**Minimum Standards for CMV Entry-Level Driver Training**

**Facilitator’s Draft Term Sheet**

**5/29/15**

This Facilitator’s Draft sets forth for purposes of discussion and final vote the key terms agreed upon by the Members of the Entry-Level Driver Training Advisory Committee (ELDTAC) on the establishment of nationwide minimum standards for the training of entry-level CMV drivers prior to taking their Commercial Driver’s License (CDL) exam. Underlining indicates terms that cross-reference other sections of this Term Sheet.

**Key Terms of Proposed Rule:**

1. Beginning on the effective date of the rule, no Entry-Level Driver, as defined, may take a CDL exam to receive a Class A CMV license, Class B CMV license, Passenger Bus endorsement, School Bus endorsement, or Hazmat endorsement unless he/she has satisfactorily completed a training program that (a) is provided by a Certified Training Provider who appears on FMCSA’s Training Provider Registry (see below), and (b) is appropriate to the license/endorsement for which such person is applying.

These requirements apply to anyone who has not taken the relevant CDL skills test prior to the compliance date for the ELDT final rule. However, the new requirements will not apply to individuals – such as military veterans -- for whom 49 CFR 383 give States discretion to waive the CDL skills test. Any individual who fails to obtain the CDL within 360 days after obtaining a CLP will be required to complete a full ELDT course following application for a new CLP.

1. *[Proposed but not yet agreed by plenary]* Notwithstanding Paragraph (1) above, a person who has previously held a valid CDL which lapsed or was revoked less than 4 years prior to the date of such person’s application for a re-issued CDL shall not be required to undergo entry-level driver training from a registered Training Provider, though he/she still must meet all state requirements (which may include re-taking the CDL exam). A person who previously held a valid Class A or Class B CDL which lapsed or was revoked more than 4 years prior to the date of such person’s application for a new CDL shall be required to complete a Refresher Training course appropriate to that CDL in addition to meeting all state requirements. This Refresher Course must be provided by a Training Provider on the FMCSA Training Provider Registry and must, at a minimum, cover the topics set forth in FMCA’s Refresher Course Curriculum.
2. To become a FMCSA-registered Training Provider, a person or institution must, at a minimum, provide instruction in the curriculum approved by FMCSA for that license or endorsement. Such Provider also must meet the applicable FMCSA’s Eligibility Requirements for Training Providers, and complete and submit (online) a Training Provider Identification Report affirming under penalties of perjury that such provider will teach the FMSCA-prescribed curriculum that is appropriate for that license or endorsement and that such provider meets the FMCSA’s Eligibility Requirements. Training Providers that meet these requirements shall be placed on FMCSA’s Training Provider Registry.
3. The curriculums approved by FMCSA for Class A licenses, Class B licenses, Passenger Bus endorsement, School Bus endorsement, Hazmat endorsement and Refresher Course are set forth in the following annexes:
* **Annex 1** (Class A and B CDL)
* **Annex 2 (**Passenger Bus Endorsement)
* **Annex 3** (School Bus Endorsement
* **Annex 4** (Hazmat Endorsement)
* **Annex 5** (Refresher Course Training)
1. The Eligibility Requirements that Training Providers must meet in order to appear on the FMCSA Training Provider Registry are set forth in **Annex 6** (Institutional In-House and For-Hire Training Providers), and **Annex 7** (Small Business In-House and For-Hire Training Providers).
2. The Training Provider Identification Form that Training Providers must complete as part of their application for registration as an FMCSA Training Provider is set forth in **Annex 8**.
3. FMCSA’s draft regulatory text setting forth the general requirements for training providers appearing in FMCSA’s National Registry of Training Providers is set forth in **Annex 9**.
4. This rule shall apply to “Entry-level Drivers” as defined in **Annex 10**.
5. This rule shall take effect [3] years from the date of the publication of the final rule in the Federal Register.

**Key Unresolved Issues:**

1. **Minimum level of effort specification**

The FMCSA-approved core curricula for Class A and Class B training programs set forth in Annex A and B list the topics to be covered in each curriculum and provide brief descriptors of the general content of each topic. These curricula generally sub-divide into (a) theory and (b) behind-the-wheel (range/road) segments.

* 1. **Theory/knowledge** **instruction.** The ELDTAC agrees that theory may be taught and learned either online or in a classroom, and that the federal government should not attempt to prescribe a particular medium for imparting theory/knowledge. The ELDTAC also agrees that it is not necessary or appropriate for the federal government to prescribe the length of time to be spent on theory/knowledge instruction. Performance on a knowledge test is considered a satisfactory litmus test of competency in this area of instruction.
	2. **Behind-the-wheel instruction.** As of 5/26/15, the ELDTAC remains divided on the question of whether the federal government should establish a basic minimum of hours that must be spent on behind-the-wheel, on-road driving instruction as part of the Core Curriculum.[[1]](#footnote-1)

**Option A**

**Performance only.** Require that each Training Provider, as a condition of its registration as an FMCSA Training Provider, teach the specified curriculum to all students and administer a knowledge/road/range performance assessment to each student to measure that student’s proficiency in the knowledge/road/range portions of instruction.

**Option B**

**Hybrid Performance and Level of Effort Specification.** Stipulate that off-Road/Range training shall consist of a minimum of ***[x]*** of skills training in a vehicle of the type and class for which the student will be licensed. The exercises completed shall be based on the skills described in the road and range portion of the curriculum standards.

During Off-Road/Range exercises, trainees shall be required to demonstrate the skills presented in the Range portion of the FMCSA required Core Curriculum including, but not limited to:

|  |  |  |
| --- | --- | --- |
| * Vehicle Inspection
 | * Straight Line Backing
 | * 45 & 90 Degree Alley Dock Backing
 |
| * Off-Set-Backing
 | * Parallel Parking Blind Side
 | * Parallel Parking Sight Side
 |
| * Coupling/Uncoupling\*
 | * Turning Left & Right
 | * Shifting
 |

On-Road training shall consist of a minimum of ***[y*]** road trips in a vehicle of the type and class for which the student will be licensed, and shall average not less than 50 minutes in duration.

During the On-Road training trips, trainees shall be required to demonstrate the driving skills presented in the theory portion of the FMCSA-required Core Curriculum along with skills required in the BTW/Road portion. These skills include but are not limited to:

|  |  |  |
| --- | --- | --- |
| * Pre/Post trip Inspection\*
 | * Coupling/Uncoupling\*
 | * Backing/Docking\*
 |
| * Vehicle Controls
 | * Left Turns
 | * Right Turns
 |
| * Lane Changing
 | * Curves at Highway Speed
 | * Shifting/Transmission\*\*
 |
| * Communication/Signaling
 | * Hazard Perception
 | * Railroad Crossing
 |
| * Night Operation\*\*
 | * Extreme Driving Conditions\*\*
 | * Visual Searching
 |
| * Speed and Space Management
 | * Safe Driver Behavior
 | * Hours of Service
 |

Documentation of On-Road Training shall/may consist of an On-Road training report indicating the skills demonstrated during each trip.

\*Denotes skill used to verify knowledge learned in off road/range. If same Off-Road training vehicle is used for On-Road training, pre-trip inspection in Off-Road will qualify.

\*\*Denotes that individual demonstration requirements may be based on vehicle type and/or feasibility

*(if accepted, will be* *added to both Core Curriculum & Certification Eligibility Requirements*)

**Option C (without prejudice to positions on Options A or B) [Agreed]**

**Facilitator’s Note: The ELDTAC has agreed that:** Class A and Class B training providers shall fill out – and retain – a master trip sheet for each student for each range and road training session.  The sheet shall track the skills covered in the relevant FMCDA our model curriculum and provide written documentation that the instructor has observed the student proficiently demonstrate each demonstration skill on the range/road portion of the curriculum 5 times on 5 separate days.

For each road trip or range training session, the trainer shall record the name of student, name of instructor(s), starting and stopping times, miles traveled on each on-road trip, and the skills demonstrated proficiently.[[2]](#footnote-2)

Trainers may use the attached sample form, or a comparable form of their own design that provides the same information.

1. **Policy on split training providers**

**Facilitator Note: The ELDTAC has agreed that:** In the case of separate theory and behind-the-wheel training providers, the FMCSA will assign separate responsibility to theory and behind-the-wheel trainers for the training of entry-level drivers. FMCSA will receive an electronic certification that a student has completed the theory portion, hold it in a queue in the Registry, and not transmit to the State Licensing Agency until the behind-the-wheel portion is submitted.

Note: Third-party testing providers need some way to query the Registry.

1. **Minimum qualifications of instructors**

**Facilitator Note: The ELDTAC has agreed on the following text to appear in the Annexes 6 and 7 (Eligibility Criteria for Training Providers):**

“On-road trainers must be experienced drivers. On-road trainers must maintain a driving record that meets applicable state/provincial requirements, school policy, and Federal Motor Carrier Safety Regulations.

* + *Experienced driver* means a CMV driver with experience driving with a CDL of the appropriate (or higher) class and with all endorsements necessary to operate the CMVs for which training is to be provided, and who:
		- (1) has at least 1 year of experience driving; or
		- (2) has at least 1 year of experience as an on-road CMV trainer; and
		- (3) meets all applicable State training requirements for CMV trainers.[[3]](#footnote-3)
	+ On-road trainers must have completed training in the on-road portion of the curriculum in which they are instructing.
* Trainers must have a state/provincial teaching license or permit, if required.”
* Any theory/classroom/range trainers who are not CDL holders must have audited or instructed that portion of the driver-training course that he/she intends to instruct.
1. **Refresher Course Training**

Although plenary committee has not yet formally endorsed the idea, the Refresher Course WG recommends requiring that individuals with a CDL that has lapsed/expired, been suspended or revoked for 4 years or longer be required to complete refresher training from a provider listed on the Registry of Entry-Level Driver Training Providers. The recommended curriculum for such a course is contained in Annex 5. Once such refresher training is completed the training certificate would be transmitted from the training provider to FMCSA and the Agency would transmit the certificate to the SDLA via CDLIS. The rule would need to include an explicit requirement for SDLAs to administer a CDL skills test to these individuals, but only if there is an electronic training certificate on file with the SDLA.

1. **Compliance Date of Rule**

**Facilitator Note:**  The ELDTAC has agreed that: the compliance date shall be set at 3 years from the publication date of the final rule, and FMCSA shall commit in that rule to ensuring that the Registry is ready for electronic submission prior to the compliance date of the ELDT rule.

1. **Stranded Student Issue**

A stakeholder participant in the IE WG conference call of 5/26/15 raised the issue of what happens to students who enroll in good faith in a training program only to discover, mid-course, that their training provider may lose its certification. Another caller noted that some states require that licensed trainers post a surety bond to cover such contingencies, and the question was asked whether FMCSA has authority to make this a federal requirement. After the call, FMCSA Counsel’s office informed the Facilitator that this may be a possibility, theoretically and legally, but a surety requirement would be complex and controversial, implicating interests beyond those represented in our process, and is probably not a viable option at this late stage.

**Facilitator Note:** The ELDTAC has agreed that this issue is outside the scope of this rule.

1. Those opposed to federal hours minimum standard believe that competence in a skill is best measured by performance assessments – not hours spent learning the skill -- and that establishing a mandatory federal minimum standard for hours spent driving may add cost to the rule without necessarily bestowing commensurate benefits. Those in favor of a federal hours minimum for driving time instruction point out that on-road driving, in particular, produces a broad range of real-life driving situations that affect safety, that need to be encountered with an instructor present, and that cannot be simulated realistically on a driving exam. They also point out that driving is a skill that requires repetition and practice and that virtually every skill-based profession that is licensed by state or federal authorities (including passenger driving) has, in addition to performance assessment, an hours-minimum for practice during the training process. [↑](#footnote-ref-1)
2. Trip sheets are already common practice in the training community so this requirement would simply codify best practice.  Requiring preparation and retention of student trip sheets would assist FMCSA audits and enforcement by enabling the FMCSA, during a site visit, to simply pull up a CDL number at random from the pool of CDLs listed as having graduated from that training program, and ask to see the trip sheets for that student.  Diploma mills who have no trip sheets – or manifestly incomplete ones -- would be immediately exposed. [↑](#footnote-ref-2)
3. Although only 1 year of driving experience is required by federal regulation, numerous states require 2 or more years of experience and a minimum of 2 years active driving experience is recommended. [↑](#footnote-ref-3)