**Concept Paper for Mandatory Refresher Training for Inactive CDL Holders**

To address the concerns about CDL holders who have maintained their CDL but have not operated a CMV for an extended period of time (e.g., 3, 4, 5 years or longer), the ELDTAC would consider an employer-based approach for ensuring the driver is capable of operating CMVs on public roads. These drivers would not be required to complete a full training program from an entity on the National Registry of Training Providers, but the employer would be required to ensure that a competent individual provided some form of refresher training and administered a road test prior to allowing the inactive CDL holder to assume responsibility for driving a CMV.

The Agency could amend **49 CFR 383.37** to make it clear to all employers of CDL holders that there is a responsibility for ensuring the driver is ready to operate a CMV, irrespective of whether the inactive CDL holder is a newly hired employee, or a current employee who simply has not driven a CMV in recent years. The Agency would specify in a new **49 CFR 383.39** the abbreviated curriculum that the employer would be required to cover in the refresher training. The ELDTAC would provide the abbreviated curriculum based on the work of the curriculum working groups. And the Agency would require a road test and certificate of completion for the road test under a new **49 CFR 383.41** – this section is lifted from the road test requirements for non-CDL holders under 49 CFR 391.31.

**§ 383.37 Employer responsibilities.**

No employer may allow, require, permit, or authorize a driver to operate a CMV in the United States if he or she knows or should reasonably know that any of the following circumstances exist:

(a) During any period in which the driver does not have a current CLP or CDL or does not have a CLP or CDL with the proper class or endorsements. An employer may not use a driver to operate a CMV who violates any restriction on the driver's CLP or CDL.

(b) During any period in which the driver holds a current CDL but has not operated a CMV within the previous [3, 4, or 5 years – ELDTAC would debate this issue and determine the the period of time that would most likely require some form or refresher training], until the driver has completed the refresher training required by § 383.39.

(c) During any period in which the driver has a CLP or CDL disqualified by a State, has lost the right to operate a CMV in a State, or has been disqualified from operating a CMV.

(d) During any period in which the driver has more than one CLP or CDL.

(e) During any period in which the driver, or the CMV he/she is driving, or the motor carrier operation, is subject to an out-of-service order.

(f) In violation of a Federal, State, or local law or regulation pertaining to railroad-highway grade crossings.

**§ 383.39 Employer responsibilities for refresher training for inactive CDL holders.**

The abbreviated curriculum under this section would be based on the ELDTAC’s curriculum working groups.

**§ 383.41 Return-to-duty road test for inactive CDL holders.**

(a) An employer shall not require or allow an inactive CDL holder to drive a CMV until the driver has first successfully completed a road test in a representative vehicle and has been issued a certificate of driver's road test in accordance with this section.

(b) The road test shall be given by the motor carrier or a person designated by it. However, a driver who is a motor carrier must be given the test by a person other than himself/herself. The test shall be given by a CDL holder who is competent to evaluate and determine whether the person who takes the test has demonstrated that he/she is capable of operating the commercial motor vehicle, and associated equipment, that the motor carrier intends to assign him/her.

(c) The road test must be of sufficient duration to enable the person who gives it to evaluate the skill of the person who takes it at handling the commercial motor vehicle, and associated equipment, that the motor carriers intends to assign to him/her. As a minimum, the person who takes the test must be tested, while operating the type of commercial motor vehicle the motor carrier intends to assign him/her, on his/her skill at performing each of the following operations:

(1) The pretrip inspection of the CMV;

(2) Coupling and uncoupling of combination units, if the equipment he/she may drive includes combination units;

(3) Placing the CMV in operation;

(4) Use of the commercial motor vehicle's controls and emergency equipment;

(5) Operating the commercial motor vehicle in traffic and while passing other motor vehicles;

(6) Turning the commercial motor vehicle;

(7) Braking, and slowing the commercial motor vehicle by means other than braking; and

(8) Backing and parking the commercial motor vehicle.

(d) The employer shall provide a road test form on which the person who gives the test shall rate the performance of the person who takes it at each operation or activity which is a part of the test. After he/she completes the form, the person who gave the test shall sign it.

(e) If the road test is successfully completed, the person who gave it shall complete a certificate of driver's road test in substantially the form prescribed in paragraph (f) of this section.

(f) The form for the certificate of driver's road test is substantially as follows:

***Certification of Road Test***

* Driver's full name;
* Driver’s license No. and State of issuance.
* Type of power unit \_\_\_\_\_\_ and type of trailer(s);
* If the driver will operate passenger carrying vehicles, the type of vehicle;

*Certification Statement:* This is to certify that the above-named driver was given a road test under my supervision on \_\_\_\_\_\_, 20\_\_, consisting of approximately \_\_\_ miles of driving. I believe this driver possesses sufficient driving skill to operate safely the type(s) of commercial motor vehicle(s) listed above.

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Printed Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(g) A copy of the certificate required by paragraph (e) of this section shall be given to the person who was examined. The motor carrier shall retain in the driver qualification file of the person who was examined—

(1) The original of the signed road test form required by paragraph (d) of this section; and

(2) The original, or a copy of, the certificate required by paragraph (e) of this section.