



## Owner-Operator Independent Drivers Association

National Headquarters: 1 NW OOIDA Drive, Grain Valley, MO 64029  
Tel: (816) 229-5791 Fax: (816) 427-4468

Washington Office: 1100 New Jersey Ave, SE, Washington, DC 20003  
Tel: (202) 347-2007 Fax: (202) 347-2008

October 13, 2011

The Honorable Gina McCarthy  
Assistant Administrator for the Office of Air and Radiation  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Assistant Administrator McCarthy:

I am writing to clarify a misrepresentation you made regarding OOIDA's engagement with the EPA and the National Highway Traffic Safety Administration during your testimony to the House Committee on Oversight's Subcommittee on Regulatory Affairs yesterday at a hearing entitled "Running on Empty: How the Obama Administration's Green Energy Gamble Will Impact Small Business and Consumers."

During the hearing you stated that OOIDA met with your representatives "extensively," and that our comments "led to significant changes in the final" rule. Needless to say, we here at OOIDA were surprised to hear this characterization of events, especially from a witness testifying under oath before Congress.

It is true that OOIDA representatives met with technical staff from both the EPA and NHTSA on November 1, 2010 for a brief introduction that lasted no more than an hour for OOIDA to possibly learn more about the rulemaking and to introduce you to our concerns, which were the "tip of the iceberg." However, other than an e-mail that thanked your technical staff for their time and reinforced our desire to be part of the process to work with your agency, followed by two phone calls regarding minor technical matters, that was the only meeting or engagement that took place between OOIDA and EPA/NHTSA outside of our filed comments. This is far from the extensive engagement you portrayed in the testimony.

As was stated in our testimony from yesterday's hearing, OOIDA briefly met with your representatives to try and develop a level of engagement where the true stakeholders impacted by this regulation, small business truckers, would have an opportunity to be directly part of the process. While we were encouraged that such an engagement could have happened following our November 2010 meeting, your staff never took advantage of that opportunity. We reiterate a

point made in our testimony: OOIDA made efforts to become significantly involved with the rulemaking; however, these efforts were rebuffed.

You certainly had a high level of engagement with the corporate, big business trucking community during the development of the rule, as shown by the statements of Bill Graves, President of the American Trucking Associations. “Everyone was sort of patting everyone else on the back,” Graves said in an interview following the meeting with the President on August 9, 2011.<sup>1</sup> Graves also stated to the media that “industry had been heavily involved in the discussions with administration officials, including Transportation Secretary Ray LaHood and EPA Administrator Lisa Jackson, and that companies looked forward to meeting the standards.”<sup>2</sup>

I guess your confusion between the representatives of large, corporate, multi-billion dollar trucking companies and the representatives for hundreds of thousands of small business truckers across the country who average an income of around \$38,000 a year and represent approximately 90% of the industry should be expected. What I do not understand is how you make claims that our views led to significant changes to the rule under oath, when the record shows just the opposite. OOIDA is mentioned only once across the entire Final Rule, Final Regulatory Impact Analysis, and Response to Comments, while ATA is mentioned dozens of times, including along with changes to the rule made specifically under the request of ATA.

Ms. McCarthy, it is one thing for you to misrepresent the role of OOIDA as an organization in your testimony, but it is quite another for you to call into question the sincerity and truthfulness of one of our members, particularly one who has devoted his life to protecting the planet. The handful of e-mails, one meeting, and two phone calls does not constitute “extensive” engagement. Further proving that point, in the record memorializing our November 2010 meeting, the staff did not even bother to learn the correct names of the participants. Regardless, our limited interactions did not lead to “significant changes” in the rulemaking.

Your agency took every step possible to develop a close working relationship with the interests of large motor carriers and to ignore the input from the small business and owner-operator trucking community. In fact, this rule was certified to have no impact to small entities. As OOIDA stated in our testimony, it is hard to understand why EPA and NHTSA chose not to tap into the collective knowledge of truckers on how to improve fuel efficiency. We stand by that statement and by the view that the Heavy-Duty Truck Rule is a bad deal for small business truckers.

Sincerely,



Todd Spencer  
Executive Vice President

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<sup>1</sup> [http://www.washingtonpost.com/national/health-science/administration-sets-fuel-efficiency-rules-for-heavy-duty-trucks-and-buses/2011/08/09/gIQAn4Zv4I\\_story.html](http://www.washingtonpost.com/national/health-science/administration-sets-fuel-efficiency-rules-for-heavy-duty-trucks-and-buses/2011/08/09/gIQAn4Zv4I_story.html).

<sup>2</sup> <http://www.autoobserver.com/2011/08/obama-announces-fuel-economy-rules-for-trucks.html>.