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May 29, 1996

Via Hand Delivery

Docket Clerk
Office of Chief Counsel
Federal Highway Administration
400 Seventh Street, S.W.
Room 4232, HCC-10
Washington, D.C. 20590

LEGS./REGS. DIV.
96 MAY 30 P 1:48
ADMINISTRATION

FHWA-97-2210-85

Re: Comments On Notice of Intent to Form a Negotiated Rulemaking Committee on CDL and Physical Qualifications Requirements (FHWA Docket No. MC-93-23)

Dear Sir/Madam:

Enclosed please find for filing an original and one copy of the comments submitted on behalf of the Owner-Operator Independent Drivers Association, Inc. in the above-referenced proceeding. I am also enclosing two extra copies marked "FILE COPY" which need to be date-stamped and returned to this office in the envelope provided.

Thank you for your assistance in this matter.

Sincerely,

K. MICHAEL O'CONNELL
ADAM D. ROSS
Counsel for Owner-Operator
Independent Drivers Assn., Inc.

KMO\ADR\lyh
Enclosures

cc: James J. Johnston, OOIDA

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BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

COMMENTS OF THE
OWNER-OPERATOR INDEPENDENT DRIVERS ASSN., INC.
ON:
NOTICE OF INTENT TO FORM A
NEGOTIATED RULEMAKING COMMITTEE
ON COMMERCIAL DRIVER'S LICENSE (CDL)
AND PHYSICAL QUALIFICATIONS REQUIREMENTS

DOCKET NO. MC-93-23

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Drivers Assn., Inc.

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Independent Drivers Assn., Inc.

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MAY 29, 1996

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BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

Comments of the
Owner-Operator Independent Drivers Assn., Inc.
On:
Notice of Intent to Form a
Negotiated Rulemaking Committee
on Commercial Driver's License (CDL)
and Physical Qualifications Requirements

(FHWA Docket No. MC-93-23)

I. INTRODUCTION

A. Procedural Statement

These comments are submitted by the Owner-Operator Independent Drivers Association, Inc. ("OOIDA" or "Association") in response to the Notice of Intent to Form a Negotiated Rulemaking Committee on Commercial Driver's License ("CDL") and Physical Qualifications Requirements ("Notice"). 61 Fed. Reg. 18,713 (April 29, 1996). The Notice proposes to establish a negotiated rulemaking advisory committee to consider the issues relating to the proposed merger of the state-administered CDL procedures and the driver physical qualifications requirements of 49 CFR Part 391. This committee would be comprised of people who represent the interests that would be substantially affected by the proposed rulemaking.

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

OOIDA is the national trade association representing the interests of independent owner-operators at both the federal and state levels. The Association is a not-for-profit corporation that was formed in 1973 under the laws of the State of Missouri with its principal place of business located in Grain Valley, Missouri. The more than 34,000 members of OOIDA are small business men and women in all 50 states and Canada who collectively own and operate more than 50,000 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 interstate commerce in the United States. The mailing address of the Association is:

Owner-Operator Independent Drivers Assn., Inc.
P.O. Box L
Grain Valley, Missouri 64029

The Association represents the views of owner-operators on a number of issues that affect owner-operators and small business truckers. It is active in helping to shape all aspects of laws and regulations affecting the trucking industry. Association representatives serve on various committees of the National Governors' Association, the Commercial Vehicle Safety Alliance, the National Motor Carrier Advisory Board, the American Association of State Highway and Transportation Officials, and other groups involved in trucking regulation. It has participated in many proceedings before the FHWA involving matters of interest to its members. Any modifications to current Federal rules and regulations caused by the proposed merger of the CDL procedures and the driver physical qualifications requirements will greatly affect OOIDA's members.

II. COMMENTS OF THE ASSOCIATION

The Notice seeks specific ideas, suggestions, and comments on the proposal to establish a negotiated rulemaking advisory committee to consider the issues relating to the proposed merger of the CDL procedures and the driver physical qualifications requirements. 61 Fed. Reg. 18,713. These comments are the Association's preliminary views on these issues. As the process proceeds, it is likely that additional issues will arise that will have a direct impact on small business truckers.

In general, OOIDA welcomes the selection of the negotiated rulemaking process to address the proposed rulemaking. The negotiated rulemaking will draw upon the practical experience of all affected segments of the trucking industry. The negotiated rulemaking process holds the potential to produce a fully informed consensus on the issues relating to the proposed merger. OOIDA looks forward to representing the perspective of the owner-operator in the negotiated rulemaking.

It is clear that several important issues will have to be addressed by the FHWA as it proceeds to develop regulations governing the merger of CDL procedures and the driver physical qualifications requirements. In the course of the negotiated rulemaking, the FHWA must carefully consider how the current structure of the trucking industry will necessarily affect the proposed merger of the CDL procedures and the driver physical qualifications requirements. In particular, the unique economic circumstances of the owner-operator must be considered.

Nearly all owner-operators that lease their equipment and services to regulated motor carriers do so in the truck load segment of the industry. The vast majority of these owner-operators are compensated on the basis of a division of revenue between the motor carrier and the owner-operator from his or her portion of this revenue, the owner-operator typically bears the brunt of the costs of providing the transportation service. As such, changes to the existing regulatory structure that result in increased costs will have a direct impact on them.

Under a standard lease, owner-operators are typically responsible for fuel and equipment costs, tolls, taxes, tires, repairs, on-the-road expenses, and driver compensation (if any). Any additional regulatory cost that is added to the transportation service forces owner-operators to operate on ever thinner margins. As part of the rulemaking process, the FHWA must consider the extent to which the proposed merger of CDL procedures and driver physical qualifications requirements imposes unjustifiable costs upon the owner-operator.

Further, the FHWA must consider how the proposed merger of the CDL procedures and the driver physical qualifications requirements will affect the owner-operators' relationship with his or her personal physician. The imposition of additional controls over the medical review process may lead to certification of medical providers and restrict an owner-operator from receiving their medical certifications from the family physician. OOIDA is concerned with inserting state regulatory agencies into this relationship, necessitating administrative inconvenience and increased cost to the owner-operators.

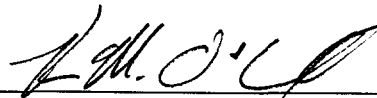
The FHWA and its contractors, the Association for the Advancement of Automotive Medicine and the American Association of Motor Vehicle Administrators, have developed and

completed a six-state pilot project seeking to develop efficient ways of assuring that commercial motor vehicle drivers meet the Federal physical qualifications before being issued a license. OOIDA wishes to review the data from the six-state pilot project before addressing these issues at greater length. It also requests the opportunity to have a representative of the Association participate in the rulemaking committee.

III. CONCLUSION

OOIDA welcomes the selection of the negotiated rulemaking process to address the proposed merger of the CDL procedures and the driver physical qualifications; OOIDA respectfully requests the opportunity to participate in the proposed negotiated rulemaking committee; and OOIDA requests an opportunity to nominate a representative to participate in the negotiated rulemaking on OOIDA's behalf.

Respectfully submitted,



K. MICHAEL O'CONNELL
ADAM D. ROSS
*Counsel to the Owner-Operator
Independent Drivers Association, Inc.*

Dated: May 29, 1996

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