Its representatives serve on various committees of the National Governors' Association, the Commercial Vehicle Safety Alliance, the American Association of State Highway and Transportation Officials, the Canadian Council of Motor Transport Administrators, the National Motor Carrier Advisory Committee and other groups involved in highway safety. Any change in the Federal Motor Carrier Safety Regulations has the potential for directly affecting owner-operators, including OOIDA members.

C. Summary

OOIDA strongly supports the requirement that drivers of commercial motor vehicles be able to read and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals, to respond to official inquiries, and to make entries on reports and records. The Association's position is born of a firm belief that the ability to adequately communicate has a strong bearing on highway safety. This requirement enhances the safety of the public and the professional drivers that OOIDA represents.

OOIDA urges the Agency to cause active and immediate enforcement of the regulation against those motor carriers in violation of the requirement. Furthermore, the Association believes strongly that the only way to achieve adequate compliance is through state and federal enforcement against those motor carriers who use drivers in violation of the requirement.

II. COMMENTS OF THE ASSOCIATION

Because the trucking industry is a highly regulated, safety sensitive industry, it is paramount that all drivers share the same basic qualifications and understanding of highway safety. Since all highway signs, industry regulations, and enforcement officers communicate in English, it seems evident that a driver unable to read, write, or speak English would be a danger to himself and the motoring public. Where safety is paramount, clear communication is imperative. This regulation is similar to the adoption of English as the universal language of air traffic controllers; it is designed to ensure quick and effective communication of direction.

Communication is a universal human necessity no matter who one is, where he or she lives, or what they do for a living. Language is the manifestation of that need, and when the desire or compulsion to learn a new language presents itself, the human race has a unique ability for adapting a new one in a relatively short time. In safety sensitive positions such as driving a truck, a common language is not a desire it is a necessity. Requiring a basic knowledge of English does not constitute discrimination due to the race or national origin of a driver. Ignorance of the English language can be remedied by anyone from anywhere, at least to the degree where the individual can sufficiently communicate, and in turn comply with, current motor carrier safety regulations.

The Association is well aware that the FHWA has never made speaking English a prerequisite for the Commercial Drivers License (CDL), and OOIDA is not necessarily opposed to States administering CDL tests in languages other than English. The CDL manuals and tests are of such complexity that it can be difficult for an applicant from a non-English speaking country of origin to understand. However, a commercial driver operating on the nation's highways

should be able to sufficiently communicate in the English language to ensure the safe operation of the vehicle.

We may tend to primarily think of the other two languages spoken on our borders (Spanish and French), but our nation always has been a melting pot of people from all over the world. The number of languages spoken by 1 million or more people in the United States is 245. In fact, there are 12 major languages spoken by 100 million or more people each.

Each year more and more immigrants arrive in the U.S. from all over the world. Many of them enter the trucking industry as drivers. Some discover truck driving opportunities after arriving, but many others are now being recruited from their country of origin by motor carriers desperate for new drivers. Numerous motor carriers largely ignore the fact that some of these individuals do not possess the basic English language skills necessary to comply with existing regulations.

The Association is unaware of any recent enforcement action taken against a motor carrier for allowing a non-English speaking driver to operate in violation of the current language requirement. OOIDA firmly believes that the requirements contained in 49 CFR 391.11(b)(2) should be retained as is, and that the FHWA should more aggressively enforce the current regulations.

Many state enforcement personnel are at a loss as to how to deal with a driver who is unable or refuses to communicate in the English language. OOIDA has been made aware of several instances where, out of frustration on the part of an enforcement officer, a driver in violation of a state or federal law is allowed to continue without corrective action being taken simply because the driver cannot (or will not) communicate in English. The Association believes that the language requirements contained in 49 CFR 391.11(b)(2) should be retained as is, and

that enforcement action should be taken against a driver and the motor carrier in violation of the requirement.

Although our country has never officially adopted an official language via legislation, by custom and practice, English has been our primary language. America has always been the land of opportunity, and the only real price for participation has been learning the common language. The expense and cumbersome nature of having two official languages can be seen in the constant duplication of all written documents of our neighbors to the north.

OOIDA is aware of at least one state that has developed a "flip chart" comprised of a routine roadside inspection scenario written in several different languages. The inspector shows the chart to the non-English speaking driver and requests that the driver point to the language he/she speaks. The inspector then turns to the portion of the chart written in that language and expects the driver to follow the instructions in order to complete a vehicle and/or driver inspection. This apparently works as long as the driver can sufficiently read his/her native language to understand what is required, and if the circumstances of the inspection remain within the scope of the written scenario. Any significant deviation requires that the inspector request the presence of an interpreter to complete the inspection and/or enforcement process.

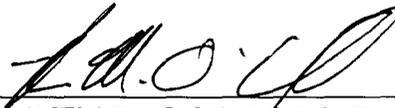
Obviously, the flip chart is useful only for the purpose in which it is intended. Roadside encounters between drivers and enforcement personnel are not always so simple. For example, making a non-English speaking driver understand what is required to correct any violation that may be discovered can be extremely time consuming (if it is accomplished at all) for both the driver and the inspector. In some instances, the violation may even be life threatening requiring immediate attention, such as in the case of a hazardous materials release.

Any emergency situation involving a non-English speaking driver has the potential for disaster. If the driver cannot immediately respond to inquiries and follow instructions during an accident or hazardous materials incident, the lives of the driver, individuals involved at the scene, and the general public are unnecessarily endangered.

IV. CONCLUSION

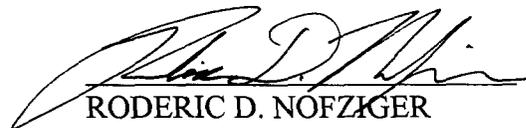
In conclusion, OOIDA is adamantly opposed to weakening the requirement that drivers of commercial motor vehicles to be able to read and speak the English language sufficiently to converse with the general public, understand highway traffic signs and signals, respond to official inquiries, and make entries on reports and records. On the contrary, the Association urges the FHWA to take measures establishing more effective enforcement of the current regulations. A driving environment where all drivers comprehend and understand the English language is imperative to maintain a safe transportation system.

Respectfully submitted,



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