



February 13, 2020

Docket Management Facility
United States Department of Transportation
1200 New Jersey Avenue, SE
West Building, Ground Floor
Room W12-140
Washington, DC 20590-0001

RE: National Association of the Deaf Petition for Rulemaking: Hearing Requirement for Commercial Motor Vehicle Drivers [Docket No. FMCSA-2019-0151]

The American Association of Motor Vehicle Administrators (AAMVA) thanks the Federal Motor Carrier Safety Administration (FMCSA) for the opportunity to comment on rescinding the requirement for interstate drivers of commercial motor vehicles to be able to hear. AAMVA understands the environment for inclusion of hearing impaired drivers has changed significantly since the medical standard was originally contemplated, and is fully aware of the numerous ways technology has assisted in ensuring the safety of all drivers. Further, given the number of exemptions being issued and renewed by FMCSA, AAMVA defers to FMCSA as the appropriate federal authority in making a safety equivalency determination on the removal of hearing requirements for commercial drivers. While AAMVA does not directly oppose the National Association of the Deaf petition outright, we feel it is important to document field concerns expressed by some members of the AAMVA community.

CDL Skills Tests

49 CFR §383.133 prohibits 1) the use of interpreters during the Skills Test, 2) prohibits the Examiner and the applicant from conversing in any language other than English; and 3) requires that the applicant understand and respond to verbal commands and instructions in English by a Skills Test Examiner.

FMCSA did note in the 2017 notice that if the actual skills tests are administered without the aid of an interpreter, the State is in compliance with 49 CFR §383.133(c)(5). The notice further stated that there are no prohibitions against the use of an interpreter prior to the skills test generally, or in between the three segments of the test; and also states that the use of a Skills Test Examiner who is capable of communicating via ASL is also an option.

The SDLAs have been creative with the accommodations that they provide to hearing impaired applicants. Some states utilize an interpreter during a pre-test conference to facilitate a discussion between the Examiner and the applicant to ensure the applicant clearly understands how all three segments of the test will be conducted; and to answer any questions they may have. Other states use the interpreter to interpret the instructions at the beginning of each test segment. SDLAs have developed basic hand signals, que cards, etc. to use with the applicant for test segments and have implemented these tool successfully.

However, even with additional accommodations being made, CDL examiners and applicants move in and around commercial vehicles while taking/administering Skills Tests, which makes hearing and responding to audible sounds, horns, whistles and voice commands of paramount importance. For example: During the vehicle inspection, the applicant/Examiner may be injured if the applicant cannot respond to an audible command to prevent them from doing something dangerous. When scoring the basic control skills portion of the test, the examiner is scoring from outside the vehicle and may not be positioned within view of the driver. The inability of the driver to respond to audible commands may result in injury to the examiner or other persons/vehicles in the immediate area. During the Road Test, the applicant's inability to hear mechanical buzzers, warning/engine sounds, leaks, surrounding sounds within the cab, warnings from other highway users (i.e., horns, sirens/emergency vehicles) could result in a potentially dangerous malfunction of the vehicle or result in a crash. AAMVA provides the following examples by applicable portion of the skills test.

Vehicle Inspection

- The applicant's inability to hear warning devices (i.e. air leaks, low-air warning buzzer, etc.) could result in a potentially dangerous malfunction of the vehicle.
- Driver cannot hear/respond to the Examiner's command to stop if the applicant does something dangerous.

Basic Control Skills

- Driver's inability to hear examiners whistle or commands may lead to potential safety issues.
- Driver cannot hear/respond to the Examiner's command to stop the vehicle for encroachments.
- Driver cannot hear/respond to the Examiner's command to stop the vehicle for an unsafe act.
- Being unable to clarify questions could result in a potentially dangerous action.
- Driver may not understand the Examiner's instructions for moving the vehicle from one exercise to the next.

Road Test

- Hearing impairment may prevent the applicant from hearing/responding to verbal commands from the Examiner when they attempt to take control of the vehicle in emergency situations.
- Driver distractions – The driver being distracted and taking their eyes off the road by the examiner giving instructions and queues through signs / flash cards.
- Examiner distractions – It may be difficult for the examiner to score, give directions and use Q-Cards. The examiner being distracted during critical moments of the test. For example, scoring the driver while using Q-Cards to give the applicant/driver directions for the test. Conducting the road test in a dynamic traffic environment.
- Unable to hear mechanical buzzers, warning/engine sounds, leaks, surrounding sounds within the cab, warnings from other highway users (i.e., horns, sirens/emergency vehicles) which could result in a potentially dangerous malfunction of the vehicle or crash.

- If the driver or Examiner has a question or is attempting to clarify a response/instruction during a road test, would require that the driver pull off the travel portion of the road to communicate.
- Passive Railroad Crossing – unable to listen for trains. If the surrounding landscape at a passive crossing does not provide the driver a clear view of the tracks in both directions creates a dangerous situation since the driver is unable to “*listen*” for the train.
- Observing and communicating required traffic sign test situations. After driving past a sign, the Examiner will ask the driver what the sign said. The driver must be able to describe the sign and message. This assesses the driver’s ability to read and interpret informational signs pertaining to commercial vehicles. The hearing impairment makes conversing with the applicant/driver extremely difficult.

AAMVA thanks FMCSA for the opportunity to comment on this important issue.

Cian Cashin
AAMVA Director of Government Affairs
ccashin@aamva.org